

**ZONING ORDINANCE
FOR THE
TOWN OF DILLSBORO
INDIANA**



UPDATE

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SECTION 100 - Title

This Ordinance shall be formally known as the “Town of Dillsboro Zoning Ordinance”, it may also be cited and referred to as the “Zoning Ordinance” or “Ordinance”.

SECTION 110 - Purpose

The purpose and intent of this Ordinance is to encourage and guide the growth and development of the Town and the area within its planning jurisdiction, in accordance with the goals and objectives of the Comprehensive Plan for the Town of Dillsboro, and in doing this to:

- 1) Secure adequate air, light, and convenience of access;
- 2) Provide safety from fire, flood, and other danger, which may include providing open spaces for public purposes;
- 3) Reduce or avoid congestion, and provide for the safe and efficient movement of vehicles and pedestrians along public ways;
- 4) Promote public health, safety, comfort, morals, convenience, and general welfare;
- 5) Plan for and promote orderly growth and development within the Town and the Town’s planning jurisdiction; including by means of:
 - a) Regulating both the use and the intensity of use of land for commercial, community, industrial, residential, and other purposes and activities;
 - b) Regulating the area, height, location, and size of buildings and structures;
 - c) Encouraging that various uses of land shall be situated in appropriate locations and with appropriate relationships;
 - d) Providing appropriate and sustainable opportunities for growth and development, including giving priority to development that is consistent with the Comprehensive Plan; and
 - e) Regulating the density and distribution of population.
- 6) Encourage that the Town grows with adequate education, health, recreation, utility, and other public and community facilities;
- 7) Recognize and balance the needs of business, industry, and residential uses as part of future growth and development;
- 8) Provide adequate, healthful surroundings for families in residential areas;
- 9) Protect and preserve the community’s small-town, rural character;

- 10) Encourage strategic, quality, compatible new development and investment near the Town, while generally supporting farmland preservation and protection for agricultural activities, discouraging development that fragments agricultural areas, and limiting nuisance issues between agricultural activities and new growth and development;
- 11) Promote an improved community appearance;
- 12) Promote the efficient and economical use of public funds by proactive planning;
- 13) Provide consistent subdivision control standards and policies;
- 14) Promote the provision of compatible land uses, while conserving property values throughout the planning jurisdiction; and
- 15) Provide for the enforcement of this Ordinance, including recourse for violations and other noncompliance with these provisions.

SECTION 120 - Authority

This Ordinance is adopted by the Town of Dillsboro pursuant to its authority under the laws of the State of Indiana, including the 600 Series of Indiana Code (IC 36-7-4-600 et. seq.).

SECTION 125 - Jurisdiction

This Ordinance shall apply throughout the planning jurisdiction of Town of Dillsboro, as may be amended over time.

SECTION 130 - Compliance

After the effective date of this Ordinance, no building or structure shall be altered, constructed, converted, enlarged, located, moved, or reconstructed; nor shall any structure or land be divided, maintained, or used; except in accordance with the provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance, except as otherwise provided herein.

SECTION 135 - Interpretation

The provisions of this Ordinance shall be held to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the community, and are designed to encourage the establishment and maintenance of reasonable community standards for its physical environment. In cases where the provisions of this Ordinance require interpretation, such interpretation shall be provided by the Zoning Administrator, with assistance from the Plan Commission or Board of Zoning Appeals if determined necessary by the Zoning Administrator.

SECTION 140 - Minimum Requirements

Unless otherwise stated, all regulations in this Ordinance are minimum standards.

SECTION 145 - Conflict with Other Regulations

If for any reason these provisions come in conflict with any other regulations, the more restrictive regulations shall apply.

SECTION 150 - Restrictive Covenants

When a structure or parcel of land is governed by this Ordinance as well as private agreements, covenants, restrictions, and other laws, the provisions of the greatest restriction shall take precedence. However, the Town shall have no obligation to enforce private covenants or restrictions.

SECTION 160 - Similar Uses Permitted

Similar land uses not specifically mentioned in these provisions may be permitted with the approval of the Zoning Administrator; such uses may also be permitted by the Plan Commission, if the Zoning Administrator determines that it would be appropriate for the Commission to review a specific proposed land use.

SECTION 165 - Severability

The sections and provisions of this Ordinance are deemed separable; should any section or provision be declared invalid as a result of a court decision, the invalidity shall not affect provisions that can be given effect without the invalid provision.

SECTION 170 - Exclusion

As set forth in IC 36-7-4-1104, nothing in this Ordinance or in any rules, regulations or orders issued pursuant to this Ordinance shall be deemed to authorize any unit of government, legislative body, Plan Commission or Board of Zoning Appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana or by any State agency, or the use of property owned or occupied by the State of Indiana or any State agency. As used in this section, the term "State agency" shall mean and include all agencies, boards, commissions, departments, and institutions, including educational institutions, of the State of Indiana.

SECTION 175 - Effect of Annexation or Vacation on Zoning

1. Annexation

After the effective date of this Ordinance, areas annexed by the Town of Dillsboro shall be zoned in the following manner:

- a. Any territory hereafter annexed to the Town shall, shall initially be zoned the same classification shown on the Official Zoning Map of Dearborn County—or shall otherwise be zoned the closest corresponding Town zoning classification, as determined by the Town Plan Commission. Said annexed area shall be subject to all conditions and regulations applicable to its designated district.
- b. Within sixty (60) days of the effective date of annexation, the Plan Commission shall submit to the legislative body a recommended plan for zoning districts within the area, based on existing land uses, existing zoning, and the fiscal plan for the annexation.

2. Vacation

Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by the proper authority, the districts adjoining each side of the street, alley, public way, railroad right-of-way, or similar areas shall be extended automatically to the center of the vacated area, and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area. For all other matters pertaining to plat, right-of-way, and easement vacations, the procedures set forth in IC 36-7-3-10 through IC 36-7-3-16 must be followed.

SECTION 200 - Plan Commission

Pursuant to IC 36-7-4-200 Series (Commission Establishment and Membership), as may be amended, the Town of Dillsboro has established the Town of Dillsboro Advisory Plan Commission, referred to as “the Commission”, which shall operate in conformance with all of the requirements and standards of Indiana Code and this Ordinance.

SECTION 205 - Purpose

The Plan Commission shall serve to make decisions regarding rezoning, site / development plan reviews, certain land use determinations, and administrative decisions as set forth in this Ordinance and the Commission’s rules.

SECTION 210 - Membership

The Commission shall consist of and continue as seven members, as appointed pursuant to IC 36-7-4-200 et seq.; the number of members may be increased pursuant to IC 36-7-4-214, if the Town is granted extraterritorial planning jurisdiction in the future.

(1) Members shall be appointed as follows:

- a. Three (3) members, who must either be elected or appointed Town officials or employees of the Town;
- b. Four (4) citizen members appointed by the Town Council, of whom not more than three (3) may be of the same political party. Each of the (4) citizen members must be:
 1. A resident of the Town; or
 2. A resident of the county who is also an owner of real property in whole or part in an unincorporated area of the Town. In this scenario, at least a majority of the total number of citizen members appointed to the plan commission must be residents of the Town.
- c. In accordance with IC 36-7-4-220, if a vacancy occurs among the plan commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority may also appoint an alternate member to participate with the commission in a hearing or decision if the regular member appointed by the appointing authority has a disqualification under IC 36-7-4-223(c) or is otherwise unavailable to participate in the hearing or decision. An alternate member has all the powers and duties of a regular member while participating in the hearing or decision.

SECTION 215 - Jurisdiction

The Commission shall have jurisdiction throughout the planning jurisdiction of the Town.

SECTION 220 - Rules and Procedures

The Plan Commission shall adopt rules for the administration of the affairs of the Plan Commission and for the conducting of public hearings, recording of minutes, and for the retaining and administration of public records. The following include minimum procedures:

- a. At the first meeting of each year the Commission shall elect a President and a Vice-President from its members.
- b. Appoint a Secretary, who is not required to be a member of the Commission, and establish the Secretary's duties.
- c. All meetings shall be open to the public.
- d. The Commission shall keep minutes of its proceedings showing the vote of each member for each question, or if absent, or failing to vote indicating such.
- e. The Commission shall also keep records of its examinations and other official actions, all of which shall be of public record, and be immediately filed in the office of the Plan Commission.
- f. A majority of members of the Plan Commission shall constitute a quorum, which shall mean a minimum of four (4) members. The action of the Plan Commission is not official unless it is authorized by a majority of the entire membership, which shall mean a minimum of four (4) votes from the members present at the properly called meeting.

SECTION 225 - Duties and Powers

For the purposes of this Ordinance, the Plan Commission shall have the following duties:

- a. Make recommendation to the Town Council concerning the adoption of or initiate amendments to the Comprehensive Plan, Zoning and Subdivision Control Ordinance, and Official Zoning Map.
- b. Review and make findings on development plans for subdivisions, commercial structures, industrial structures, planned unit developments, and other similar plans for all proposed developments within the Commission's jurisdiction.
- c. Administer the subdivision regulations as outlined in the Subdivision Control Ordinance.
- d. Establish a schedule of fees, charges and expenses in accordance with IC 36-7-4-411.
- e. Review recommendation of Zoning Administrator for new uses or uses not specifically identified in this Ordinance to determine which existing zoning district the use is permitted in based on similar uses permitted within the district and the intent of the zoning district.
- f. Delegate any tasks as specified in this order relative to its administration and the operations.

SECTION 230 - Application Materials

All applications for the Town Plan Commission may be obtained from the Town Zoning Administrator or Clerk Treasurer, or their respective designees. All applications shall be submitted to the Zoning Administrator or his or her designee. All applications shall have an accompanying fee to cover the costs of administration. Fees shall be paid at the time that an application is submitted.

1. Forms

An application shall be filed with the Zoning Administrator or his or her designee by at least one owner or owner by contract (option) or lessee with written permission of the owner of property for which such application is proposed. All petitioners and applicants must submit original applications which must be completed in ink or typed. All applications shall be signed by the applicant. If, after the initial public hearing, additional information is needed beyond the minimum information required by the application, the Commission can require the applicant to submit an Improvement Location Permit or a Site Plan as detailed in Article 17 (for the former) and 23 (for the latter) of this Ordinance or any other needed information as necessary. *E.g. a traffic study pursuant to Article 24*

2. Materials

All submissions shall include the original application and all necessary attachments and copies as required by this Ordinance, the applicable form(s) involved, and the Plan Commission. All submissions that do not contain all required materials will be deemed incomplete and will be returned to the petitioner or applicant.

3. Scheduling

Petitions and permit applications will be scheduled by the Zoning Administrator for the appropriate public hearings based on:

- a. The application determined to be complete by the Zoning Administrator; and
- b. The applicable filing deadline and hearing date set by the calendar of the Plan Commission.

SECTION 235 - Zoning Map Amendment Petition

A Zoning Map Amendment Petition is a request to change the zoning designation of a particular parcel or parcels. The following procedure shall apply to all Zoning Map Amendment Petitions:

1. Initiation

Petitions for Zoning Map Amendments may be initiated by either the Plan Commission, the Town Council, or through an application signed by property owners of at least 50% of the land involved.

2. Preparation and Submission

- a. The Plan Commission shall prepare the petition for zoning map amendment if either the Commission or the Town Council has initiated the petition. The Zoning Administrator shall serve as the representative of the petitioner for such proposals.
- b. Any property owner(s) requesting a zoning map amendment shall be the petitioners and assume responsibility for preparing application materials. The petitioner shall submit an executed rezoning application, a copy of a legal description of the property involved, the required filing fee, and required supporting information. Supporting information shall include the following:
 - i. A site plan drawn to scale, or with sufficient dimensions labeled to determine size, showing, at a minimum, all existing and proposed structures, setbacks, easements, rights-of-way, floodplains, and any other features relevant to the petition.
 - ii. A letter of intent to the Plan Commission stating the reasons for the rezoning, including a detailed description of any proposed development for which the rezoning is sought. The letter should include any written commitments being proposed by the petitioner.

3. Review

The application materials shall be reviewed by the Zoning Administrator. Any revisions to the application materials or the proposal requested by the Zoning Administrator shall be addressed through revised application materials being submitted prior to the Plan Commission hearing. All revised materials shall be submitted to the Zoning Administrator in a timely manner, consistent with the Plan Commission's calendar of meeting and filing dates, and the Commission's rules.

4. Notification

Notification for the scheduled public hearing regarding the rezoning petition shall be completed consistent with the Indiana Administrative Code and this Ordinance and the Commission's rules.

5. Public Hearing

The public hearing shall be scheduled consistent with the adopted calendar of filing and meeting dates (no later than 45 days following the receipt of the application, per IC 36-7-4-608).

6. Plan Commission Action

At either the public hearing or at a subsequent meeting, the Commission shall act on the requested zoning map amendment. The Plan Commission shall certify its recommendation by resolution to the Town Council within 10 days of this action, per IC 36-7-4-608. The Plan Commission shall forward to the Council copies of the Plan Commission certification, the original application and any supporting information, any staff reports regarding the petition, and an ordinance for the Council's consideration.

7. Town Council Action

The Town Council shall vote on the proposed rezoning ordinance within ninety (90) days of its certification by the Plan Commission. The Council shall provide notification of action on the ordinance consistent with Indiana Code. The Town Council may either approve or deny the ordinance. If the Council fails to act within the 90-day time frame specified above the ordinance shall become effective or be defeated consistent with the provisions of IC 36-7-4-608. The Council may also seek modifications or additions to any written commitments.

SECTION 240 - Disqualifications and Conflicts of Interest - A member of the plan commission is disqualified and may not participate in a hearing of the board concerning a zoning decision, as described in IC 36-7-4-1016, if:

- a. The member is biased or prejudiced or otherwise unable to be impartial; or
- b. The member has a direct or indirect financial interest in the outcome of the zoning decision. In the event of a disqualification, the appointing authority may select or designate an alternate member to participate with the board in a hearing or decision. An alternate member has the same powers and duties of a regular member while participating in a zoning decision or hearing.

In the event of a disqualification, the appointing authority may select or designate an alternate member to participate with the board in a hearing or decision. An alternate member has the same powers and duties of a regular member while participating in a zoning decision or hearing.

The plan commission shall enter in its records:

- a. The fact that a regular member has a disqualification that qualifies under IC 36-7-4-223; and
- b. The name of the alternate member, if any, who participates in the hearing in place of the regular plan commission member.

A member of the plan commission or Town Council may not directly or personally represent another person in a hearing before that commission or body concerning a zoning decision or a legislative act.

A member of the plan commission may not receive any mileage or compensation for attendance at a meeting if the member is disqualified under this section from participating in the entire meeting.

SECTION 245 - Hearings

The following shall govern hearings of the Commission, unless otherwise stipulated within this Ordinance, by rule, or by Indiana Code:

- a. The Commission shall hold a public hearing on all rezoning, primary subdivision plat review, and on other requests, application, or petitions as determined necessary by the Town Ordinances and applicable Indiana Codes.
- b. Upon receipt of an application, the Commission shall establish a time and place for a hearing and publish notice of the hearing in a newspaper of general circulation in the County at least 10 business days before the date set for the hearing. In addition, all adjoining property owners shall be notified by either certified, e-signature, or certificate of mailings that are postmarked and mailed at least ten (10) business days in advance of the hearing. The applicant shall be responsible for supplying the names and addresses of all adjoining property owners and shall pay all the costs of notification. Records maintained by the County Assessor's Office shall be used as the official record to determine the identity and address of property owners.
- c. Applications determined to be complete shall be placed on the Commission's agenda for the next available public meeting.
- d. A majority of members of the Plan Commission shall constitute a quorum, which shall mean a minimum of four (4) members. The action of the Plan Commission is not official unless it is authorized by a majority of the entire membership, which shall mean a minimum of four (4) votes from the members present at the properly called meeting.

SECTION 250 - Decisions of the Commission

The following shall apply to the Commission’s decisions:

- a. The Commission may impose reasonable conditions of approval as a part of its action.
- b. The Commission may permit or require a written commitment in conformance with IC 36-7-4-1015 (as may be amended), and the Commission’s rules.
- c. Conditions of approval or provisions of a written commitment may include, but is not necessarily limited to:
 - i. Limiting the uses permitted on a property;
 - ii. Placing restrictions on the appearance, height, location, size, and/or similar aspects of a structure or proposed structures;
 - iii. Establishing standards or requirements for buffering, landscaping, parking, screening, or other similar site design elements; and
 - iv. Similar building layout, site design, or use issues.
- d. The Commission shall enter written findings setting forth the reasons for its action.

SECTION 255 - Zoning Administrator

The Zoning Administrator, who shall be appointed by the Town Council, shall:

1. Administer and enforce the provisions of this Ordinance, including having the power to not permit any construction, use, or change of use which does not conform to this Ordinance.
2. Issue improvement location permits.
3. Maintain a permanent file of all improvement location permits and zoning and subdivision-related applications as public records.
4. Identify all nonconforming uses. A nonconforming use certification shall then be issued to the owner of the property where the use or structure is located.
5. The Town Council may also designate other individuals or entities to carry out certain tasks assigned to the Zoning Administrator.
6. The Zoning Administrator may delegate any portion or portions of his or her duties to staff of the Plan Commission.

SECTION 300 - Board of Zoning Appeals

Pursuant to IC 36-7-4-900 Series, as may be amended, the Town of Dillsboro hereby establishes the Town of Dillsboro Advisory Board of Zoning Appeals, referred to as the Board of Zoning Appeals (or “the Board”), which shall operate in conformance with all of the requirements and standards of Indiana Code and this Ordinance.

SECTION 305 - Purpose

The Board of Zoning Appeals shall serve to make decisions regarding variances, conditional uses and administrative appeals, for the effective and timely administration and enforcement of this ordinance.

SECTION 310 - Membership

The Board shall consist of and continue as five members, as appointed pursuant to IC 36-7-4-902.

- (1) All members shall serve four (4) year terms and shall be appointed as follows:
 - a. Four citizen members appointed by the Town Council, of whom one (1) must be a member of the Plan Commission and two (2) must not be members of the plan commission;
 - b. One (1) citizen member appointed by Town Council, who must not be a member of the plan commission;
 - i. Each of the five (5) Board members must be:
 1. A resident of an unincorporated area of the Town; or
 2. A resident of the county who is also an owner of real property in whole or part in an unincorporated area of the county. In this scenario, at least a majority of the total number of citizen members appointed to the board of zoning appeals must be residents of the Town.

A citizen member of the Board of Zoning Appeals may not hold:

1. An elected office (as defined in IC 3-5-2-17); or
2. Any other appointed office in municipal, county, or state government; except for membership on the Plan Commission as permitted or required in IC 36-7-4-902.

- d. In accordance with IC 36-7-4-907, if a vacancy occurs among the members of the board of zoning appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the board in any hearing or decision if the regular member it has appointed has a disqualification under IC 36-7-4-909 or is otherwise unavailable to participate in the hearing or decision. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision.

SECTION 315 - Jurisdiction

The Board shall have jurisdiction throughout the Planning jurisdiction of the Town.

SECTION 320 - Rules and Procedures

The Board of Zoning Appeals shall adopt rules for the administration of the affairs of the Board and for the conducting of public hearings recording of minutes and the retaining and administration of public records. The following include minimum procedures:

- a. At the first meeting of each year the Board shall elect a Chairman and a Vice-Chairman from its members.
- b. Appoint a Secretary, who is not required to be a member of the board, and establish the Secretary's duties.
- c. All meetings shall be open to the public.
- d. The Board shall keep minutes of its proceedings showing the vote of each member for each question, or if absent, or if failing to vote, indicating such.
- e. The board shall keep records of its examinations and other official actions, all of which shall be of public record and be immediately filed in the office of the Plan Commission.
- f. A majority of members of the Board shall constitute a quorum, which shall mean a minimum of three (3) members. The action of the Board of Zoning Appeals is not official, unless it is authorized by a majority of the entire membership, which shall mean a minimum of three (3) votes from the members present at the properly called meeting.

SECTION 325 - Duties and Powers

The Board of Zoning Appeals shall hear, and take action on:

- a. Administrative Appeals;
- b. Conditional Uses; and
- c. Variances.

SECTION 330 - Application Materials

All applications for the Town Board of Zoning Appeals may be obtained from the Town Zoning Administrator or Clerk Treasurer, or their respective designees. All applications shall be submitted to the Zoning Administrator or his or her designee. All applications shall have an accompanying fee to cover the costs of administration. Fees shall be paid at the time that an application is submitted.

1. Forms

An application shall be filed with the Zoning Administrator or his or her designee by at least one owner or owner by contract (option) or lessee with written permission of the owner of property for which such application is proposed. All petitioners and applicants must submit original applications which must be completed in ink or typed. All applications shall be signed by the applicant. If, after the initial public hearing, additional information is needed beyond the minimum information required by the application, the Board can require the applicant to submit a Site Plan as detailed in Article 23 of this Ordinance or any other needed information as necessary.

2. Materials

All submissions shall include the original application and all necessary attachments and copies as required by this Ordinance, the applicable form(s) involved, and the Board of Zoning Appeals. All submissions that do not contain all required materials will be deemed incomplete and will be returned to the petitioner or applicant.

3. Scheduling

Petitions and permit applications will be scheduled by the Zoning Administrator for the appropriate public hearings based on:

- a. The application determined to be complete by the Zoning Administrator; and
- b. The applicable filing deadline and hearing date set by the calendar of the Board of Zoning Appeals.

SECTION 335 - Variance and Conditional Use Petitions

A variance is a modification of the terms or standards of the relevant regulations of this Ordinance. All variances are subject to the approval of the Board of Zoning Appeals. The following procedure shall apply to all variance petitions:

1. General

- a. If the Board grants the variance, it shall direct the applicant to apply for an Improvement Location Permit. If such application complies with this Ordinance and all other applicable codes or ordinances, the Zoning Administrator shall issue the Improvement Location Permit for the use authorized by the variance.
- b. The Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel, in accordance with and as set forth in I.C. 36-7-4-1015. The Board may also impose conditions upon that approval. If an owner or applicant fails to comply with any condition and/or commitment permitted or required by the grant of variance, the Board may authorize such action as it may deem appropriate to obtain compliance by the owner.
- c. Any petition for variance shall include the consent of the property owner(s).

2. Use Variance

A variance of this Ordinance shall not be granted by the Board of Zoning Appeals unless a complete written variance application and a site plan is submitted to the Zoning Administrator and the Board of Zoning Appeals containing, at minimum:

- a. Name, address, and phone number of applicants;
- b. The 18-digit Parcel ID number as well as the address of the property, if applicable;
- c. Description of the nature of variance requested;
- d. The current zoning of the property; and
- e. A detailed site plan, with existing and proposed locations of uses and improvements (including all applicable setback, easement, right-of-way information as well as dimensions of all affected structures);
- f. A narrative statement demonstrating that the requested variance conforms to each of the following standards:
 - i. The variance will not be injurious to the public health, safety, morals, and general welfare of the community;
 - ii. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - iii. The need for the variance arises from such condition peculiar to the property involved, and does not exist in similar property in the same zone;

- iv. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property; this hardship situation shall not be self-imposed, nor be based on a perceived reduction of or restriction on economic gain; and
- v. The granting of the variance would not interfere substantially with the Comprehensive Plan.

3. Development Standard Variance

The Board may grant a variance from the development standards (such as height, bulk, area, etc.) of the Zoning Ordinance if, after a public hearing on the application (with the minimum required items set forth in the previous section), it makes findings of facts in writing that:

- a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- c. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction on economic gain.

The Board of Zoning Appeals shall schedule a public hearing within 45 days of the filing of a petition for any Variance.

4. Conditional Use

A conditional use may be allowed in a particular zoning district contingent upon approval by the Board of Zoning Appeals, due to the special nature of the use. A conditional use petition is filed to request approval of a use which may be allowed within a particular district contingent upon approval by the Board of Zoning Appeals because of its special nature. The following procedure applies to Conditional Use petitions:

- a. A conditional use may be permitted if an application for such use is approved by the Board of Zoning Appeals.
- b. Only the uses listed in the appropriate zoning district section may be considered for approval as a conditional use.
- c. Approval of the conditional use shall run with the property, unless specifically approved otherwise by the Board. Any change to a conditional use not authorized by a previous approval shall require a new petition and hearing.
- d. The granting of a conditional use shall not be required for a use that existed as of the effective date of this ordinance.
- e. An application for approval of a conditional use shall be filed with the Zoning Administrator. The application shall consist of at least the following:
 - i. Name, address, signature, and telephone number of the owner of the property, and name address, and telephone number of any person(s) holding options on the purchase of the property for the intended special use.
 - ii. The 18-digit Parcel ID number as well as the address of the property, if applicable.
 - iii. Identification of the proposed special use and all accessory uses or structures, with square footage and height listed.
 - iv. The current zoning of the property.
 - v. The required number of off-street parking spaces, and the number of spaces provided.
 - vi. A site plan drawn to scale or with sufficient dimensions labeled to determine size, showing at least the following: property lines, adjacent streets and alleys, location of all existing and proposed buildings, location of parking and drive areas, building and parking setbacks, utilities, and any landscaped/buffer areas.
- f. The Board of Zoning Appeals shall schedule a public hearing within 45 days of the filing of a petition for any conditional use. A conditional use petition may be approved, if the Board determines that the request meets the following criteria:
 - i. The public convenience and welfare will be substantially served.

- ii. The proposed use will not be unduly detrimental to the surrounding area.
- iii. The intensity, layout, location, nature, and size of the proposed use will be compatible with the immediate area.
- iv. Vehicular traffic and access to and from the proposed use will not create undue hazards to normal traffic in the vicinity of the request.
- v. The proposed use will be consistent and not conflict with the comprehensive plan.
- g. The Board may impose written commitments as a part of its action on any conditional use. A site plan as approved, and all signed, completed written commitments shall be filed by the petitioner with the Zoning Administrator within 30 days of final approval. All development, construction, and use shall be in accordance with the approved plan, unless a revised plan is submitted, approved, and filed. Any development contrary to the approved plan shall constitute a violation of this Ordinance.
- h. A conditional use may be terminated by the Board upon the filing of a review request by the Zoning Administrator, and upon finding by the Board at a public hearing, with notice to the property owner, that the terms of this Ordinance, or conditions of approval or specified commitments have not been complied with.

SECTION 340 - Administrative Appeal Petition

If during the development review or other administrative process, an error is alleged in any order, requirement, decision, or determination made by an administrative official or other staff member, an administrative appeal may be filed with the Board of Zoning Appeals. The following procedure shall apply to all appeals of administrative decisions:

1. Filing

A petition for an administrative appeal shall be filed with the Zoning Administrator within 30 calendar days of the interpretation or decision. The petition must consist of at least the following:

- a. Copies of all materials submitted to the staff member or administrative board upon which the decision being appealed was based.
- b. Copies of any written decisions which are the subject of the appeal.
- c. A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standards applicable to the Town of Dillsboro on which the appeal is based.

2. Scheduling

After receipt of the petition, the Zoning Administrator shall schedule a hearing with the Board of Zoning Appeals within 45 days of the receipt of said petition. If construction is taking place in regards to any project affected by the petition, the Zoning Administrator shall determine whether it is necessary for all or part of the construction to stop until action is taken by the Board of Zoning Appeals.

3. Action

The Board shall hear the petition and make its decision on the merits of the petition based upon its investigation of facts related to the appeal.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator or designated staff, from whom the appeal is taken, certifies to the Board of Zoning Appeals that by reason of facts stated in the application, a stay would, in the staff's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order from the proper court of record.

SECTION 345 - Disqualifications and Conflicts of Interest - A member of the board of zoning appeals is disqualified and may not participate in a hearing of the board concerning a zoning decision, as described in IC 36-7-4-1016, if:

- a. The member is biased or prejudiced or otherwise unable to be impartial; or
- b. The member has a direct or indirect financial interest in the outcome of the zoning decision.

In the event of a disqualification, the appointing authority may select or designate an alternate member to participate with the board in a hearing or decision. An alternate member has the same powers and duties of a regular member while participating in a zoning decision or hearing.

The board of zoning appeals shall enter in its records:

- a. The fact that a regular member has a disqualification that qualifies under IC 36-7-4-223; and
- b. The name of the alternate member, if any, who participates in the hearing in place of the regular board member.

A member of the board of zoning appeals may not directly or personally represent another person in a hearing before that board concerning a zoning decision or a legislative act.

A member of the board of zoning appeals may not receive any mileage or compensation for attendance at a meeting if the member is disqualified under this section from participating in the entire meeting.

SECTION 350 - Hearings

The following shall govern hearings of the Board, unless otherwise stipulated within this Ordinance or Indiana Code:

- a. The Board shall hold a public hearing on any Administrative Appeal, Conditional Use, Variance, and on other appeals or petitions as determined necessary by the Zoning Administrator or Board.
- b. Upon receipt of an application, the Board shall establish a time and place for a hearing and publish notice of the hearing in a newspaper of general circulation in the County at least 10 business days before the date set for the hearing. In addition, all adjoining property owners shall be notified by either certified, e-signature, or certificate of mailings that are postmarked and mailed at least ten (10) business days in advance of the hearing. The applicant shall be responsible for supplying the names and addresses of all adjoining property owners and shall pay all the costs of notification. Records maintained by the County Assessor's Office shall be used as the official record to determine the identity and address of property owners.
- c. Applications determined to be complete shall be placed on the Board's agenda for the next available public meeting.
- d. The Board shall adopt rules for procedures for hearings and meetings.

SECTION 355 - Decisions of the Board

The following shall apply to the Board's decision on an appeal or petition:

- a. The Board may impose reasonable conditions of approval as a part of its action.
- b. The Board may permit or require a written commitment in conformance with IC 36-7-4-1015 (as may be amended), and the Board's rules.
- c. Conditions of approval or provisions of a written commitment may include, but is not necessarily limited to:
 - i. Limiting the uses permitted on a property;
 - ii. Placing restrictions on the appearance, height, location, size, and/or similar aspects of a structure or proposed structures;
 - iii. Establishing standards or requirements for buffering, landscaping, parking, screening, or other similar site design elements; and
 - iv. Similar building layout, site design, or use issues.
- d. The Board shall enter written findings setting forth the reasons for its action.

SECTION 360 - Expiration of Permit

Conditional uses and variances shall be authorized only for the specific request and are not transferable to another property or use without approval from the Board through a subsequent public hearing. In addition, all permits granted by the Board shall expire within one (1) year of approval by the Board unless the Board otherwise states a time period. The action or use requested and approved by the Board must be substantially underway (See Article 27) within the time period specified or the permit will expire and a subsequent hearing will be needed or an extension requested to the Zoning Administrator.

SECTION 365 – Official Record and Written Commitments

The Board of Zoning Appeals shall keep the minutes of its proceedings and records regarding the vote on its actions. All minutes (including findings of fact), voting accounts, and other documentation pertaining to a case item or cause number shall be filed in the office of the Plan Commission and are considered public records. (Please refer to IC 36-7-4-915)

The Board of Zoning Appeals may allow, or require, the owner of a parcel of real property to make a commitment concerning the use and development of that parcel. Commitments associated with a Board of Zoning Appeals decision shall be subject to the requirements set forth in IC 36-7-4-1015, including:

- a. A commitment must be in writing;
- b. A commitment shall be recorded in the Dearborn County Recorder's Office. After a commitment is recorded, it is binding on a subsequent owner or any other person who acquires an interest in the parcel;
- c. Unless a written commitment is modified or terminated in the manner prescribed by the Indiana Code, the commitment is binding upon the owner of the parcel (see IC 36-7-4-1015);
- d. A commitment may contain terms providing for its own expiration.

The allowance or requirement of a commitment does not obligate the Board of Zoning Appeals to approve an application to which the commitment relates.

SECTION 400 - Pre-existing, Nonconforming Structures and Uses

The purpose of this subsection is to set forth criteria, standards, and procedures for altering, amortizing, changing, confirming, continuing, discontinuing, expanding, and extending pre-existing, nonconforming structures and uses. The intent of this subsection is to allow and provide for the continued use of legal nonconforming structures and uses, including reasonable repairs and maintenance, while also pursuing long-term goals of either phasing out or discontinuing nonconforming uses over time, or bringing nonconforming structures and structures into full or partial compliance with this subsection where possible.

SECTION 410 - Documentation

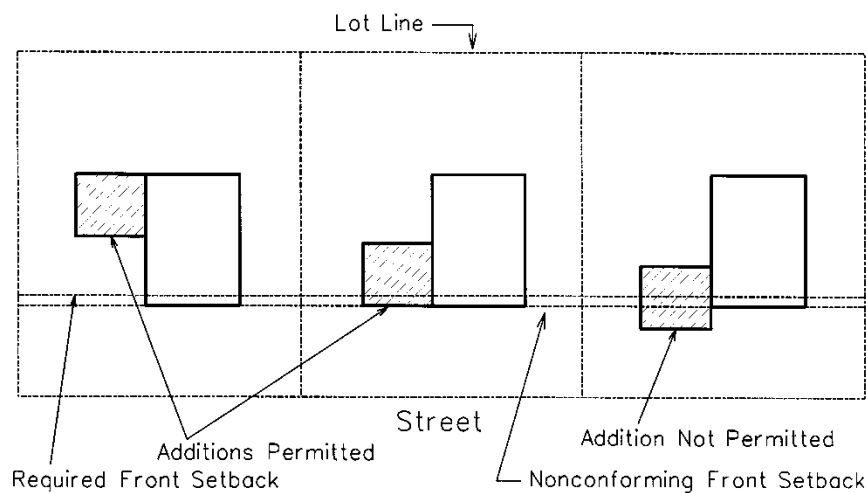
An applicant or owner claiming the existence of a pre-existing, nonconforming use or structure may be required to submit information to adequately document that the use or structure is a legal nonconforming use or structure.

SECTION 420 - General Provisions

- a. A nonconforming use of land or structure, or both in combination, may be continued but may not be extended, expanded, or the use changed unless to a conforming use, except as specified herein or as permitted by the Board of Zoning Appeals. The nonconforming use shall only be permitted to continue as the same use at the same level of intensity as currently exists on the property.
- b. An existing nonconforming use which occupies a portion of an existing structure may be extended throughout the structure.
- c. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use if the Board of Zoning Appeals approves of the change as a conditional use. In reviewing specific cases, the Board shall only approve a proposed new use if the Board determines the new use is appropriate for the district or area.
- d. If any nonconforming use of land or structure, or both in combination, ceases for any reason for a period of more than 6 consecutive months, the nonconforming use status will be removed and cannot be resumed. Thereafter the land, structure, or structure and land in combination shall not be used except in conformance with the permitted use regulations for the zoning district in which it is located.
- e. If any legal pre-existing nonconforming use of land, structure, or combination, is changed to a permitted use, then the legal nonconforming use status is removed and cannot be resumed.
- f. Normal maintenance and repair of a nonconforming structure may be performed provided there is no significant physical change to the structure and such maintenance and repair

does not extend, enlarge or intensify the nonconforming structure or the use of the nonconforming structure, unless otherwise authorized by this Section.

- g. A pre-existing nonconforming residential structure used solely for a residential purpose may be enlarged provided the number of dwelling units is not increased. The floor area of the dwelling unit may not be increased more than twenty-five percent (25%), and compliance with all development standards of this ordinance must be followed.
- h. A primary residential structure which conforms to the permitted use requirements of this Ordinance, but is nonconforming with regard to setback requirements, may be added to or otherwise enlarged, provided that the nonconforming yard dimension is not decreased.



Permitted Additions to Nonconforming Primary Residential Structures

- i. A primary nonresidential structure which conforms to the permitted use requirements of this Ordinance but is nonconforming with regard to front or rear setback requirements may be added to or otherwise enlarged, on a one-time basis, of up to 50% of the square footage of the existing structure, provided that the nonconforming yard dimension is not decreased.
- j. A legal nonconforming agricultural use or operation shall be permitted to expand onto any part of the overall lot or parcel where the use is located, based on the lot or parcel boundaries in existence as of the effective date of this Ordinance. However, legal nonconforming agricultural livestock operations shall only be permitted to either maintain the same number of livestock or expand up to the number allowed as a low intensity livestock operation, if the current livestock number(s) are less than what would be permitted for that use. Nonconforming agricultural uses also shall be governed by the applicable provisions of I.C. 36-7-4-616.

- k. Legal nonconforming manufactured homes may be replaced with another manufactured home on the same lot or tract; however, the replacement home shall be a home built after 1981 or after the year of the construction of the existing home, whichever date is latest. Also, if the existing home is less than 950 square feet, the replacement home shall be a minimum of 950 square feet; if the existing home is over 950 square feet, the replacement home shall be as large as or larger than the existing home.



Existing nonconforming Type III manufactured homes

- l. Legal nonconforming essential facilities or services may be added to or enlarged; such uses may also be expanded onto any part of the overall lot or parcel where the use is located, based on the lot or parcel boundaries in existence as of the effective date of this Ordinance.
- m. If any lot of record does not meet the minimum lot size and frontage requirements as established within this Ordinance and that lot existed at the effective date of adoption or amendment of this order, the owner may develop that lot in conformance with the dimensional standards previously in effect. The previous standards can be used only if the current development standard cannot be applied to the lot. However, the lot must be developed in conformance with all other requirements of this order. If the lot cannot be developed under the existing standards or if the previous standards cannot be determined, a variance will be required from the Board of Zoning Appeals.

- n. A nonconforming structure damaged by fire or other cause to the extent that its reconstruction or restoration will cost over 50% of the value of the structure as shown in the records of the Dearborn County Assessor’s office shall only be repaired or rebuilt in conformance with the provisions of this Ordinance.
- o. These provisions shall also apply to structures and uses which become nonconforming due to any annexation, zoning reclassification, or other inclusion pursuant to this Ordinance and State statute.

SECTION 430 - Burden of Establishing Status

The burden of establishing legal, pre-existing nonconforming use status shall rest on the person asserting such status. Such persons shall provide sufficient proof to the Zoning Administrator or designated staff that such a pre-existing nonconforming status exists.

SECTION 500 - Purpose

This Zoning Ordinance and the Zoning Map may be amended from time to time by ordinance duly enacted by the Town Council in accordance with the procedures set forth in Indiana Code Chapter 36-7-4-600. Reviews and updates of the Zoning Ordinance, Map and the Comprehensive Plan should be conducted, at minimum, every five (5) years to ensure that these public documents accurately represent the changing needs of the community. Any updates shall follow the laws and requirements as outlined in Indiana Code and Federal law, where applicable.

SECTION 510 - Initiation of Zoning Text Amendments and Map Amendments

Amendments to this zoning ordinance's text and map may be initiated in the following manner:

1. **Zoning Text:**
The Plan Commission can initiate a text amendment by holding a public hearing and making a recommendation to the Town Council. The Council can initiate a text amendment but must refer the amendment to the Plan Commission for a public hearing and recommendation before it can act on the text amendment. Text amendments are to be adopted by a resolution and/or ordinance by the Town Council.
2. **Zoning Map:**
The Plan Commission can initiate a zoning map amendment by holding a public hearing and making a recommendation to the Town Council. The Council can initiate a zoning map amendment, but must refer the amendment to the Plan Commission for a public hearing and recommendation before it can act on the zoning map amendment. Zoning map amendments can also be initiated by filing an application by at least one (1) majority owner, owner by contract (option) or lessee with permission of the owner/s of property within the area proposed to be changed or affected by said map amendment. Zoning map amendments are to be adopted by a resolution and/or ordinance by the Town Council.

SECTION 520 - Contents of an Application for a Zoning Map Amendment

Applications for amendments to the zoning map, adopted as part of this Ordinance by Section 500, shall be completed in full, signed, supplemented with any additional information found appropriate by the Plan Commission, and accompanied by a fee established according to the fee schedule. All petitions not initiated by the Plan Commission must be initiated by a petition or application signed by property owners who own at least fifty percent (50%) of the land involved.

A Development Plan (hereafter referred to as a Concept Development Plan) is strongly encouraged to be submitted for any zoning map amendment. Rezoning applications submitted without a Concept Development Plan shall be reviewed from the perspective of the “maximum allowable use” based upon the requirements, principally permitted uses, and conditional uses of the zoning being requested. The Concept Development Plan, when submitted and agreed upon, shall be followed and be binding as a requirement of the zone map amendment. Any rezoning that is approved with a Concept Development Plan shall be designated on the Official Town Zoning Map as DP for Development Plan. (For example, Residential (R-DP))

The property owners and any other appropriate persons, such as the applicant(s) or one or more option holder(s) in the property, shall be required to furnish the information necessary to make any written commitments of record and shall sign such written commitments obligating them to comply with the terms of the zoning change and Concept Development Plan, if applicable. This written commitment and the ordinance of the legislative unit for the zone map amendment shall be filed in the office of the Dearborn County Recorder within 30 days of final action, as further specified in Sections 550-570.

All Applicants needing a Variance or Conditional Use Permit must file an application for Board of Zoning Appeals review and must follow the public hearing procedures set forth in Article 3, Section 335 of this order.

Whether a Concept Development Plan is submitted or not, the property owner and any other appropriate person, such as the applicant or an option holder in the property, must supply the Plan Commission all of the information set forth in items 1-9 of the subsection titled ‘Minimum Elements for a Zone Map Amendment Application’ for all proposals involving a rezone, prior to the adopted meeting schedule and deadlines.

A Concept Development Plan, once submitted, shall include the following minimum, additional elements—as applicable—as well as any other supporting information that the Applicant believes addresses the specific findings used in reviewing a Zoning Map Amendment.

Minimum Elements for a Zone Map Amendment Application:

1. General Existing Site Characteristics – ownership; topography with a maximum contour interval of ten (10) feet—two (2) foot intervals preferred; soils maps (and legends); applicable floodplain or floodway areas, streams, and other relevant drainage information; vegetation; the location of any cemetery or burial ground onsite and / or within 100 feet of the affected site; and other physical characteristics;
2. Transportation Patterns - public and private roads and internal and external circulation patterns, rights-of-ways, easements and parking;
3. Utilities and Infrastructure: The general location(s) of existing sewer, water, electric, and gas utilities, if applicable, that will serve the proposed development must be shown or referenced on the concept plan. This information shall also be accompanied by written statements from the service providers that address capacity issues as well as affirm the capability of the applicant to have these services extended to the proposed development. A project within the territory of the Dearborn County Regional Sewer District requires written acknowledgement—in addition to acknowledgements of other service providers (where inter-local agreements may exist or be required), where applicable. *All written statement(s) shall be considered current—if less than 1 year old;
4. Services: General description of the availability of community facilities such as schools, fire protection services, emergency services, and other types of facilities that would serve the development if any, and how these facilities are affected by this proposal. This information shall also be accompanied by written statements from the applicable service providers (with jurisdiction) that addresses capacity issues as well as affirms the capability of the applicant to have these services extended to the proposed development;
5. Relationship of Proposed Zone Change with Comprehensive Plan - how specifically the proposed zone change would conflict, conform, complement or otherwise affect the Comprehensive Plan as well as any special studies that are designed to further detail the Comprehensive Plan in a specific area;
6. An 8.5" by 11" or 11" by 17" reduction of the plan that can be copied on a standard photocopier;
7. A list of all property owners within 500 feet of the area proposed to be rezoned—or within 660 feet (1/8 mile), or as otherwise prescribed in IC 36-7-4-604, if the affected area proposed to be rezoned abuts or includes a county line (or a county line street or road or county line body of water)—for the purposes of identifying and notifying interested parties for the plan commission’s hearing(s) on any matter related to a zone map amendment, including changes to written commitments;
8. A boundary map and legal description of the area proposed to be rezoned, sufficient that the property can be easily identified by the Dearborn County Surveyor’s Office and Plan Commission staff;

9. Prepare detailed, preliminary statements regarding Findings of Fact Necessary for a Zone Map Amendment as set forth Section 540 of this Article.

Additional Elements, if Applicable, for Zone Map Amendments involving a Concept Development Plan

The following information must be submitted in conjunction with a Concept Development Plan—where applicable to a specific project or site:

1. Land Use Characteristics – Maps illustrating the location, description and size (acreage) of all proposed land uses—as well as maps and accompanying documentation illustrating the following amenities, where applicable: open spaces, neighborhood and / or community amenities, impervious surfaces including streets, parking areas, structures and buildings (general description of size area, intensities/densities). Proposed land use maps should accurately depict average lot sizes and densities on the plan at a scale no larger than 1" = 200' and should be oriented with north, to the extent feasible, located near the top portion of the plan;
2. Approximate location and number of (both) anticipated residential and non-residential units along with approximate square footage, density and height;
3. If the site has unusual or unique natural features demonstrate how the proposed development preserves and utilizes its natural topography, geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural draining patterns. If appropriate, geotechnical studies should be submitted to indicate soil types, depth of bedrock and slope stability. *All geotechnical studies should reflect current land conditions;
4. Submit conceptual landscape plan that indicates the locations and sizes of landscape and buffering features. A statement that acknowledges that all landscaping and bufferyard requirements set forth in Article 22 of this Ordinance will be adhered to by the owners may be submitted in lieu of a conceptual landscaping plan, if the plan commission finds it acceptable;
5. Calculation of approximate amount of open space both before and after construction. Indicate areas of expected open space and new landscaping. Include maintenance plans for these areas;
6. Approximate location and size of storm water detention and/or retention areas;
7. Information describing proposed signage (types, sizes, materials, and locations on site);
8. Indicate the construction schedule of the project. For multi-phased projects, submit a phasing plan that describes the anticipated timing and geographical extent of each phase;
9. Submit a detailed traffic study if the proposed development exceeds 1000 vehicle trips per day on average or if the project would significantly alter existing traffic patterns or volume (See Article 24, Section 2448) *All traffic studies shall be considered current—i.e. less than 1 year old;
10. Submit a sketch or drawing of the proposed buildings to demonstrate the visual appearance or a type of architecture.

SECTION 530 - Public Hearing Procedure

If the proposal is not initiated by the Plan Commission it must be referred to the Plan Commission for consideration and recommendation before any final action is taken by the Town Council. Upon receiving or initiating the proposal, the Plan Commission shall, within sixty (60) days, hold a public hearing.

1. The following notice shall be given:
 - a. Notice of the hearing shall be given by the Plan Commission Staff (postmarked and mailed) at least **ten (10) days** in advance of the hearing by certified mail, to the applicant and the owners of all property adjoining the property to be changed. The applicant proposing the amendment shall be required to furnish the names and addresses of the owners of all adjoining property. The Dearborn County Assessor's Office may be relied upon to determine the identity for all adjoining property owners. The notice shall state, at a minimum, the time, place and purpose of the hearing. An application for a Zone Map Amendment may be withdrawn prior to the public notification process set forth herein, at minimum cost to the Owner / Applicant. An application that is withdrawn after the initiation of the public notification process may be withdrawn at full cost to the Owners / Applicants. Applications may be resubmitted under either of these circumstances for Plan Commission review at any subsequent public hearing date.
 - b. Notice of the hearing shall be published in a newspaper of general circulation at least **ten (10) days** prior to the hearing. Said published notice shall state, at a minimum, the time, place and purpose of the hearing.
 - c. Within **ten (10) business days** after the Plan Commission determines its recommendation (if any), the Plan Commission shall **certify** the proposal by providing in writing to the Town Council the decision made by the Plan Commission with findings. An application that is withdrawn after the Plan Commission determines its recommendation may not be resubmitted or reconsidered in any form for the same or substantially similar set of properties for a minimum of ninety (90) days, as quantified from the date that the Applicants / Owners formally submit a written withdrawal to the Plan Commission and Town Council. Applications resubmitted under these circumstances will be required to initiate the Zone Map Amendment process as new requests.
 - d. The Town Council shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposal.

2. The following applies if the proposal receives a favorable recommendation from the Plan Commission.
 - a. At the first regular meeting of the legislative unit after the proposal is certified, or at any subsequent meeting within the ninety (90) day period, the Town Council may adopt, amend or reject the proposal.
 - b. If the Town Council adopts or amends (as certified) the proposal, it takes effect as other ordinances of the Council.
 - c. If the Town Council rejects the proposal, it is defeated.
 - d. If the Town Council fails to act on the proposal within ninety (90) days after certification, the ordinance takes effect as if it had been adopted (as certified)
3. The following applies if the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission:
 - a. At the first regular meeting of the Town Council after the proposal is certified, or at any subsequent meeting within the ninety (90) day period, the Town Council may adopt or reject the proposal.
 - b. If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Council.
 - c. If the Town Council rejects the proposal, it is defeated.
 - d. If the Town Council fails to act on the proposal within ninety (90) days after certification, it is defeated.

If a zoning map amendment application receives an unfavorable or no recommendation from the Plan Commission and this action is upheld by the Town Council, the applicant will not be permitted to resubmit an application for this site for a period of ninety (90) days, as quantified from the date that the Town Council makes its determination.

Section 540 - Findings Necessary for Map Amendment

In preparing and considering proposals for zoning text and map amendments, the Plan Commission and the Town Council shall pay reasonable regard to the following:

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

The above criteria shall be the basis for findings of fact in a map amendment and shall be recorded in the minutes and records of the Plan Commission and the Town Council.

SECTION 550 - Written Commitments

The Plan Commission may require a written commitment executed by the applicant/owner in conjunction with a favorable recommendation of a Zoning Map Amendment. Failure to comply with any written commitment shall be considered a violation of this ordinance and shall be governed by Article 6. Any written commitment shall be recorded and shall be binding on the owner, subsequent owner, or person who acquires interest in the property.

The Plan Commission shall forward to the Town Council, as part of the certification of the recommendation, any written commitment incorporated within its motion for approval. The written commitment shall be signed by the owner and any other appropriate person indicating agreement with the terms of the written commitment. The Town Council may adopt or reject the application and written commitment pursuant to IC 36-7-4-608. Any written commitments made as part of the Ordinance/Resolution for approval of the rezoning by the Town Council shall be prepared in writing and signed, as stated above, and recorded in the Dearborn County Recorder's Office. The enforcement, interpretation and administration of the written commitments shall be the responsibility of the Plan Commission.

SECTION 560 – Effect of Approval of Amendment

When an amendment to the Zoning Map is adopted by resolution/ordinance of the Town Council, the resolution/ordinance is the official map amendment. The incorporation of this amendment onto the official zoning map shall be an administrative act performed in a timely manner by the Plan Commission Staff. When an amendment to the Zoning Text is approved, the change shall be incorporated into this Ordinance and maintained by the Plan Commission Staff.

SECTION 570 – Amendment to the Comprehensive Land Use Plan

When the Town Council approves a Zoning Map Amendment, the Future Land Use Plan of the Comprehensive Plan is thereby amended.

SECTION 600 – Zoning Permits Required

No building or other structure may be erected, moved, added to, or structurally altered, nor shall any building, structure, or land be established or changed in use or character without a permit. The Location Improvement Permit hereafter called a Zoning Permit—shall be issued by the Zoning Administrator or designee pursuant to Plot Plan Review (Article 17) or Site Plan Review (Article 23). All Zoning Permits issued under Plot Plan Review or Site Plan Review shall be issued only in conformity with the provisions of this ordinance unless the Zoning Administrator receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use, or variance.

SECTION 605 – Requirements of Zoning Permit Applications

The owner, or applicant, seeking a permit shall obtain and complete an application for a zoning permit on a form prescribed by the Plan Commission and follow the criteria set forth under Plot Plan Review and Site Plan Review, as applicable.

SECTION 620 - Failure to Obtain Zoning Permits and Certificates of Occupancy

Failure to obtain a Zoning Permit and a Certificate of Occupancy shall be a violation of this ordinance and will be punishable under the provisions of this Article.

SECTION 625 – Construction and Use to be as Provided in Approved Zoning Permit

Zoning Permits are issued by the Planning Department, on the basis of the application and plans that have been submitted, and approved, and authorize only the use, arrangement, and construction that has been set forth in the approved application and plans. Any other use, arrangement, or construction, contrary to that authorization shall require a revised permit that complies with all requirements or it will be considered a violation of this ordinance and be punishable under the provisions of this Article.

SECTION 630 – Complaints Regarding Violations

Reports, including written complaints, of possible violations of this Ordinance shall be made to the Zoning Administrator, who will determine the appropriate action to be taken. Examples of violations shall include, but not be limited to, the following:

1. Failure to Comply with Commitments
Any failure to comply with commitments or conditions made in connection with a rezoning, site plan, special exception, variance, or other similar documented commitment.
2. Failure to Comply with Development Standards
Any failure to comply with the development standards and/or any similar regulations of this Ordinance.
3. Failure to Obtain a Permit
Failure to obtain an Improvement Location Permit, or other permit required by this Ordinance.

4. Illegal Structures

The placement, erection, and/or maintenance of a primary structure, sign, accessory structures or any other element determined by the Zoning Administrator to not conform to the provisions of this Ordinance.

5. Illegal Uses

Conducting a use or uses that do not comply with the provisions or explicit intent of this Ordinance.

6. Violation of Stop Work Order

Proceeding with work after the issuance of a Stop Work Order.

Whenever a violation of the zoning ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall fully, and accurately, state the causes and basis of the alleged violation, and be filed with the Zoning Administrator or designee. The Zoning Administrator or designee shall investigate the complaint in a timely manner and, if warranted, take action thereon as provided by this ordinance.

SECTION 635 – Inspection of Property; Right of Entry

The Zoning Administrator or his or her designee shall enforce this Ordinance and bring any violations or lack of compliance to the attention of the Town Attorney or other designated enforcement official, who may file a complaint against the violator. The Zoning Administrator and/or designee are authorized to make inspections of all land that is located within Town in order to enforce the zoning ordinance and land use regulations of the Town of Dillsboro, Indiana. The Zoning Administrator and/or designee shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out the duties in the enforcement of this ordinance, unless the owner or occupant of the premises refuses to permit entry for these purposes. In the event of said refusal, the Zoning Administrator or designee shall seek the appropriate legal remedy to allow access to the property.

SECTION 640 – Procedures and Violations

If the Zoning Administrator or designee determines that a violation exists, a written notice shall be given to the property owner(s) responsible for the property with the alleged violation(s), by mail. The notice shall describe the details of the alleged violation and the reasons believed that the violation exists. The notice shall also require an explanation, or correction, of the alleged violation to the satisfaction of the Zoning Administrator, within a specified time limit, which is to be determined by the Zoning Administrator. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the Zoning Administrator within the specified time limit constitutes admission of the violation of the terms of this ordinance.

SECTION 645 – Pending Violations

If a violation is pending, the alleged violator cannot obtain any other benefits of this ordinance on the property where the violation is still pending. No permits will be issued to the alleged violator until the resolution of the pending violation.

SECTION 650 – Penalties for Violations

Any person who violates any provisions of this ordinance shall upon conviction be fined not less than \$10.00 and not more than \$300.00 for each offense. Each day that the violation exists shall constitute a separate offense. Violations of this ordinance that occur because a permit was not applied for or issued shall result in a doubling of the permit fee.

SECTION 655 – Compliance with Regulations

The regulations for each district set forth by this ordinance, shall be the minimum regulations and shall apply uniformly to each class or kind of structure or land, except as otherwise provided in this ordinance. Further the following provisions apply:

- 1 No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- 2 No building or other structure shall be erected or altered to:
 - a. Provide for greater height or area or,
 - b. Accommodate or house a greater number of families or,
 - c. Have narrower or smaller, rear yards, front yards, side yards, or other open spaces than is required, or in any other manner be contrary to the provisions of this ordinance.
- 3 No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements set forth herein.

It shall be the duty of the Plan Commission’s Attorney to prosecute such violations of this ordinance as may be brought to his attention and which violation shall be considered worthy of prosecution in the opinion of such Prosecutor.

The Plan Commission, Board of Zoning Appeals, Zoning Administrator, or any concerned person of the Town of Dillsboro may institute a suit for injunction in any court having jurisdiction to restrain an individual or a governmental unit from violating the provisions of this ordinance. The Plan Commission, Board of Zoning Appeals, Zoning Administrator, or any concerned person of the Town of Dillsboro may also institute a suit for a mandatory injunction in any court having jurisdiction directing any person, persons or governmental unit to remove a structure erected in violation of the provisions of this ordinance.

The Plan Commission, Board of Zoning Appeals, Zoning Administrator, or any concerned person of the Town of Dillsboro notwithstanding the above provisions, shall be permitted to otherwise enforce this ordinance by invoking any legal, equitable, or special remedy provided by law.

SECTION 660 - Schedule of Fees, Charges and Expenses

This Plan Commission shall establish a schedule of fees, charges, and expenses that are required and shall be posted in the Planning Department. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

SECTION 700 - Purpose

A Zoning Map of the Town of Dillsboro is hereby adopted as a part of this Article and is incorporated by reference herein.

SECTION 710 – Identification of the Official Zoning Map

An official Town of Dillsboro Zoning Map, as shown in Section 750 as an attachment, is hereby adopted as part of this Ordinance. Revised zoning maps may be adopted in the future by the Town Council, after a public hearing by and recommendation from the Plan Commission. The zoning maps and a current copy of this Ordinance shall be kept on file for examination in the offices of the Zoning Administrator, the *Town Clerk Treasurer, the Dillsboro Public Library, the Dillsboro Utility Department, and the Dearborn County Recorder’s Office.*

Section 720 – Designation of Zoning Districts

For the purposes of this Ordinance, the Town of Dillsboro’s planning jurisdiction is hereby divided into the zoning districts shown in the following table:

ZONING DISTRICT SYMBOLS AND NAMES	
District Symbol	District Name
A	Agricultural (Article 9)
R1	Urban Single Family Residential (Article 10)
R2	Suburban Single Family Residential (Article 10)
R3	Multiple Family Residential (Article 10)
C1	Local Commercial (Article 11)
C2	General Commercial (Article 11)
C3	Downtown Commercial (Article 11)
IN1	Limited Industrial (Article 13)

Additional designations that can appear on the Zoning Map include:

DP Development Plan

SECTION 730 - District Boundaries

Where uncertainty exists with respect to the boundaries of any of the zoning districts of the Official Zoning Map, the following rules shall apply. The Zoning Administrator or his or her designee shall use the rules listed in this Section to determine the zoning of a specific property and can use additional information such as previous zoning maps, topography maps or aerial photography to determine the zoning of a particular parcel. In cases where a mapping error may have been made, the Zoning Administrator shall determine the correct zoning designation using the following method(s). The decision of the Zoning Administrator can be appealed to the Board of Zoning Appeals.

1. Where district boundaries are shown within the center lines of thoroughfares or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries;
2. Where district boundaries are so indicated that they approximately follow the lot lines or property lines, such lot lines or property lines shall be construed to be said boundaries;
3. Where district boundaries are so indicated that they are approximately parallel to the center lines or edge of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Map. In situations where the distance given conflicts greatly with the map scale the Zoning Administrator or his or her designee shall determine the boundary;
3. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line;
4. Where the boundary of a district follows a stream or the shore of a body of water, that stream or shore line is the boundary of the district;
5. Where the boundary of a district follows or appears to follow a political boundary line, section line (including half-section or quarter section), or township line, such line shall be deemed to be boundary of the district;
6. Where the boundaries of a district are based on a legal description or property survey that was submitted in conjunction with a zoning map amendment application, the boundaries provided in said instrument(s) shall be construed as the district boundaries for the property in question;
7. The Zoning Administrator may also consider existing and previous land use(s) on a property in making such a determination;

8. In any case where a lot, parcel or other piece of land is not included within a zoning district on the zoning map, such land shall be reviewed and evaluated by the Plan Commission, with a recommendation from the Zoning Administrator, and shall be assigned a district.

SECTION 740 - Zoning District Declared Invalid

Should any zoning district be declared by a court of competent jurisdiction to be unconstitutional or invalid, by either the construct of its text within this order or by its application or amendment to the Town of Dillsboro Zoning Map, the zoning district that applied to the affected properties prior to the unconstitutional or invalid zoning district shall be in force.

SECTION 750 – Official Town of Dillsboro Zoning Map

The attached, Official Town of Dillsboro Zoning Map is hereby adopted, as a part of this Ordinance.

SECTION 900 – Purpose of the Agricultural (A) Zoning District

The purpose of the (A) Agricultural district is to permit a certain range of agricultural uses and activities, and generally balance encouraging quality new development and investment with supporting the protection of highly productive agricultural land; in addition, allowing limited types of low-density residential development and other uses typically conducted in agricultural areas or supporting agricultural land uses. Certain additional services or uses may be permitted by the Board of Zoning Appeals.

Section 910 - Permitted Uses

The following uses and structures shall be permitted in this district:

1. Accessory structures and uses, including seasonal roadside stands and similar sales of agricultural products; the parking or storage of farm vehicles and machinery; and barns, greenhouses, pole buildings, or other structures commonly constructed for the storage of animals, crops, equipment, or materials for use in maintaining or operating an agricultural use or for maintaining personal property on which a residence has not been constructed
2. Adult care homes
3. Agricultural uses and structures, including agronomic crop production and low intensity agricultural livestock operations as defined herein; the intent is to allow low intensity farms for dairy production and the raising of livestock including cattle, hogs, sheep, goats, horses, or poultry; however, excluding livestock operations that exceed the limitations set forth herein, and also excluding any livestock operation that requires an Indiana Department of Environmental Management (IDEM) permit for a Confined Feeding Operation or Concentrated Animal Feeding Operation



Agricultural use

4. Agriculture-related activities and services, including corn shelling; contract sorting, grading, and packaging; grist milling; hay baling; threshing; and other similar agricultural processing services
5. Class I Child Care Homes
6. Day cares (adult or child)
7. Essential facilities
8. Essential services
9. 1 Small Wind Energy Conversion System (SWECS)
10. Farms of field crops, fruits, nuts, vegetables, or other similar agricultural growth products
11. Farms with no predominant crops, including grassland and range pastures, horticultural specialties, and bee hives or similar agriculturally-related activities
12. Forestry activities, including plant nurseries (with greenhouses as an accessory use), timber production, tree farms, and similar activities, excluding sawmills or other processing of wood products beyond those activities necessary to ship timber from the property
13. Home based businesses
14. Home occupations
15. Places of worship
16. Public parks, playgrounds, and/or recreation areas
17. Public, parochial, or private elementary, middle, junior high, and/or high schools
18. A single family detached dwelling, including manufactured and mobile homes built in compliance with the Federal Manufactured Home Construction and Safety Standards Law of 1974 (942 USC 5401 et seq.) and IC 22-15-4-1, as it may be amended, as well as all other State and Town applicable codes; and
19. Wildlife or nature habitats, preserves, and/or sanctuaries

SECTION 920 - Conditional Uses

The following uses may be approved by the Board of Zoning Appeals after the filing of a conditional use petition:

1. Accessory dwelling units
2. Animal hospitals
3. Animal grooming
4. Bed and breakfasts
5. Cemeteries
6. Wireless telecommunications facilities
7. Wind Energy Conversion Systems (WECS)
8. Funeral homes
9. Group residential facilities
10. Residential facilities for the developmentally disabled

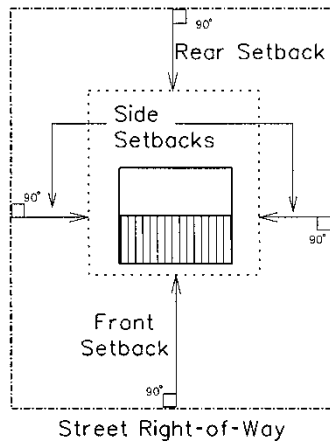
11. Residential facilities for the mentally ill, provided that the facility is a minimum of 3000 feet from any other such facility, as measured between property lines
12. Horse boarding facilities, or riding stables on a property of at least 5 acres
13. Medical clinics
14. Professional offices and/or personal service uses
15. Signage (freestanding non-incident sign of up to 32 square feet in area and 8 feet in height; including Town identification/welcome signage, and directional signage for church, school, and similar uses); and
16. Veterinary clinics

SECTION 930 - Property Development Standards

The following standards apply to uses within the A district:

1. See Table A1 below for Structures and Parking Standards; unless otherwise noted, all standards are minimum standards

Table A1: Agricultural District Structures and Parking Standards	
Lot Area	43,560 square feet (1 acre)
Lot Width	150'
Front Yard Setback**	50'
Side Yard Setback	10'
Rear Yard Setback	30'
Single family dwelling floor area	<ul style="list-style-type: none"> • 950 square feet (single story) • 1400 square feet (over one story)
Accessory Structure Height	<ul style="list-style-type: none"> • 36' maximum (residential and other non-agricultural uses); • 50' maximum (agricultural uses) (b)
Accessory Structure Setback	<ul style="list-style-type: none"> • 5' setback from any side or rear lot line, if located behind the primary structure
Parking (a)	2 spaces per dwelling unit
Primary Structure Height	36' maximum
<p>(a) For nonresidential parking standards, see Article 21, Parking & Loading Areas</p> <p>(b) Except that grain storage and similar structures shall not have a maximum height limitation</p> <p>** All setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way.</p>	



Examples of Setbacks

2. See Table A2 below for Signage standards

Table A2: A – Agricultural District Signage Standards (a)				
Use Type of sign	Number permitted	Maximum area (square feet)	Maximum height	Minimum setback
Residential Temporary (30 days / year)	Up to 2	Up to 6 total	4	No minimum – but not in R/W
Residential Permanent wall	Up to 2	Up to 3 total	N/A	N/A
Residential Incidental	Up to 2	2	4	No minimum – but not in R/W
(a) For additional standards and standards for non-residential uses, see Article 20, Signs				

3. See Articles 20-25 for additional development standards

4. Additional Documentation:

For new non-agricultural single family uses, the following additional document(s) shall be submitted along with the request for administrative approval (if applicable) and the permit application. The document(s) shall:

- a. Acknowledge and agree that the proposed structure and use is in an area zoned for agricultural uses; these uses may include, but are not limited to, the production of crops, animal husbandry, land application of animal waste, the raising, breeding and sale of livestock and poultry, including confinement feeding operations, use of farm machinery, and the sale of farm products;
- b. Waive any and all objections to any such agricultural uses on any real estate zoned for such uses within two miles of any boundary of the property, whether such uses currently exist, are enlarged, or changed in use in the future to another agricultural use;
- c. Agree that such agricultural uses, whether currently existing, or hereafter established, enlarged, or changed, do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily injury to third parties, or directly endanger human health; and
- d. State that this covenant is for the benefit of the Dillsboro Plan Commission and all persons engaged in agricultural uses within two miles of any boundary of the property, and shall be enforceable by any of the foregoing parties.

SECTION 1000 – Purpose of the Suburban Single Family Residential (R1) Zoning District

The purpose of the R1/Suburban Single Family Residential district is to preserve and enhance those areas in the Town which have been developed for primarily single family detached dwelling uses with a suburban development pattern (including larger lots, larger front and side yard setbacks, attached garage designs, and similar suburban home and street design features), and to encourage residential and certain other development on vacant parcels which is compatible with existing uses, densities, and development patterns. Certain additional services or uses may be permitted by the Board of Zoning Appeals.

SECTION 1005 - Permitted Uses

The following uses and structures shall be permitted in this district:

1. Accessory structures and uses
2. Adult care home
3. Class I Child Care Home
4. Clubhouses, neighborhood centers, and similar common assembly or shared facilities where the facility is part of a common development or neighborhood
5. Day cares (adult or child)
6. Home occupations
7. Residential facilities for the developmentally disabled
8. Residential facilities for the mentally ill, provided that the facility is a minimum of 3000 feet from any other such facility, as measured between property lines; and
9. A single family detached dwelling, including manufactured and mobile homes built in compliance with the Federal Manufactured Home Construction and Safety Standards Law of 1974 (942 USC 5401 et seq.) and IC 22-15-4-1, as it may be amended, as well as all other State and Town applicable codes;

SECTION 1010 - Conditional Uses

The following uses may be approved by the Board of Zoning Appeals after the filing of a conditional use petition:

1. Accessory dwelling units
2. Bed and breakfasts
3. Class II Child Care Homes
4. Essential facilities
5. Essential services
6. Funeral homes
7. Wind Energy Conversion Systems (WECS), including Small Wind Energy Conversion Systems (SWECS)
8. Group residential facilities

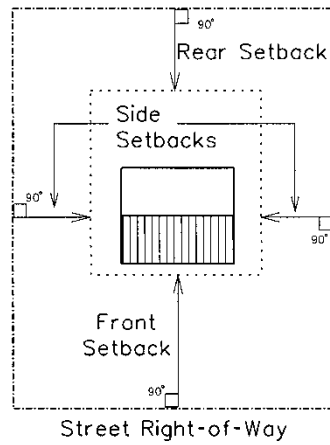
9. Home based businesses
10. Places of worship
11. Professional offices or personal service uses
12. Public parks, playgrounds, and/or recreation areas
13. Schools, except trade or technical schools
14. Signage (freestanding non-incidental sign of up to 32 square feet in area and 8 feet in height; including Town identification/welcome signage, and directional signage for church, school, and similar uses); and
15. Two family dwellings

SECTION 1015 - Property Development Standards

The following standards apply to uses within the R1 district:

1. See Table F1 below for Structures and Residential Parking Standards; unless otherwise noted, all standards are minimum standards

Table F1: R1 – Suburban Single Family Residential District Structures and Residential Parking Standards	
Lot Area	8,500 square feet
Lot Width	85'
Front Yard Setback**	30'
Side Yard Setback	8'
Rear Yard Setback	25'
Single family dwelling floor area	<ul style="list-style-type: none"> • 950 square feet (single story) • 1400 square feet (over one story)
Accessory Structure Height	24' maximum
Accessory Structure Setback	<ul style="list-style-type: none"> • 3' setback from any side or rear lot line, if located behind the primary structure
Parking (a)	2 spaces per dwelling unit
Primary Structure Height	35' maximum
<p>(a) For nonresidential use parking standards, see Article 21 ** All setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way.</p>	



Examples of Setbacks

2. See Table F2 below for Signage standards

Table F2: R1 – Suburban Single Family Residential District Signage Standards (a)				
Use Type of sign	Number permitted	Maximum area (square feet)	Maximum height	Minimum setback
Residential Temporary (30 days / year)	Up to 2	Up to 6 total	4	No minimum – but not in R/W
Residential Permanent wall	Up to 2	Up to 3 total	N/A	N/A
Residential Incidental	Up to 2	2	4	No minimum – but not in R/W
(a) For additional standards and standards for non-residential uses, see Article 20, Signs				

5. See Articles 20-25 for additional development standards

SECTION 1020 – Purpose of the Urban Single Family Residential (R2) Zoning District

The purpose of the R2/Urban Single Family Residential district is to preserve and enhance those areas in the Town which have been developed for primarily single family detached dwelling uses with an urban development pattern (including smaller lots, lesser front and side yard setbacks, urban home and garage designs and locations, and a generally rectangular grid street layout), and to encourage residential and certain other development on vacant parcels which is compatible with existing uses, densities, and development patterns. Certain additional services or uses may be permitted by the Board of Zoning Appeals.

SECTION 1025 – Permitted Uses

The following uses and structures shall be permitted in this district:

1. Accessory structures and uses
2. Adult care homes
3. Class I Child Care Homes
4. Day cares (adult or child)
5. Home occupations
6. Residential facilities for the developmentally disabled
7. Residential facilities for the mentally ill, provided that the facility is a minimum of 3000 feet from any other such facility, as measured between property lines; and
8. A single family detached dwelling, including manufactured and mobile homes built in compliance with the Federal Manufactured Home Construction and Safety Standards Law of 1974 (942 USC 5401 et seq.) and IC 22-15-4-1, as it may be amended, as well as all other State and Town applicable codes;

SECTION 1030 – Conditional Uses

The following uses may be approved by the Board of Zoning Appeals after the filing of a conditional use petition:

1. Accessory dwelling units
2. Two-family dwelling units
3. Bed and breakfasts
4. Class II Child Care Homes
5. Wind Energy Conversion Systems (WECS), including Small Wind Energy Conversion Systems (SWECS)
6. Funeral homes
7. Group residential facilities
8. Home based businesses
8. Places of worship
9. Professional offices or personal service uses; and

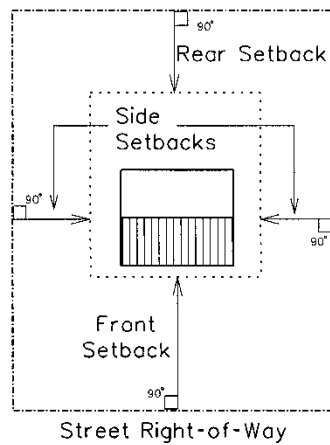
SECTION 1035 – Property Development Standards

The following standards apply to uses within the R2 district:

1. See Table F1 below for Structures and Residential Parking Standards; unless otherwise noted, all standards are minimum standards

Table F1: R2 – Urban Single Family Residential District Structures and Residential Parking Standards

Lot Area	8,500 square feet
Lot Width	66'
Front Yard Setback**	<ul style="list-style-type: none"> • 15' primary dwelling setback
Side Yard Setback	8'
Rear Yard Setback	25'
Single family dwelling floor area	<ul style="list-style-type: none"> • 950 square feet (single story) • 1400 square feet (over one story)
Accessory Structure Height	24' maximum
Accessory Structure Setback	<ul style="list-style-type: none"> • 3' setback from any side or rear lot line, if located behind the primary structure
Parking (a)	2 spaces per dwelling unit
Primary Structure Height	30' maximum
<p>(a) For nonresidential use parking standards, see Article 21 ** All setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way.</p>	



Examples of Setbacks

2. See Table F2 below for Signage standards

Table F2: R2 – Urban Single Family Residential District Signage Standards (a)				
Use Type of sign	Number permitted	Maximum area (square feet)	Maximum height	Minimum setback
Residential Temporary (30 days / year)	Up to 2	Up to 6 total	4	No minimum – but not in R/W
Residential Permanent wall	Up to 2	Up to 3 total	N/A	N/A
Residential Incidental	Up to 2	2	4	No minimum –but not in R/W
(a) For additional standards and standards for non-residential uses, see Article 20, Signs				

3. See Articles 20-25 for additional development standards



Urban single-family residential examples

SECTION 1040 – Purpose of the Multiple Family Residential (R3) Zoning District

The purpose of the R3/Multiple Family Residential district is to provide for a wide range of dwelling unit types, including higher density multiple dwelling unit structures and mixed density developments, to meet the diverse housing needs of present and future Town residents, while also allowing for certain other compatible or essential nonresidential uses. Certain additional services or uses may be permitted by the Board of Zoning Appeals.

SECTION 1045 – Permitted Uses

The following uses and structures shall be permitted in this district:

1. Accessory structures and uses
2. Adult care homes
3. Assisted living facilities
4. Boarding or lodging houses
5. Class I Child Care Homes
6. Condominium developments (residential)
7. Day cares (adult or child)
8. Essential facilities
9. Essential services
10. Home occupations
11. Multiple family complexes
12. Multiple family dwellings
13. Places of worship
14. Public parks, playgrounds, and/or recreation areas
15. Residential facilities for the developmentally disabled
16. Residential facilities for the mentally ill, provided that the facility is a minimum of 3000 feet from any other such facility, as measured between property lines
17. Retirement facilities
18. Schools, except trade and technical schools
19. A single family detached dwelling, including manufactured and mobile homes built in compliance with the Federal Manufactured Home Construction and Safety Standards Law of 1974 (942 USC 5401 et seq.) and IC 22-15-4-1, as it may be amended, as well as all other State and Town applicable codes; and
20. Two family dwellings

SECTION 1050 – Conditional Uses

The following uses may be approved by the Board of Zoning Appeals after the filing of a conditional use petition:

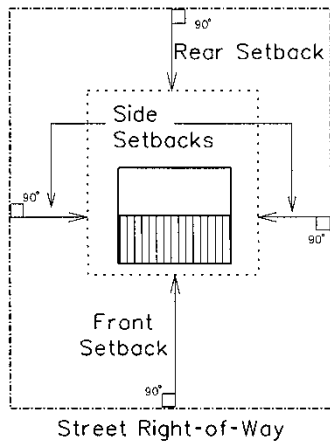
1. Accessory dwelling units
2. Bed and breakfasts
3. Class II Child Care Homes
4. Funeral homes
5. Group residential facilities
6. Home based businesses
7. Professional offices or personal service uses; and
8. Schools (trade or technical)
9. Wireless telecommunications facilities
10. Wind Energy Conversion Systems (WECS), including Small Wind Energy Conversion Systems (SWECS)

SECTION 1055 – Property Development Standards

The following standards apply to uses within the R3 district:

1. See Table F1 below for Structures and Residential Parking Standards; unless otherwise noted, all standards are minimum standards

Table F1: R3 – Multiple Family Residential District Structures and Residential Parking Standards	
Lot Area	8,500 square feet
Lot Width	85'
Front Yard Setback**	30'
Side Yard Setback	8'
Rear Yard Setback	25'
Single family dwelling floor area	950 square feet
Multiple family dwelling floor area	500 square feet
Accessory Structure Height	24' maximum
Accessory Structure Setback	<ul style="list-style-type: none"> • 5' setback from any side or rear lot line, if located behind the primary structure
Parking (a)	2 spaces per dwelling unit
Primary Structure Height	35' maximum
<p>(a) For nonresidential use parking standards, see Article 21 ** All setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way.</p>	



Examples of Setbacks

2. See Table F2 below for Signage standards

Table F2: R3 – Multiple Family Residential District Signage Standards (a)				
Use Type of sign	Number permitted	Maximum area (square feet)	Maximum height	Minimum setback
Residential Temporary (30 days / year)	Up to 2	Up to 6 total	4	No minimum— but not in R/W
Residential Permanent wall	Up to 2	Up to 3 total	N/A	N/A
Residential Incidental	Up to 2	2	4	No minimum— but not in R/W

(a) For additional standards and standards for non-residential uses, see Article 20, Signs

3. See Articles 20-25 for additional development standards

SECTION 1100 – Purpose of the Local Commercial (C1) Zoning District

The purpose of the C1/ Local Commercial district is to serve the commercial needs of the Town’s neighborhoods by providing locations for low to moderate intensity, neighborhood-oriented business, retail, service, and shopping uses. To encourage smaller business uses which serve the nearby neighborhoods, individual structures shall be limited to a maximum of 10,000 square feet. This district can serve as a buffer area between residential uses and higher intensity commercial uses. Certain additional services or uses may be permitted by the Board of Zoning Appeals.



Existing medical clinic

SECTION 1105 – Permitted Uses

The following uses and structures shall be permitted in this district:

1. Accessory structures and uses
2. Adoption agency
3. Adult care center
4. Advertising office
5. Animal grooming (with indoor animal runs only)
6. Apparel and clothing sales
7. Antique sales
8. Architect, engineer, land surveyor, or similar office
9. Art gallery
10. Artist studio
11. Bakery
12. Barber shop
13. Beauty salon
14. Bed and breakfast establishment
15. Bicycle sales and repair
16. Book sales
17. Card & stationary sales
18. Caterer
19. Child care center
20. Chiropractor office
21. Clock, watch, and jewelry sales and repair
22. Coffee shop
23. Coin sales
24. Community center
25. Computer data processing facility
26. Computer sales, service, or repair
27. Condominium development
28. Copy and/or printing service
29. Cosmetic sales
30. Costume rental
31. Counseling or consulting service office
32. Craft and / or hobby shop
33. Dating service
34. Dentist office
35. Delicatessen
36. Doctor's office

37. Embroidery shop
38. Finance company
39. Fire station, police station, or similar public use
40. Florist
41. Fruit and vegetable sales, including temporary food stands
42. Funeral home
43. Gift shop
44. Government office
45. Ice cream shop
46. Insurance office
47. Interior designer office
48. Jewelry design, sales, and repair
49. Law office
50. Library
51. Medical clinic
52. Medical related service, including laboratory
53. Multiple family dwelling
54. Museum
55. Music and music instrument sales
56. Music studio
57. Nail salon
58. Optician or optometrist office
59. Parking area (public or employee)
60. Picture framing shop
61. Photography studio
62. Place of worship
63. Professional or commercial office, or personal service not otherwise listed
64. Real estate appraiser or broker office
65. Retirement facility
66. School
67. Seasonal sales (indoor)
68. Shoe repair
69. Sign shop
70. Sporting goods sales and rental
71. Tanning salon
72. Toy sales
73. Tutoring facility
74. Two-family dwelling
75. 1 Small Wind Energy Conversion System (SWECS)

SECTION 1110 – Conditional Uses

The following uses may be approved by the Board of Zoning Appeals after the filing of a conditional use petition:

1. Animal hospital / veterinary clinic
2. Animal obedience school
3. Assisted living facility
4. Automotive accessory sales
5. Bank
6. Bar or tavern
7. Boarding and lodging house
8. Drive-through facility, as an accessory use to a permitted primary use
9. Drug store
10. Dry cleaning facility
11. Electrical appliance sales
12. Essential facility
13. Essential service
14. Wireless telecommunications facilities
15. Wind Energy Conversion Systems (WECS)
16. Furniture sales
17. Grocery store
18. Hardware store, including paint sales
19. Health / fitness club
20. Household appliance sales
21. Meat or fish market
22. Multiple family complex
23. Neighborhood facility
24. Private club
25. Single family dwelling
26. Variety store
27. Video sales and rental
28. Video arcade

SECTION 1115 – Property Development Standards

The following standards apply to uses within the C1 district:

1. See Table F1 below for Structures and Parking Standards; unless otherwise noted, all standards are minimum standards

Table F1: C1 –Local Commercial District Structures and Parking Standards	
Lot Area	None
Lot Width	None
Minimum Front Yard Setback**	5'
Maximum Front Yard Setback**	15'
Side Yard Setback	<ul style="list-style-type: none"> • 5' if the lot is up to 50' wide • 10' if the lot is over 50' wide
Rear Yard Setback	<ul style="list-style-type: none"> • 10' or the width of any utility easement, whichever is greater, if the lot is not adjacent to an agricultural or residential zoning district • 30' if the lot is adjacent to an agricultural or residential zoning district
Accessory Structure Height	25' maximum
Accessory Structure Setback	5'
Parking (a)	1 space per 500 square feet; parking shall be located on the side or the rear of the property
Primary Structure Height	35' maximum, except that gymnasiums and churches may be up to 50' in height
<p>(a) For additional parking standards, see Article 21 ** All setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way.</p>	



Existing C1 ground-mounted signage

2. See Table F2 below for Signage standards

Table F2: C1 –Local Commercial District Signage Standards (a)				
Type of sign	Number permitted	Maximum area (square feet)	Maximum height	Minimum setback
Incidental	No limit	4	6	No minimum – but not in R/W
Permanent freestanding	1 per street frontage	32	10	5
Permanent wall	No limit	90 per wall	N/A	N/A
Temporary (30 days / year)	Up to 2	40 total	6	No minimum – but not in R/W

(a) For additional standards and standards for non-residential uses, see Article 20, Signs

3. See Articles 20-25 for additional development standards



Example Local Commercial use



Example Local Commercial use

SECTION 1120 – Purpose of the General Commercial (C2) Zoning District

The purpose of the C2/General Commercial district is to provide areas for a wide variety of commercial uses, including certain high intensity uses not permitted in the C1 districts. Uses in these districts often serve the general public, as opposed to specific neighborhoods, and as a result are typically located along arterial or collector streets. Certain additional services or uses may be permitted by the Board of Zoning Appeals.

SECTION 1125 – Permitted Uses

The following uses and structures shall be permitted in this district:

1. Accessory structures and uses
2. All uses permitted in the C1 district
3. Animal hospital / veterinary clinic
4. Animal obedience school
5. Animal grooming and/or kennel (including outdoor animal runs)
6. Auction hall (indoor auctions only)
7. Automatic teller machine (ATM)
8. Automobile detailing and trim
9. Automobile fueling and service station (gas station)
10. Automobile maintenance facility
11. Automobile rental service
12. Automobile repair
13. Automobile and auto accessory sales
14. Automobile undercoating and rust proofing service
15. Bank
16. Bar or tavern
17. Batting cage(s)
18. Boat and/or watercraft sales showroom
19. Check cashing establishment
20. Consignment sales
21. Dance hall
22. Department stores
23. Drug store
24. Dry cleaning facility
25. Electrical appliance sales
26. Exhibit hall/trade show facility
27. Exterminating or pest control business
28. Furniture sales
29. Glass cutting/glazing shop
30. Grocery store
31. Hardware store, including paint sales
32. Health / fitness club
33. Heating and air conditioning services
34. Hotel or motel
35. Household appliance sales
36. Lawn mower/small engine repair
37. Meat or fish sales
38. Miniature golf facility
39. Multiple tenant commercial structure (single building)
40. Night club
41. Outdoor recreation use
42. Plant nursery, including greenhouses
43. Plumbing sales and repair service
44. Reception/banquet hall
45. Restaurant, including drive-through facilities
46. Seasonal sales (including outdoor sales)
47. Shopping center
48. Theaters (indoor and outdoor)
49. Variety store
50. Video sales and rental
51. Video arcade
52. Wind Energy Conversion Systems (SWECS), all types

SECTION 1130 – Conditional Uses

The following uses may be approved by the Board of Zoning Appeals after the filing of a conditional use petition:

1. Agricultural equipment sales or service facility
2. Agricultural supply sales
3. Amusement park
4. Auction hall (including outdoor auctions)
5. Betting or gaming facility
6. Building materials sales yard, including lumberyards
7. Campgrounds
8. Wireless telecommunications facilities
9. Expansion of legal nonconforming use
10. Flea market (including outdoor sales)
11. Landscape contracting services
12. Light construction equipment rental or service facility (including outdoor storage)
13. Motor vehicle sales facility not otherwise permitted
14. Multiple tenant commercial structure (multiple buildings)
15. Pawnshop
16. Race track
17. Self-storage storage facility
18. Sign (one additional freestanding non-incidental sign of up to 32 square feet in area and 8 feet in height)

SECTION 1135 – Property Development Standards

The following standards apply to uses within the C2 district:

1. See Table F1 below for Structures and Parking Standards; unless otherwise noted, all standards are minimum standards

Table F1: C2 – General Commercial District Structures and Parking Standards	
Lot Area	None
Lot Width	None
Minimum Front Yard Setback**	15'
Side Yard Setback	<ul style="list-style-type: none"> • 10' if the lot is up to 50' wide • 15' if the lot is over 50' wide
Rear Yard Setback	<ul style="list-style-type: none"> • 10' or the width of any utility easement, whichever is greater, if the lot is not adjacent to an agricultural or residential zoning district • 30' if the lot is adjacent to an agricultural or residential zoning district
Accessory Structure Height	30' maximum
Accessory Structure Setback	10'
Parking (a)	<ul style="list-style-type: none"> • 1 space per 600 square feet, if all of the parking is located on the side or the rear of the property • 1 space per 400 square feet, if any of the parking is located in the required front yard of the property
Primary Structure Height	35' maximum, except that gymnasiums and churches may be up to 50' in height
(a) For additional parking standards, see Article 21 (b) ** All setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way.	



Existing General Commercial use and signage

2. See Table F2 below for Signage standards

Table F2: C2 – General Commercial District Signage Standards (a)				
Type of sign	Number permitted	Maximum area (square feet)	Maximum height	Minimum setback
Incidental	No limit	4	6	No minimum— but not in R/W
Permanent freestanding	1 per street frontage	120	25	5
Permanent wall	No limit	150 per wall or 10% of wall surface (b)	N/A	N/A
Temporary (30 days / year)	Up to 2	40 total	6	No minimum— but not in R/W
(a) For additional signage standards, see Article 20				
(b) Per wall, whichever is greater				

3. See Articles 20-25 for additional development standards

SECTION 1140 – Purpose of the Downtown Commercial (C3) Zoning District

The purpose of the C3/Downtown Commercial district is to recognize that the central “downtown” area of the Town has special significance due to its historic character, architecturally significant structures, and distinctive development pattern. In order to encourage the creation of an active, attractive, and pedestrian-friendly environment while maintaining the unique existing character of the downtown, development in this district should be treated differently than in other parts of the Town. A mixture of cultural, entertainment, governmental, institutional, office, higher-density residential, specialty retail, restaurant, and recreational uses should be encouraged. To encourage higher density and intensity development, off-street parking requirements should be minimized in this area. Certain additional services or uses may be permitted by the Board of Zoning Appeals.



Downtown commercial area mixed uses and mixed-use buildings

SECTION 1145 – Permitted Uses

The following uses and structures shall be permitted in the C3/Downtown Commercial district:

1. Accessory structures and uses
2. All uses permitted in the C1 district
3. Bank
4. Bar or tavern
5. Consignment sales
6. Dance hall
7. Drug store
8. Dry cleaning facility
9. Electrical appliance sales
10. Floor covering sales
11. Furniture sales
12. Grocery store
13. Hardware store, including paint sales
14. Health/fitness club
15. Hobby shop/supply sales
16. Household appliance store
17. Meat or fish market
18. Multiple family dwelling or complex (in a new structure)
19. Multiple tenant commercial structure
20. Pet sales
21. Private club
22. Professional offices and showrooms
23. Public or employee parking area
24. Reception/banquet hall
25. Residential dwelling unit located above or to the rear of a permitted commercial use
26. Restaurant
27. Variety store
28. Veterinary clinic / animal hospital
29. Video arcade
30. Video rental and sales
31. Wind Energy Conversion Systems (SWECS), including Small Wind Energy Conversion Systems (SWECS)

SECTION 1150 – Conditional Uses

The following uses may be approved by the Board of Zoning Appeals after the filing of a conditional use petition:

1. Auto sales facility
2. Automotive accessory sales
3. Class II child care home
4. Single-family, attached single-family, and two-family dwelling units
5. Conversion of an existing commercial use or structure to a residential use, except as allowed in Permitted Use #25
6. Drive-through facilities, as an accessory use to a permitted primary use
7. Essential facilities
8. Essential services
9. Wireless telecommunications facilities
10. Glass cutting/glazing shop
11. Home-based business
12. Hotel
13. Outdoor recreation use
14. Parking structure
15. Public or private park, playground, or recreation area
16. Public or private utility structure
17. Seasonal sales (including outdoor sales)
18. Theaters (indoor)

SECTION 1155 – Property Development Standards

The following standards apply to uses within the C3 district:

1. See Table F1 below for Structures and Parking Standards; unless otherwise noted, all standards are minimum standards

Table F1: C3 – Downtown Commercial District Structures and Parking Standards

Lot Area	None
Lot Width	None
Minimum Front Yard Setback**	0'
Maximum Front Yard Setback**	10'
Side Yard Setback	0'
Rear Yard Setback	25'
Accessory Structure Height	30' maximum
Accessory Structure Setback	5' setback
Parking (a)	Off-street parking not required in this district
Primary Structure Height	40' maximum, except that gymnasiums and churches may be up to 50' in height

(a) For additional parking standards, see Article 21

** All setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way.



Downtown housing

2. See Table F2 below for Signage standards

Table F2: C3 – Downtown Commercial District Signage Standards (a)				
Type of sign	Number permitted	Maximum area (square feet)	Maximum height	Minimum setback
Incidental	No limit	4	6	No minimum – but not in R/W
Permanent freestanding	1 per street frontage	40	8	No minimum
Permanent wall	No limit	10% of wall surface (b)	N/A	N/A
Temporary (30 days / year)	Up to 2	40 total	6	No minimum – but not in R/W
(a) For additional signage standards, see Article 20 (b) Per wall				

3. See Articles 20-25 for additional development standards

SECTION 1300 – Purpose of the Limited Industrial (IN1) Zoning District

The purpose of the IN1/Limited Industrial district is to provide areas for light industrial and manufacturing uses. The intent of this district is to encourage limited industrial uses which do not create adverse impacts on adjacent land uses. Uses shall conform to all applicable federal, local, and state environmental regulations, including air emissions, solid and hazardous waste generation and disposal, and storm water and water discharges. Certain additional services or uses may be permitted by the Board of Zoning Appeals.

SECTION 1310 – Permitted Uses

The following uses and structures shall be permitted in this district:

1. All uses permitted in a C2 General Commercial District
2. Agricultural equipment sales or service facility
3. Agricultural supply sales
4. Assembly of small articles and items manufactured elsewhere, of a light intensity nature
5. Automobile body shop
6. Boat dry dock facility
7. Bottled gas service
8. Building materials sales yard, including lumber yard
9. Carpentry, woodworking, or cabinet shop
10. Central dry-cleaning plant or laundry
11. Ceramic pottery, figurines, or other similar ceramic product fabrication
12. Wireless telecommunications facilities
13. Creamery and/or dairy
14. Electrical receiving and transforming station, and other similar public utility structures
15. Feed or grain storage facility
16. Landscape contracting service
17. Light construction equipment rental or service facility (including outdoor storage)
18. Light manufacturing
19. Machine shop
20. Medical equipment or device manufacturing, of a light intensity nature
21. Metal and plastic molding and extrusion shops, of a light intensity nature
22. Motor vehicle sales facility not otherwise permitted
23. Multiple tenant commercial structure
24. Research or testing laboratory
25. Seed company
26. Self-service storage facility
27. Tool and/or die shop
28. Truck stop
29. Utility service

30. Welding Shop
31. Warehouse, storage, and/or wholesale establishment or facility;
32. Wireless telecommunications facilities;
33. Wind Energy Conversion Systems (SWECS), including Small Wind Energy Conversion Systems (SWECS); and
34. Other uses as approved by the Plan Commission

SECTION 1320 – Conditional Uses

The following uses may be approved by the Board of Zoning Appeals after the filing of a conditional use petition:

1. Sexually-oriented business use
2. Amusement Park
3. Animal processing and packaging
4. Asphalt and concrete plants, and commercial stockyards
5. Automobiles, trucks, heavy machinery and transportation or recreational vehicles and equipment, aircraft or any associated parts
6. Bag cleaning, blast furnaces, rolling mill, coke oven, forging, foundries, refining, and smelting
7. Breweries, distilleries or related processes
8. Betting or gaming facility
9. Chemicals and allied products, petroleum and coal products, rubber and plastic products, and leather products
10. Confined animal feeding operations
11. Electroplating, enameling, japanning, lacquering, corrosion of aluminum, copper, iron, tin, lead, or zinc
12. Expansion of legal nonconforming use
13. Gas production plants, natural or manufactured gas and oil storage and distribution points, and gas pressure control stations
14. Junk yards, salvage yards, wrecking yards
15. Landfills
16. Manufacturing, assembly, processing, treatment, or storage of explosives or fireworks as permitted by State and Federal law
17. Prison and correctional institutions
18. Race track
19. Recycling facility
20. Sawmills and planing mills
21. Stone clay, and glass products including cement, lime, gypsum, plaster of paris, abrasives, and cut stone
22. Surface and subsurface mining

23. Wholesale trade of heavy machinery, equipment, and supplies, including transportation and farm equipment, paints, varnishes, chemicals, and allied products

SECTION 1330 – Property Development Standards

The following standards apply to uses within the IN1 district:

1. See Table F1 below for Structures and Parking Standards; unless otherwise noted, all standards are minimum standards

Table F1: IN1 – Limited Industrial District Structures and Parking Standards	
Lot Area	None
Lot Width	None
Minimum Front Yard Setback**	20'
Side Yard Setback	<ul style="list-style-type: none"> • 10' if the lot is up to 50' wide • 15' if the lot is over 50' wide
Rear Yard Setback	<ul style="list-style-type: none"> • 10' or the width of any utility easement, whichever is greater, if the lot is not adjacent to an agricultural or residential zoning district • 40' if the lot is adjacent to an agricultural or residential zoning district
Accessory Structure Height	30' maximum
Accessory Structure Setback	10' setback
Parking (a)	1 space per 600 square feet
Primary Structure Height	40' maximum, except that gymnasiums and churches may be up to 50' in height
<p>(a) For additional parking standards, see Article 21 ** All setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way.</p>	

2. See Table F2 below for Signage standards

Table F2: IN1 – Limited Industrial District Signage Standards (a)				
Type of sign	Number permitted	Maximum area (square feet)	Maximum height (feet)	Minimum setback (feet)
Incidental	No limit	4	6	No minimum— but not in R/W
Permanent freestanding	1 per street frontage	40	12	5
Permanent wall	No limit	10% of wall surface (b)	N/A	N/A
Temporary (30 days / year)	Up to 2	40 total	6	No minimum— but not in R/W
(a) For additional signage standards, see Article 20. (b) Per wall				

3. See Articles 20-25 for additional development standards

SECTION – 1400 Sexually-Oriented Businesses

It is the purpose and intent of this Article to regulate sexually-oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Town and to establish reasonable and uniform regulations to allow sexually-oriented businesses in locations where their presence will cause no deleterious or adverse secondary effects. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent or effect of this ordinance to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent or effect of the ordinance to condone or legitimize the distribution of obscene material.

SECTION 1405 - Definitions

For the purpose of this Article, certain terms and words are defined as follows:

- A. **Sexually-Oriented Businesses** are those businesses defined as follows:
1. **Adult Arcade:** an establishment where pictures or images are shown by any medium or technology for viewing by five or fewer persons each, which are characterized by the depiction or descriptions of specified sexual activities or genital areas.
 2. **Adult Novelty, Video or Bookstore:** a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
 - b. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or sexual abuse of themselves or others.

- c. An establishment may have other principal business purposes that do not involve the offering for sale rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.
3. **Adult Cabaret:** a nightclub, bar, restaurant, "bottle club", or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear nude, semi-nude or in a state of nudity; (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
4. **Adult Motel:** a motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub rent the sleeping room for a time period of less than ten (10) hours.
5. **Adult Motion Picture Theater:** a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.
6. **Adult Theater:** a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."
7. **Escort:** a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

8. **Escort Agency:** a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
 9. **Massage Parlor:** any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of, or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas". The definition of sexually-oriented business shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath or therapist, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.
 10. **Nude Model Studio:** any place where a person, who regularly appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
 11. **Sexual Encounter Establishment:** a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nude. The definition of sexually-oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.
- B. **Employee** means a person who works or performs in and/or for a sexually-oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.
- C. **Establishment** means and includes any of the following:
1. The opening or commencement of any such business as a new business;
 2. The conversion of an existing business, whether or not a sexually-oriented business, to any of the sexually-oriented businesses defined in this chapter;
 3. The addition of any of the sexually-oriented businesses defined in this chapter to any other existing sexually-oriented business; or
 4. The relocation of any such sexually-oriented business.

- D. **Nudity or State of Nudity** means: (a) the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.
- E. **Operator** means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.
- F. **Permitted or Licensed Premises** means any premises that require a license and/or permit and that is classified as a sexually-oriented business.
- G. **Permittee and/or Licensee** means a person in whose name a permit and/or license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.
- H. **Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- I. **Public Building** means any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.
- J. **Public Park or Recreational Area** means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the Town which is under the control, operation, or management of the Town park and recreation authorities.
- K. **Religious Institution** means any church, synagogue, mosque, temple or building which is used primarily for religious worship and elated religious activities.
- L. **Residential District or Use** means a single family, duplex, townhouse, multiple family, or mobile park or subdivision and campground as defined in the Town of Dillsboro Zoning Ordinance.
- M. **School** means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. "School" includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- N. **Semi-Nude** means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

- O. **Sexually-Oriented Business** means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.
- P. **Specified Anatomical Areas**, as used in this division, means and includes any of the following:
1. Human genitals, pubic region, buttocks, anus, or female breast below a point immediately above the top of the areolae; or
 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- Q. **Specified Sexual Activities** as used in this division, means and includes any of the following:
1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 3. Masturbation, actual or simulated;
 4. Human genitals in a state of sexual stimulation, arousal or tumescence;
 5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection.
- R. **Substantial Enlargement of a Sexually-Oriented Business** means increase in the floor areas occupied by the business by more than 15%, as the floor areas exist on the effective date of this (Article of the) Town of Dillsboro Zoning Ordinance.
- S. **Transfer of Ownership or Control of a Sexually-Oriented Business** means and includes any of the following:
1. The sale, lease or sublease of the business;
 2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;
 3. The establishment of a trust, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

SECTION – 1410 Regulations for Sexually-Oriented Businesses

The establishment of a sexually-oriented business shall be permitted only in the specified industrial zones (IN1, as Conditional Uses), and shall be subject to the following restrictions. No person shall cause or permit the establishment of any of the following sexually-oriented businesses, as defined above, within 250 feet of another such business or within 250 feet of any religious institution, school, boys club, girls club, or similar existing youth organization, or public park or public building, or within 250 feet of any property zoned for residential use or used for residential purposes and are classified as follows:

1. Adult arcade
2. Adult bookstore, adult novelty store or adult video store
3. Adult cabaret
4. Adult motel
5. Adult motion picture theater
6. Adult theater
7. Massage parlor
8. Sexual encounter establishment
9. Escort agency, or
10. Nude model studio.

Nothing in this Section prohibits the location of sexually-oriented businesses within enclosed centers in industrial zones (IN1, as Conditional Uses) and within industrial zones (IN1, as Conditional Uses) wherein such activities will have their only frontage upon enclosed malls or malls isolated from direct view from public streets, parks, schools, religious institutions, boys clubs, girls clubs, or similar existing youth organization, public buildings or residential districts or uses without regard to the distance requirements listed above.

SECTION – 1415 Measurement of Distance

The distance between any two sexually-oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexually-oriented business and any religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes shall also be measured from the nearest portion of the building or structure used as part of the premises where the sexually-oriented business is conducted, to the nearest property line of the premises of a religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization or public park or public building or any properties zoned for residential use or used for residential purposes.

SECTION – 1420 Location of Sexually-Oriented Businesses

Sexually-oriented businesses shall be permitted only as provided in this Article. Permits for sexually-oriented businesses shall be required and governed by the procedures and policies specified by this Ordinance. In addition, any sexually-oriented business shall be subject to the following restrictions:

- A. No person shall operate or cause to be operated a sexually-oriented business except as provided in this Article.
- B. No person shall operate or cause to be operated a sexually-oriented business within 250 feet of:
(a) any religious institution; (b) any school; (c) the boundary of any residential district; (d) a public park adjacent to any residential district; (e) a property line of a lot devoted to residential use; or (f) a boys club, girls club, or similar existing youth organization, except as provided in Article.
- C. No person shall operate or cause to be operated a sexually-oriented business within 250 feet of another such business, which will include, any adult arcade, adult book store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment, except as provided in Article.
- D. No person shall cause or permit the operation, establishment, or maintenance of more than one sexually-oriented business within the same building, structure, or portion thereof, except as provided in this Article, or cause the substantial enlargement of any sexually-oriented business in any building, structure or portion thereof containing another sexually-oriented business.
- E. A person appearing in a state of nudity for a modeling or painting class shall not be considered a sexually-oriented business if operated by a:
 1. Proprietary school, licensed by the State of Indiana; a college, junior college, or university supported entirely or partly by taxation;
 2. A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 3. In a structure in which the following apply:
 - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - b. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - c. Where no more than one nude model is on the premises at any one time.

SECTION – 1425 Regulations Governing Existing Sexually-Oriented Businesses

Any sexually-oriented businesses lawfully operating prior to the effective date of this ordinance, that is in violation of this Article, shall be deemed a non-conforming use and subject to the requirements in Article 4 of this Ordinance.

SECTION 1500 - Purpose and Intent

The purpose and intent of this Article is to regulate the placement, construction, and modification of Wireless Telecommunications Facilities in order to minimize its negative impact on the character and environment of the Town of Dillsboro and to protect the health, safety and welfare of the public. The provisions of this ordinance will establish a reasonable and efficient process for the review and approval of Applications, and assure an integrated and comprehensive review of the environmental impacts of such facilities. The Town recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to both the Town and its residents. Therefore, it is not the Town's intent to unreasonably interfere with the development of the competitive wireless telecommunications marketplace in the Town of Dillsboro. Specifically, the purposes of these regulations are:

1. To regulate the location of Wireless and Cellular Telecommunications Towers and Facilities within the Town;
2. To protect residential areas and land uses from potential adverse impacts of Wireless and Cellular Telecommunications Towers and Facilities;
3. To minimize adverse visual impacts of Wireless and Cellular Telecommunications Towers and Facilities through careful design, placement, landscaping, preservation of natural vegetation and innovative camouflaging techniques and a reduction of the need for new Towers;
4. To promote and encourage shared use and co-location of Wireless and Cellular Telecommunication Facilities as a primary option rather than encouraging the construction of additional single-use towers;
5. To avoid potential damage to adjacent properties caused by Wireless and Cellular Telecommunications Towers and facilities by ensuring such structures are soundly and carefully designed, constructed, screened, modified, maintained, and removed;
6. To the greatest extent feasible, ensure that Wireless and Cellular Telecommunications Towers and Facilities are compatible with surrounding land uses.

SECTION 1502 - Definitions

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. **“Accessory Facility or Structure”** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **“Applicant”** means any wireless service provider submitting an application for a permit for Wireless Telecommunications Facilities.
3. **“Application”** means all necessary and appropriate documentation that an Applicant submits in order to receive a permit for Wireless Telecommunications Facilities.
4. **“Antenna”** means any communications equipment that transmits or receives electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PCS), microwave Telecommunications and services not licensed by the FCC, but not expressly exempt from the Town’s siting, building and permitting authority.
5. **“Base station”** means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.
6. **“Business Day”** means a day other than a Saturday, a Sunday, or a holiday as defined by the Town of Dillsboro Ordinances.
7. **“Co-location”** means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.
8. **“Commercial Impracticability”** or **“Commercially Impracticable”** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercial impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
9. **“Completed Application”** means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
10. **“County”** means the County of Dearborn, Indiana.
11. **“Electrical Transmission Tower”** means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

12. **"Equipment compound"** means the area that: (1) surrounds or is near the base of a wireless support structure; and (2) encloses wireless facilities.
13. **"FAA"** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
14. **"FCC"** means the Federal Communications Commission, or its duly designated and authorized successor agency.
15. **"Free Fall Area"** means the area within which the wireless support structure is designed to collapse, as set forth in the Applicant's engineering certification for the wireless support structure.
16. **"Height"** means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightning protection device.
17. **"Modification"** means the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
18. **"NIER"** means Non-Ionizing Electromagnetic Radiation
19. **"Person"** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
20. **"Personal Wireless Facility"** - See definition for 'Wireless Telecommunications Facilities'.
21. **"Personal Wireless Services"** or **"PWS"** or **"Personal Telecommunications Service"** or **"PCS"** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
22. **"Conditional Use Permit"** means a permit granted by the Board of Zoning Appeals permitting Wireless Telecommunications Facilities as required by this ordinance.

23. **"Small Cell Facility"** means: (1) a personal wireless service facility (as defined earlier in this Section and by the Federal Telecommunications Act of 1996); or (2) a wireless service facility that satisfies the following requirements:
- (A) Each antenna, including exposed elements, has a volume of three (3) cubic feet or less.
 - (B) All antennas, including exposed elements, have a total volume of six (6) cubic feet or less.
 - (C) The primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less. For purposes of this subsection, the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure:
 - (1) Electric meters.
 - (2) Concealment equipment.
 - (3) Telecommunications demarcation boxes.
 - (4) Ground based enclosures.
 - (5) Back up power systems.
 - (6) Grounding equipment.
 - (7) Power transfer switches.
 - (8) Cutoff switches.
24. **"Small Cell Network"** means a collection of interrelated small cell facilities designed to deliver wireless service.
25. **"State"** means the State of Indiana.
26. **"Stealth" or "Stealth Technology"** means minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

27. **"Substantial Modification of a Wireless Support Structure"** means the mounting of a wireless facility on a wireless support structure in a manner that:
- (A) increases the height of the wireless support structure by the greater of:
 - (1) ten percent (10%) of the original height of the wireless support structure;
 - or (2) twenty (20) feet;
 - (B) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of:
 - (1) twenty (20) feet; or
 - (2) the width of the wireless support structure at the location of the appurtenance; or
 - (3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.
- This term does not include the following:
- (A) Increasing the height of a wireless support structure to avoid interfering with an existing antenna.
 - (B) Increasing the diameter or area of a wireless support structure to:
 - (1) shelter an antenna from inclement weather; or
 - (2) connect an antenna to the wireless support structure by cable.
28. **"Telecommunications"** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
29. **"Telecommunications Structure"** means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities'.
30. **"Temporary"** means, temporary in relation to all aspects and components of this Ordinance, something intended to, or that does, exist for fewer than ninety (90) days.
31. **"Town"** means the Town of Dillsboro, Indiana.
32. **"Utility pole"** means a structure that is:
- (A) owned or operated by:
 - (1) a public utility;
 - (2) a communications service provider;
 - (3) a municipality;
 - (4) an electric membership corporation; or
 - (5) a rural electric cooperative; and
 - (B) designed and used to:
 - (1) carry lines, cables, or wires for telephony, cable television, or electricity; or
 - (2) provide lighting.

The term does not include a wireless support structure or an electrical transmission tower.

33. **“Wireless Telecommunications Facilities”** means and includes a **“Telecommunications Tower”** and **“Tower”** and **“Telecommunications Site”** and **“Personal Wireless Facility”** means a structure, facility or location designed, or intended to be used as, or used to support, Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an Antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal Telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the Town’s siting, building and permitting authorities, excluding those used exclusively for the Town’s fire, police or exclusively for private, non-commercial radio and television reception and private citizen’s bands, amateur radio and other similar non-commercial Telecommunications where the height of the facility is below the height limits set forth in this ordinance.

SECTION 1504 - Telecommunications Facilities Not Requiring A Zoning Permit

Wireless Telecommunications Facilities which are exempt from the regulations of this Chapter include the following listed below. If a proposed facility exceeds the provisions listed below the facility will no longer be deemed exempt from the provisions of these regulations and will become subject to all requirements of this Article. The location of all structures permitted below shall be regulated according to the requirements of accessory structures within this Ordinance.

1. A collocation of wireless facilities on an existing structure that is not considered a substantial modification, as defined by this Ordinance and IC 8-1-32.3;
2. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located with an antenna height not exceeding seventy-five (75) feet;
3. A ground or building mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed fifty (50) feet;
4. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed fifty (50) feet;
5. A ground or building receive-only radio or television satellite dish antenna, which does not exceed eight (8) feet in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridge line of the primary structure on said parcel;
6. Citizen band radio antennas operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of adoption of these regulations;
7. Mobile Services providing public information coverage of a news event of a temporary nature;
8. Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless phones, garage door openers. Similar exempt devices shall be determined by the Plan Commission;
9. Government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems and similar uses, with heights not exceeding fifty (50) feet.

SECTION 1506 - General Requirements for all Wireless Telecommunication Facilities

The design and construction of all Wireless Telecommunications Facilities shall meet the following standards:

1. All Wireless Telecommunications Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Wireless Telecommunications Facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
2. All Wireless Telecommunications Facilities shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the applicable governmental entities or agencies having jurisdiction over the applicant.
3. All Wireless Telecommunications Facilities shall notify the Town of any intended substantial modification of a Wireless Telecommunication Facility and shall apply to the Plan Commission staff to:
 - a. Increase the height of the wireless support structure by the greater of ten percent (10%) of the original height of the structure or twenty feet (20');
 - b. Add an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of: twenty (20) feet; or the width of the wireless support structure at the location of the appurtenance; or increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.
 - c. Relocate or rebuild a Wireless Telecommunications Facility.
4. The owner, and his/her successors in interest, of a Tower shall negotiate in good faith for the shared use of the Tower by other Wireless service providers in the future, and shall:
 - a. Respond within 60 days to a request for information from a potential shared use Applicant;
 - b. Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
 - c. Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference. *Failure to abide by the aforementioned conditions may be grounds for revocation of the permit for the Tower.*

SECTION 1508 - Required Permit

Any new Wireless Telecommunications Facility, or existing Wireless Telecommunications Facility that is making a substantial modification, is required to obtain the proper permit that is in accordance with the requirements of this Article. The individual zoning district articles indicate whether a Wireless Telecommunications Facility is a Principally Permitted Use or Conditional Use, which determines the required process. All Principally Permitted Uses shall follow the Site Plan Review procedure as detailed in Article 23 of this Ordinance. A Conditional Use shall follow the Conditional Use procedure as detailed in Article 3.

No new Wireless Telecommunications Facility, or substantial modification to an existing Wireless Telecommunications Facility, shall be installed or constructed until the Application is approved by the Town, and a Permit has been issued. All applications to the Town to collocate on an existing Wireless Telecommunications Facility must be submitted first to the Plan Commission staff to verify or determine if there are substantial modifications involved, prior to the review and issuance of any Building Permit. The Town may at its discretion delegate or designate other official agencies to accept, review, analyze, evaluate and make recommendations with respect to the approval, or denial, of proposed Wireless Telecommunications Facilities.

An Application for a new wireless support structure or for a substantial modification to an existing wireless support structure shall be reviewed within ten (10) business days of its receipt to determine if it is complete. If the Plan Commission staff determines that an Application is not complete, the staff reviewer shall notify the applicant in writing of all defects in the Application. If the Plan Commission staff does not notify an applicant in writing of all defects in the Application, the Application is considered complete, in accordance with the terms set forth in Section 20 of IC 8-1-32.3. An applicant that receives a written notice of defects to an Application from Town staff may cure the defects set forth in the notice and resubmit a corrected Application to the Plan Commission staff within thirty (30) days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority in writing of the additional time the applicant requires to cure the defects. Not more than ninety (90) days after making an initial determination of Application completeness, the Plan Commission staff shall:

1. Review the Application to determine if it complies with applicable laws and ordinances governing land use and zoning; and
2. Notify the applicant in writing whether the Application is approved or denied*

**Notwithstanding the ninety (90) day period set forth earlier in this Section, if the applicant requested additional time in the aforementioned, prescribed manner to cure defects in an Application, the ninety (90) day period set forth in this Section will be extended for a corresponding amount of time.*

Applications for proposed wireless support structure that require a Conditional Use or Variance must be reviewed and all actions must be completed by the Board of Zoning Appeals within 120 days of Town staff's initial determination that an Application is complete.

SECTION 1510 - Pre-Application Meeting

Prior to the submittal of an Application for a new wireless support structure, it is recommended that a pre-Application meeting take place between the Applicant and the Town, or agency designated by the Town that will review the Application. For new wireless support structure applications that involve a Conditional Use or Variance, a pre-Application meeting will be required. The purpose of the Pre-Application meeting is to address potential issues, which will help expedite the review and permitting process. The pre-Application meeting may include a site visit, if there has not been a prior site visit for the proposed site. It shall also be determined at the pre-Application meeting, the number of copies necessary for the applicant to submit a completed Application.

SECTION 1512 - Application Requirements

All Applications for a new Wireless Telecommunications Facility, or existing Wireless Telecommunications Facility that is making a substantial modification, shall comply with the requirements set forth in this Section. Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the Town. The Applicant shall be required to perform the following actions:

- ◆ Sign the Application with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. Any individual signing the Application shall be an authorized individual of the Applicant. The property owner (or an authorized individual of the owner), if different than the Applicant, shall also sign the Application.
- ◆ Attest to the following statement on the application form:
 - "The proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and shall remain in compliance with all permits and conditions of permits, as well as all applicable Town, State and Federal Laws, rules, and regulations."
- ◆ With any Application for a new tower, the Applicant must submit written documentation that a commitment has been made by commercial service provider to occupy space on the proposed tower. Any Application for a new tower that does not have such a commitment shall not be accepted.

Applications for New Wireless Support Structures

All Applications for the construction or installation of a new Wireless Telecommunications Facility shall contain the information hereinafter set forth. Where a certification is called for, such certification shall bear the signature and seal of a *Professional Engineer licensed in the State of Indiana*. At the discretion of the Town, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction. The Application must include:

- 1) The name, business address, phone number and any other contact information of the person preparing the application;
- 2) The name, address, and phone number of the property owner, operator, and Applicant;
- 3) The postal address and tax map parcel number of the property;
- 4) The zoning district or designation in which the property is situated;
- 5) Size of the property stated both in acreage and lot line dimensions, and a drawing showing the location of all lot lines;
- 6) The location of any structure within the proposed Free Fall Area, as determined by the Applicant's engineering certification;
- 7) The location, size and height of all structures on the property which is the subject of the Application;
- 8) The location, size and height of all proposed and existing antennae and all appurtenant structures;
- 9) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- 10) The number, type and design of the Tower(s) and Antenna(s) proposed and the Tower's capacity to accommodate multiple users;
- 11) The make, model and manufacturer of the Tower and Antenna(s);
- 12) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- 13) Certification that the proposed Antenna(s) will not cause interference with other telecommunications devices;
- 14) A copy of all applicable Federal, State, or Local licenses for the intended use of the Wireless Telecommunications Facilities;
- 15) An engineering certification indicating that the structure is within acceptable engineering standards and safety requirements and that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site. This certification should also acknowledge that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- 16) Evidence supporting the choice of location for the proposed Wireless Telecommunications Facility, including a sworn statement from the individual responsible for the choice of location

demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:

- a) would not result in the same wireless service functionality, coverage, and capacity;
 - b) is technically infeasible; or
 - c) is an economic burden to the Applicant.
- 17) The Applicant shall demonstrate and provide in writing that the facility is sited to be in the least visually intrusive location reasonably possible, and thereby having the least adverse visual effect on the environment, its character, the existing vegetation, and on the residences in the area. It shall also be demonstrated that all areas and related structures located at the base of the proposed Wireless Telecommunications Facilities are effectively screened from all public rights-of-way and adjoining property lines.
- 18) The applicant must note whether or not the proposed structure is intended or otherwise required to have lighting and if so, must indicate the type of lighting proposed or required.
- 19) If a Conditional Use or Variance is required for a proposed Wireless Telecommunications Facility, the Applicant must also submit evidence showing that the application complies with the criteria set forth in Article 3 of this Ordinance.

The Applicant shall submit to the Town the number of completed Applications determined to be needed via the pre-Application meeting process.

Applications Involving Substantial Modifications to Existing Wireless Support Structures

All Applications for the substantial modification of an existing Wireless Telecommunications Facility shall contain the information hereinafter set forth. Where a certification is called for, such certification shall bear the signature and seal of a *Professional Engineer licensed in the State of Indiana*. At the discretion of the Town, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction. The Application must include:

- 1) The name, business address, phone number and any other contact information of the person preparing the application;
- 2) The name, address, and phone number of the property owner, operator, and Applicant;
- 3) The postal address and tax map parcel number of the property;
- 4) The zoning district or designation in which the property is situated;
- 5) Size of the property stated both in acreage and lot line dimensions, and a drawing showing the location of all lot lines;
- 6) The location of any structure within the proposed Free Fall Area, as determined by the Applicant's engineering certification;
- 7) The location, size and height of all structures on the property which is the subject of the Application;
- 8) The location, size and height of all proposed and existing antennae and all appurtenant structures;

- 9) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- 10) The number, type and design of the Tower(s) and Antenna(s) proposed and the Tower's capacity to accommodate multiple users;
- 11) The make, model and manufacturer of the Tower and Antenna(s);
- 12) A description of the existing and proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- 13) A copy of all applicable Federal, State, or Local licenses for the intended use of the Wireless Telecommunications Facilities;
- 14) An engineering certification indicating that the structure is within acceptable engineering standards and safety requirements and that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site. This certification should also acknowledge that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- 15) If a Variance is required for a proposed Wireless Telecommunications Facility, the Applicant must also submit evidence showing that the application complies with the criteria set forth in Article 3, Section 335 of this Ordinance.

The Applicant shall submit one copy of a complete application to the Town at the time of submittal. If a Variance is required, additional copies will be required as set forth in Article 3.

SECTION 1514 - Location of Wireless Telecommunications Facilities

Wireless Telecommunications Facilities shall be located, sited and erected in accordance with the following priorities, with one (1) being the highest priority and nine (9) being the lowest priority.

1. On existing Towers or other structures provided there are no substantial modifications to the existing tower or structure that require a Variance;
2. On property zoned Limited Industrial (I1)
3. On property zoned Downtown Commercial (C3); *requiring a Conditional Use*
4. On property zoned General Commercial (C2); *requiring a Conditional Use*
5. On property zoned Local Commercial (C1); *requiring a Conditional Use*
6. On property zoned Agricultural (A); *requiring a Conditional Use*
7. On property zoned Multiple Family Residential (R3); *requiring a Conditional Use*
8. On property zoned Urban Single Family Residential (R2); *requiring a Variance of Use*
9. On property zoned Suburban Single Family Residential (R1); *requiring a Variance of Use*

If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The explanations shall include the reason or reasons why such a permit should be granted for the proposed site and a description of the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

Notwithstanding the above, the Town may approve any site located within an area in the above list of priorities, provided that the Town finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a harmful effect on the nature and character of the community and neighborhood.

SECTION 1516 - Tower Design and Construction

The design and construction of all Wireless Telecommunications Facilities shall meet the following standards:

1. The foundation and attachments shall meet all local, Town, State and Federal structural requirements for loads, including wind and ice loads.
2. All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
3. Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the Town.
4. At a Telecommunications Site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

5. The Applicant shall examine the feasibility of designing a proposed Tower to accommodate future demand for at least five (5) additional commercial Applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least five (5) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant’s Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:
- a. The foreseeable number of FCC licenses available for the area;
 - b. The kind of Wireless Telecommunications Facilities site and structure proposed;
 - c. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
 - d. Available space on existing and approved Towers.

SECTION 1518 - Height of Telecommunications Tower(s)

The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.

SECTION 1520 - Appearance and Visibility of Wireless Telecommunications Facilities

All Wireless Telecommunications Facilities and Antennas shall be designed to minimize the adverse visual impacts of its surroundings. Specifically:

- 1. Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.
- 2. Towers shall be galvanized and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
- 3. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

SECTION 1522 - Security of Wireless Telecommunications Facilities

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and Telecommunications control points shall be installed such a manner that they are readily accessible only to persons authorized to operate or service them.

SECTION 1524 - Signage

Wireless Telecommunications Facilities shall contain signage, as permitted by the underlying zoning district, in order to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation.

SECTION 1526 - Lot Size and Setbacks

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: An area within which the wireless support structure is designed to collapse, as set forth in the Applicant's engineering certification for the wireless support structure and approved by the Technical Review Committee (as certified by the Engineer and Zoning Administrator), or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory Structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. Structures that are not being used in conjunction with the Wireless Telecommunications Facilities, with the exception of accessory structures, shall not be located within the Free Fall Area unless otherwise approved by the Board of Zoning Appeals.

SECTION 1528 - Shared use of Wireless Telecommunications Facilities

Locating on existing Towers or others structures without increasing the height, shall be preferred by the Town, as opposed to the construction of a new Tower.

An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant. Such shared use shall consist only of the minimum Antenna array technologically required to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.

SECTION 1530 - Retention of Expert Assistance and Reimbursement by Applicant

The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the Application, including the construction and modification of the site, once permitted.

An Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the Town shall precede the pre-Application meeting. The Town will maintain a separate escrow account for all such funds. The Town’s consultants/experts shall invoice the Town for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the Applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.

The total amount of the funds needed for consulting purposes may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

Section 1540 - Waiver of Requirements

Any requirement of this Article may reasonably be waived by the Board of Zoning Appeals if it is determined that such action is warranted given the nature of an individual project and such action will serve to preserve the purpose and intent of these regulations. The Zoning Administrator, or designee, may grant a waiver for Principally Permitted Uses, if the waiver does not affect the location, height or appearance of the Wireless Telecommunications Facilities. Any waiver related to the location, height or appearance must be approved by the Board of Zoning Appeals, which must follow the Variance procedure as defined in Article 3 of this Ordinance.

Section 1542 - Adherence to State and/or Federal Rules and Regulations

The holder of a permit for a Wireless Telecommunications Facility shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC, unless specific relief has been granted by the proper agency. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

SECTION 1700 – Intent of Improvement Location Review

The purpose of this article is to provide plot plan regulations that will enhance the Improvement Location Permitting process under Article 6. Plot plans are required for single-family residential uses, additions, accessory uses, and any other structure that requires an Improvement Location Permit.

SECTION 1705 – Authority

The purpose of Plot Plan Review is to protect the public health, safety and general welfare of the Town of Dillsboro. The provisions and requirements in this article are written and shall be administered to ensure orderly growth and development of the Town. No building shall be erected, expanded or improved, on any lot, site, or parcel for uses where Plot Plan Review is required except in accordance with the regulations in this Zoning Ordinance and with the requirements stated in this article. All such Plot Plans shall be reviewed by the Zoning Administrator, or his or her designee, and a determination either approving or rejecting such plans shall be made in accordance with the requirements of this article and other applicable, articles of this order.

The Zoning Administrator, or his or her designee, shall not be permitted to reject any Plot Plan, which is in full conformance with the requirements, terms and conditions of this article and Zoning Ordinance. Nor can additional regulations be imposed which are not included within this order. All approved Plot Plans shall be binding upon the applicant, property owner, developer, or their successors and shall limit the development or project to the construction work as shown on the approved Plot Plan and to all conditions and limitations for such plans agreed to by the applicants. Amendments or changes to the approved Plot Plans shall be subject to the provisions of Section 1735.

SECTION 1710 – Procedure

Before submitting an application for Plot Plan Review each applicant, property owner, or developer is encouraged to read the following categories to determine which level the construction proposal matches. If a determination cannot be ascertained the applicant is encouraged to have a pre-application meeting with the Zoning Administrator, or his or her designee.

Minor Plot Plan: A plot plan that requires no significant exterior utility construction (e.g., storm sewer, water, sanitary sewer, etc.), and no status as a residential living unit. Typically this review pertains to the construction of accessory uses, minor additions, swimming pools, ponds, etc.

Major Plot Plan: A plot plan that involves significant exterior utility construction (e.g., storm sewer, water, sanitary sewer, septic sites, etc.), and buildings constructed as a residential living unit. Typically this review pertains to the construction of a single family residence, mobile home, and manufactured home. The Zoning Administrator, or his or her designee, will determine the allowable distance from flood zones A and B that are exempt from flood certification.

SECTION 1715 – Application and Approval

An applicant, property owner, or developer is required to file an application with the Zoning Administrator, or his or her designee. Action in the form of approval or denial of a Minor Plot Plan or Major Plot Plan by the Zoning Administrator, or his or her designee shall occur within 7 working days of when the plan is officially submitted to the Zoning Administrator's office in complete form. Any incomplete Plot Plan or Application may result in delays.

An appeal of the Staff denial of a Minor / Major Plot Plan is possible before the Board of Zoning Appeals at its next regularly scheduled meeting after written notification is made by the applicant to the Zoning Administrator within thirty (30) calendar days of the Staff denial. The Board of Zoning Appeals shall make final action for approval or denial on the appeal of a Minor / Major Plot Plan. Reasons for denial of a Minor / Major Plot Plan by the Board of Zoning Appeals shall be given to the applicant in written form.

SECTION 1720 - Plot Plan Requirements

All Minor Plot Plans submitted to the Zoning Administrator shall be in accordance with this article and shall contain the following information:

1. A complete and accurate application form,
2. In order that all the required plot plan information be properly documented and correctly designed, it is necessary that all plot plans be drawn to a scale that allows all improvements and notes to be legible. Digital plans are preferred. Paper copies of plans should be submitted on standard paper sizes—either 8 ½ x 11 or 11 x 17. All plans larger than 11 x 17 must be submitted in an acceptable digital format (such as a .jpeg or .pdf file);
3. A graphic scale shall be noted on the plot plan along with the date and north arrow;
4. Property boundaries / location reference(s);
5. Location of all public and private streets and / or private lanes, as well as the location and width of proposed driveway entrances on the subject property;
6. Label and locate all existing and proposed structures;
7. Approximate location of all known utilities and associated easements (e.g., sewer lines, water lines, septic tanks, electric lines, gas lines, and so on). ****All applicants are advised to call 811, "Call-Before-You-Dig".***
8. Distances from the corners of the proposed structure(s) to the appropriate property lines—sufficient to determine that all required setbacks, including those from easements and the identified floodplain, have been met. *Setbacks / distances from the proposed improvement(s) to any septic field or tank area within 50 feet must be identified / shown on the plot plan provided as a part of this process. For proposed ponds, the proposed setbacks / distances from the pond dam and to any existing or proposed adjacent residences, must be shown in accordance with Article 25, Section 2554 of the Zoning Ordinance (along with the location of the spillway and outflow area, the proposed depth of the pond, etc.).

All Major Plot Plans submitted to the Zoning Administrator in accordance with this article shall contain the following information

1. A complete and accurate application form;
2. In order that all the required plot plan information be properly documented and correctly designed, it is necessary that all plot plans be drawn to a scale that allows all improvements and notes to be legible. Digital plans are preferred. Paper copies of plan should be submitted on standard paper sizes—either 8 ½ x 11 or 11 x 17. All plans larger than 11 x 17 must be submitted in an acceptable digital format (such as a .jpeg or .pdf file). In situations where the scaled lot is larger than the preferred paper size a large-scale plot plan with a close up view of the major features is acceptable;
3. A graphic scale shall be noted on the plot plan along with the date and north arrow;
4. Property boundaries / location reference(s);
5. Location of all public and private streets and / or private lanes, as well as the location and width of proposed driveway entrances on the subject property;
6. Recorded easements identified;
7. Label and locate all existing and proposed structures;
8. Exterior dimensions of structure (including decks or porches and overhang measurements);
9. Elevation of the ground floor noted on plan (i.e. the distance of the floor of the improved area to the soil grade);
10. Distances from the corners of the proposed structure(s) to the appropriate property lines—sufficient to determine that all required setbacks, including those from easements and the identified floodplain, have been met;
11. Location of structures on adjacent lots--only when trying to acknowledge / establish a different building setback line exists other than the current ordinances;
12. Approximate location of all known utilities and associated easements (e.g., sewer lines, water lines, septic tanks, electric lines, gas lines, and so on). ****All applicants are advised to call 811, "Call-Before-You-Dig";***
13. A Plot Plan signed, dated, and approved by an appropriate Health Department Official, where an official Health Department Permit Release is not immediately available. *Setbacks / distances from the proposed improvement(s) to any septic field or tank area within 50 feet must be identified / shown on the plot plan;
14. Approximate boundaries of the 100-year flood plain using the applicable Flood Insurance Rate Maps and Floodway Maps for the community. Properties located within the floodplain shall provide written documentation from the Indiana Department of Natural Resources regarding the Flood Protection Grade and location of the floodway;
15. A Plot Plan signed, dated, and approved by an appropriate Department of Transportation & Engineering Official, where an official Driveway Permit Release is not immediately available. (Sight distance will be checked and affirmed by the affected Department of Transportation & Engineering during the application process.)

SECTION 1725 – Expiration, Extension, and Completion of Approval Period

If the work described in a zoning permit has not been initiated within one (1) year from the date it was issued, the permit shall expire. The permit shall also expire if the described work has not been substantially completed within two (2) years of the date it was issued. If, for any reason, the Zoning Permit expires, all work must be stopped immediately until the permit has been renewed or a new permit has been obtained. The Zoning Administrator or designee may grant a one-time, 1-year extension on a Zoning Permit, if the applicant can demonstrate a good cause for such an extension, prior to the date of expiration.

SECTION 1730 – Changes or Amendments

Any changes made to the approved Plot Plan before the development of the site or building shall require the approval of the Zoning Administrator or designee. Any variations to an approved Site Plan that occurred in the development of the site or building will require that an “as built” Site Plan be submitted for review to the Zoning Administrator. Depending on the extent of the changes, a new application may be required by the Zoning Administrator or his or her designee. If the “as built” site plan does not conform to the requirements in the Ordinance, or if a Certificate of Occupancy is not granted, it will be handled as a violation of the ordinance under Article 6.

Section 1800 – Purpose & Intent

The purpose of this Article is to regulate the placement, construction, and modification of Mini WECS, SWECS, and Wind Energy Conversion Systems (WECS) in the Town of Dillsboro. The regulations set forth herein have been formulated to facilitate economic opportunities for the local economy and to protect the health, safety, and general welfare of the public as these improvements are commissioned. The provisions of this Article will:

1. Establish a reasonable and efficient process for the review and approval of Mini WECS, SWECS, and WECS applications;
2. Prescribe required distances for setbacks for Mini WECS, SWECS, and WECS from buildings, property lines, and easements;
3. Institute minimum performance regulations for Mini WECS, SWECS, and Wind Energy Conversion Systems;
4. Create standards for the removal of Mini WECS, SWECS, and WECS and their appurtenant structures.

Section 1802 – Definitions

For the purposes of this Ordinance, the defined words, terms, phrases, abbreviations, and their derivations shall have the meanings given in this Section.

“Mini Wind Energy Conversion System” or “Mini WECS” means the system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity less than ten (10) kW and a system height of less than forty-five feet (45’). For the purposes of this Ordinance, a roof-mounted structure shall be considered a Mini WECS if it meets the rated capacity and height requirements set forth in this Section. **Only one (1) Mini Wind Energy Conversion System may be permitted per principle structure. Mini WECS shall be considered an accessory use in all Zoning Districts.**

“Small Wind Energy Conversion System” or “SWECS” means the system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity of less than, or equal to, one-hundred (100) kW and a system height of less than eighty feet (80’). **Only one (1) Small Wind Energy Conversion System may be permitted per principle structure. SWECS shall be considered a Principally Permitted Use in all agricultural (A), commercial (C1, C2, C3) and industrial (IN1) zones and as a Conditional Use in all Residential Districts.**

“Wind Energy Conversion System” or “WECS” means the system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity of more than one-hundred (100) kW or a system height of more than eighty feet (80’). **WECS shall be considered a Principally Permitted Use**

in intense commercial (C2, C3) and industrial (IN1) zones and as a Conditional Use in all Agricultural (A), Residential (R), and Local Commercial (C1) Districts.

“Applicant” means the entity or person who submits to the Town, pursuant to this Article, an application for the siting of any WECS or substation or thereafter operates or owns a WECS.

“Financial Assurance” means an insurance performance bond or one irrevocable, unconditional letter of credit, either one of which must be obtained from a single financial institution licensed in the State of Indiana.

“Free Fall Area” means the area in the shape of a circle surrounding the WECS whose radius is the height of the structure plus ten percent (10%) of the height of the WECS or structure.

“Modification” means the addition, removal or change of any of the physical and visually discernable components or aspects of a Wind Energy Conversion System. A modification shall not include the replacement of any components of a Wind Energy Conversion System where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a Wind Energy Conversion System without addition, removal or discernable change.

“Operator” means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third-party subcontractors.

“Owner” means the entity or entities with an equity interest in the WECS, including their respective successors and assigns.

“Permit” means a Zoning Permit, unless specifically noted otherwise in this Article.

“Professional Engineer” means a qualified individual who is licensed as a professional engineer in the State of Indiana.

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

“State” means the State of Indiana.

“WECS Project” means the collection of WECSs and substations as specified in the siting approval application pursuant to this Ordinance.

“WECS Tower” or **“Tower”** means the support structure to which the nacelle and rotor are attached, free standing or guyed structure that supports a wind turbine generator.

“WECS Tower Height” means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

Section 1804 – Wind Energy Conversion Systems Not Requiring a Zoning Permit

Mini WECS or SWECS structures may be established to serve an existing agricultural use. These structures may not exceed 45 feet in height and must be situated fifty (50) feet from both all property lines and overhead utility easements to be exempt from the provisions set forth later in this Article. **Although a Zoning Permit may not be required for Mini WECS or SWECS and appurtenant structures of this type, a Building Permit is required and must be applied for and approved prior to any site work.**

Section 1806 – General Requirements for all Wind Energy Conversion Systems

The design and construction of all Mini WECS, SWECS, or Wind Energy Conversion Systems shall meet the following standards:

1. All applicants shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted system in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town of Dillsboro, the State of Indiana, or the United States. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply;
2. All applicants shall obtain, at their own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town of Dillsboro or any other governmental entity or agency having jurisdiction over the applicant;
3. All applicants shall notify the Town of any intended modification of a Mini WECS, SWECS, or Wind Energy Conversion System and shall apply to the Town to modify the height, relocate or rebuild such structure;
4. All Wind Energy Conversion Systems shall conform to applicable industry standards of the American National Standards Institute (ANSI) and be approved by a wind certification program recognized by the American Wind Energy Association. **All WECS that are over twenty-five (25) feet in height must be designed by a professional engineer.** The engineer must certify that the foundation and tower constructed for the Wind Energy Conversion System is within acceptable code and industry standards—given local soil and climate conditions.

SECTION 1808 - Required Zoning Permit

All applicants involving a new Mini WECS, SWECS, or Wind Energy Conversion System, or an existing Mini WECS, SWECS, or Wind Energy Conversion System that involves a visible modification, are required to obtain the proper permit that is in accordance with the requirements of this Article. The individual zoning district articles indicate whether a Wind Energy Conversion System is a Principally Permitted Use or Conditional Use, which determines the required process. All Mini WECS and SWECS that are considered Principally Permitted Uses shall follow the Plot Plan Review procedure as detailed in Article 17 of this Ordinance. All WECS shall follow the Site Plan Review procedure as detailed in Article 23 of this Ordinance, in addition to a Conditional Use process, if necessary. All Conditional Uses shall follow the Conditional Use procedure as detailed in Article 3. Applications for the modification of an existing structure that does not increase the overall height or appearance shall be considered a Principally Permitted Use. If it is determined that the application meets the purpose and intent of this Article, the application shall be approved. If it is determined that the application does not meet the purpose and intent of this Article, the application shall be denied with the specific reasons detailed.

No Wind Energy Conversion System of any type shall be installed or constructed until the application is reviewed and approved by the Town, and a permit has been issued. The Town may at its discretion delegate or designate other official agencies to accept, review, analyze, evaluate and make recommendations with respect to the approval, or denial, of proposed Wind Energy Conversion System. Any permit issued for Wind Energy Conversion System shall not be assigned, transferred or conveyed without the express prior written notification to the Town.

SECTION 1810 - Pre-Application Meeting

Prior to the submittal of an application that does not involve an exempt Mini WECS or SWECS structure, the applicant is required to contact the Town and its designated representatives to schedule a pre-application meeting. The purpose of this meeting is to address potential issues, which will help expedite the review and permitting process. The pre-application meeting shall include a site visit, if there has not been a prior site visit for the proposed site. It shall also be determined at the pre-application meeting, the number of copies necessary for the applicant to submit a completed application. The applicant shall pay any and all costs that are associated with the preparation and attendance of the pre-application meeting.

SECTION 1812 – Zoning Application Requirements

All applications for Mini WECS, SWECS, or Wind Energy Conversion Systems, or any modification of such facility, shall comply with the requirements set forth in this Section. Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the Town. The applicant shall be required to perform the following actions:

- ◆ Sign the application with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. Any individual signing the application shall be an authorized individual of the applicant. The landowner, if different than the applicant, shall also sign the application.
- ◆ Submit the following statement in writing:
 - "The proposed Mini WECS, SWECS, or Wind Energy Conversion System shall be maintained in a safe manner, and in compliance with all conditions of the Permit, without exception, unless specifically granted relief by the Town in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Town, State and Federal Laws, rules, and regulations."

All applications for the construction or installation of new Mini WECS, SWECS, or Wind Energy Conversion Systems shall contain the information set forth in this Section. Where a certification is required, such certification shall bear the signature and seal of a *professional engineer*. At the discretion of the Town, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

Applicants must submit all of the information required to obtain a Major Plot Plan Zoning Permit, as referenced in Article 17, Section 1720 of the Dillsboro Zoning Ordinance, to the Plan Commission staff. In addition to the information required to obtain a Zoning Permit, the applicant shall provide all of the information that is necessary to obtain a permit from the Board of Zoning Appeals, if applicable.

Information that is also relevant to the following items must also be specifically supplied:

1. The location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed Mini WECS, SWECS, or WECS;
2. The location of all underground utility lines associated with the project site;
3. Dimensional representation of the structural components of the tower construction including the base and footings;
4. Manufacturer's specifications and installation and operation instructions or specific Mini WECS, SWECS, or WECS design information;
5. Certification by a registered professional engineer that the tower design, including all footers, is sufficient to meet all Town, State, and Federal requirements;

6. Information relevant to any existing, or anticipated, access easements or utility easements;
7. Acknowledgement that no appurtenances other than those associated with the wind turbine operations may be connected to any wind tower except with express, written permission by the BZA;
8. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation;
9. A re-vegetation plan that restores areas temporarily disturbed during construction;
10. For all Mini WECS, SWECS, or WECS sites involving one (1) acre or more of land disturbance, a drainage and erosion control plan must also be developed in consultation with the Dearborn County Soil and Water Conservation District.

SECTION 1814 - Location of Wind Energy Conversion Systems

An application for a Mini WECS, SWECS, or Wind Energy Conversion System may be approved in any zoning district of the Town of Dillsboro, provided that Town officials find that the proposed site does not interfere with the health, safety and welfare of the Town and its inhabitants and will not have a harmful effect on the nature and character of the community and neighborhood.

Notwithstanding that a potential application may require approval for a Conditional Use, the Town may disapprove an application for any of the following reasons:

1. Conflict with safety and safety-related codes and requirements;
2. Conflict with the historic nature or character of a neighborhood or historical district;
3. Conflict with a purpose of an existing, specific zoning or land use designation;
4. The placement and location of Wind Energy Conversion System which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers;
5. Conflicts with the provisions of this ordinance.

SECTION 1816 - Structure Design and Construction

The design and construction of all Mini WECS, SWECS, or Wind Energy Conversion Systems shall meet the following standards:

1. The foundation and attachments shall meet all local, Town, State and Federal structural requirements for loads, including wind and ice loads;
2. All utilities at a Mini WECS, SWECS, or Wind Energy Conversion Systems site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Town;

3. Mini WECS, SWECS, Wind Energy Conversion Systems, and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings;
4. At SWECS or Wind Energy Conversion System project sites, an acceptable access and turn-around area shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

SECTION 1818 - Height and Clearances of Wind Energy Conversion Systems

Mini WECS must have a system height of less than forty-five (45) feet.

No Wind Energy Conversion System Tower constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, Town, State, and/or any Federal statute, law, ordinance, code, rule or regulation.

The minimum distance between the ground and any protruding blade(s) utilized on a Mini WECS, SWECS, or WECS shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. This minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

SECTION 1820 - Appearance and Visibility of all Wind Energy Conversion Systems

All Mini WECS, SWECS, or Wind Energy Conversion Systems and their appurtenant structures shall be designed to minimize the adverse visual impacts of its surroundings. Specifically:

1. Mini WECS, SWECS, or Wind Energy Conversion Systems shall not be artificially lighted or marked, except as required by law.
2. All Mini WECS, SWECS, WECS and supporting structures must consist of a non-reflective, unobtrusive color—usually gray or white. No advertising signage shall be permitted; however, the manufacturer’s identification with ratings is allowed.
3. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

SECTION 1822 - Security of Wind Energy Conversion Systems

All Mini WECS, SWECS, and Wind Energy Conversion Systems and their appurtenant structures shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, all Mini WECS, SWECS, and WECS and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with.

SECTION 1824 - Signage

All Wind Energy Conversion Systems and their appurtenant structures shall contain a sign no larger than four (4) square feet in order to provide the name(s) of the owner(s) and operator(s) of the WECS as well as emergency phone number(s). This sign shall be visible from the access point of the site and shall not be lighted, unless lighting is required by applicable law, rule or regulation. A four (4) square-foot warning sign concerning voltage must also be placed at the base of all pad-mounted transformers and substations in a conspicuous location. No other signage, including advertising, shall be permitted.

SECTION 1826 - Lot Size and Setbacks

All proposed Mini WECS, SWECS, or Wind Energy Conversion Systems shall be set back from abutting parcels, recorded rights-of-way and existing or anticipated access or utility easements by the greater of the following distances: A distance equal to the height of the proposed Mini WECS, SWECS, or WECS structure plus ten percent (10%) of the height of the supporting structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. Structures that are not being used in conjunction with the Mini WECS, SWECS, or Wind Energy Conversion Systems, with the exception of accessory structures, shall not be located within the free fall area unless otherwise approved by the Board of Zoning Appeals.

A transfer of ownership of an adjacent lot, held in combination and under common ownership at the time of Mini WECS, SWECS, or WECS installation, shall include a grant of easement equal to the required off-site setback encroachment; approved by the Zoning Administrator; and recorded with the Dearborn County Recorder's Office to run with the deed.

Section 1832 – Maintenance & Inspections

The owner or operator of a WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the Town. In addition to the above annual summary, the owner or operator must furnish such operation and maintenance reports as the Town reasonably requests. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification by a professional Engineer licensed in the State of Indiana and it shall be necessary to apply for both a Zoning Permit and a Building Permit.

The Zoning Administrator and Building Commissioner will be responsible for contacting all owners or operators of a WECS that does not meet local, State, or Federal codes and regulations. Once notified in writing, the owner or operator of a WECS will be required to address any repairs or alterations within thirty (30) days after receiving notice—or within a longer period of time mutually acceptable to both parties. During this time period, the owner or operator of a WECS may retain a licensed 3rd party professional engineer familiar with WECS systems to prepare and submit to the appropriate Town officials a written report which addresses the repairs or alterations required, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary. The Zoning Administrator and Building Commissioner will consider any such written report and determine whether the repairs or alterations should be made as originally requested, or as suggested in the written report.

Section 1834 - Liability Insurance

The owner or operator of any WECS will provide proof of liability coverage; shall maintain a current general liability policy covering bodily injury and property damage; and may be required to name the Town of Dillsboro as an additional insured with dollar amount limits per occurrence, in the aggregate, and a deductible, which is suitable and in a form acceptable to the Plan Commission Attorney.

Section 1836 - Indemnification

Any application for Wind Energy Conversion Systems that is proposed for Town property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said WECS, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town. An indemnification provision will not be required in those instances where the Town itself applies for and secures a permit for WECS.

Section 1838 - Removal of Wind Energy Conversion Systems

The holder of a permit for a Mini WECS, SWECS, or Wind Energy Conversion System, or its successors or assigns, shall dismantle and remove such facilities, and all associated structures, from the site and restore the site to as close to its original condition as is possible, if at any time any of the following apply:

1. The system has been abandoned for a period of one hundred-eighty (180) days in any three hundred-sixty-five (365) day period. For properties involving foreclosure, vacant residential structures, or for other unusual or extreme circumstances, a waiver may be requested to extend this time period. All waiver requests of this specific type must be submitted in writing to the Zoning Administrator and may be issued only if the waiver is determined to be necessary and if the requested waiver does not adversely affect the other requirements of this Article;
2. The system falls into such a state of disrepair that it creates a health or safety hazard;
3. The system has been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required permit, or any other necessary authorization;
4. The Board of Zoning Appeals determines that the health, safety, and welfare interests of the Town warrant and require the removal of the Mini WECS, SWECS, or Wind Energy Conversion System.

Section 1840 - Avoidance and Mitigation of Damages to Public Infrastructure

Applicants of all Wind Energy Conversion Systems shall identify all roads to be used for the purpose of transporting system materials, parts, and / or equipment for the construction, operation, or maintenance of the WECS and shall:

1. Conduct a pre-construction baseline survey in coordination with the impacted transportation authorities to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility as the WECS is being constructed;
2. Obtain any applicable weight and size permits from all impacted transportation authorities prior to construction;
3. Prepare a written statement that acknowledges that the Applicant will be responsible for addressing on-going road maintenance, drainage, erosion control, or dust issues identified by the Engineer, the Indiana Department of Transportation (INDOT), the Indiana Department of Environmental Management (IDEM), or another applicable public agent during all phases of the construction process. All such issues must be addressed in the prescribed time(s) and manner(s) set forth by the applicable governmental entity.

Section 1842 - Variances

Any requirement of this Article may receive a variance by the Board of Zoning Appeals if it is determined that such action is warranted given the nature of an individual project and such action will serve to preserve the purpose and intent of these regulations.

SECTION 2000 - Signage

The purpose of this Section is to coordinate the type, placement, illumination, maintenance, density, and physical dimensions of signs within the different zones and to recognize the communication requirements of all sectors of the business community and the community's right to free speech. Furthermore, this Section is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the physical appearance of the community. This Section is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and generally enhance community development and the natural environment.

SECTION 2005 – Government Signs Excluded

For the purpose of this order, signs erected and maintained pursuant to and in discharge of any federal, state or local law, order, or governmental regulations such as warning signs, signs directing traffic, and those supported by compelling government interest, such as public notices, are exempt from the provisions of this Section.

SECTION 2010 - Sign Permits

Except as provided in this Section, it shall be unlawful for any person to construct, install, attach, place, paint, alter, relocate, or otherwise maintain a sign located within the jurisdictions covered by this ordinance without first obtaining a sign permit in accordance with this ordinance. In those cases where a Sign Permit is required, an application must be submitted to the Plan Commission. A Sign Permit shall only be issued if the proposed sign meets the requirements of this ordinance. If provisions of this Section are in conflict with any other County, State, and/or Federal code, the more restrictive, legal requirement(s) shall apply. A Sign Permit application shall include, at a minimum, the following information:

1. Name and address of the applicant;
2. Name and address of the owner of the property on which the sign is to be located, and the owners signature that will authorize the use of the land for the purposes of locating a sign;
3. A written description of the proposed sign including type of sign, supporting structure, method of illumination (if any), and construction materials to be used in the sign;
4. A site plan of the property on which the sign is to be erected showing existing structures, right-of-way lines and proposed location of the sign, including proposed setbacks;
5. A drawing or picture of the proposed sign verifying the type of sign, indicating display area dimensions, and the height of the sign from grade to bottom and top of the sign.

Upon receipt of a full and complete application for a Sign Permit, the Zoning Administrator or designee shall issue a permit or notify the applicant of any non-conformance with the provisions of this Section within ten (10) working days. Failure to issue a permit or notify the applicant of any non-conformance does not constitute approval of the proposed sign. Once a sign permit is issued, work on the signage shall commence within 1 year of the issuance of the permit and shall be completed within 3 years. All work shall be in compliance with the plans on which the permit approval was based. The Zoning Administrator or designee shall maintain a file of all applications for sign permits.

SECTION 2015 - Permitted signage provisions and standards

- a. Permanent wall signage, permanent freestanding signage, temporary signage, and incidental signage shall be permitted as set forth in the tables in Section 2, Zoning Districts.
- b. Nonconforming and conditional use signage
 - i. Nonconforming uses shall be permitted to have up to 32 square feet of non-incidental freestanding signage, and up to 40 square feet of non-incidental wall mounted signage; freestanding signage may be up to 6 feet in height.
 - ii. Conditional uses shall be permitted to have up to 6 square feet of non-incidental freestanding signage, and up to 10 square feet of non-incidental wall mounted signage; freestanding signage may be up to 4 feet in height

SECTION 2020 - Special sign and display provisions and standards

- a. Expired signs
No sign shall be displayed longer than 7 calendar days after becoming an expired sign, as defined herein. The Zoning Administrator may require the removal, or cause the removal, of any expired sign, sign face, or sign copy area as applicable, except for a sign structure, support, or display surface that in his or her judgment is permanent and non-portable in nature.
- b. Visual displays
There shall be no restriction hereunder on visual displays, as defined herein, associated with recognized legal holidays, town festivals, and similar events; except that visual displays for these events on non-residential properties shall not be displayed for more than 45 consecutive days.

c. Prohibited signs and visual displays

The following signs or visual displays are prohibited:

- i. Abandoned signs and support structures;
- ii. Pennants, ribbons, streamers, spinners, strings of lights, other similar moving devices or any sign that is temporary in nature due to its design or construction except as provided in this Chapter;
- iii. Signs imitating, resembling or conflicting with official traffic signs or signals;
- iv. Signs attached to trees, telephone poles, streetlights, public benches, or placed on any public property or public right-of-way, except as noted in this Chapter;
- v. Vehicle signs with a sign area greater than fifty (50) square feet in cumulative area. Prohibited vehicle signs shall not be construed to include vehicles with signs on them that:
 - a. Are lawfully parked overnight or during non-business hours on a paved surface in a discreet location, or in an enclosed location;
 - b. Are making deliveries, sales calls, transporting persons or property, or customary practices relating to operating the business; or
 - c. Are used in conjunction with customary construction operations on a construction site.
- vi. Portable signs (including portable signs mounted to poles, buildings, or other structures);
- vii. Skyward lights, search lights, beacons, or any light or lights that project light in visible beams skyward, or project light horizontally or vertically in a circle or other pattern regardless if the light is part of or independent of a sign;
- viii. Signs that promote illegal activities, profanity, or obscenities or pornography.
- ix. Any other sign not specifically permitted by this order.

SECTION 2025 - Additions to permitted signage

- a. Changeable copy areas
 - i. Electronic changeable copy areas may be included as a portion of a permanent freestanding or wall sign of up to 50% of the permitted signage, provided that it receives a Conditional Use Permit from the Board of Zoning Appeals. Furthermore, if the sign is located within a residential zoning district, the sign shall be:
 - (a) Located at least 60 feet from any adjacent residential property; and
 - (b) Operated so that the electronic portion of the face is dimmed outside of normal operating hours and between dusk and dawn.
 - ii. Manual changeable copy areas may be included as a portion of a freestanding or wall sign for a permitted use, of up to 50% of the permitted signage.
- b. Drive-through signage

In addition to other signage permitted herein, up to two freestanding signs no greater than 100 square feet in combined area and not exceeding 7 feet in height may be permitted for any use with a drive-through window or windows. This additional signage shall be used in conjunction with the accessory use of the drive through window(s), and shall not be located within any required yard.
- c. Banner signs

In C2 and C3 districts, and for C2 and C3 permitted uses in the IN1 district, one permanent banner sign as defined herein may be displayed for every 40 feet of street frontage. One such sign may be displayed on each existing light fixture support structure, up to a maximum of 5 such signs. Each such sign may be up to 8 square feet in area and shall be attached to and supported on the structure at the top and bottom of the sign; the sign height shall not exceed the height of the support structure.
- d. Subdivision signs
 - i. Residential subdivisions

In residential zoning districts, up to 2 signs of up to 32 square feet in area and 8 feet in height shall be permitted at each entrance to a subdivision. Such signs shall be allowed in addition to other permitted signage.
 - ii. Nonresidential subdivisions

In nonresidential zoning districts, up to 2 signs of up to 40 square feet in area and 10 feet in height shall be permitted at each entrance to a subdivision or other nonresidential multiple lot/tract development. Such signs shall be allowed in addition to other permitted signage.

e. Home occupation, home workshop, and home-based business signs

Where permitted, one wall sign of up to 24 square feet, and one freestanding sign of up to 12 square feet in area and 5 feet in height shall be permitted for home occupations and home-based businesses. For home workshops, one wall sign of up to 32 square feet, and one freestanding sign of up to 24 square feet in area and 5 feet in height shall be permitted.



Existing home-based business sign

SECTION 2030 - Signs Not Requiring a Permit

The following signs are subject to applicable regulations of this Chapter, but do not require a permit:

- a. The replacement of a panel or display message on an approved sign—involving no changes to size, location, or lighting.
- b. Painting, repainting, cleaning, or other normal maintenance and repair of an existing sign or sign structure, unless a structural change is involved;
- c. Temporary, noncommercial, non-illuminated, free-standing signage per tenant / occupant for a period not to exceed ninety (90) days per calendar year.
 - i. Signs shall be limited to either one (1) sign that is sixteen (16) square feet in area or up to two (2) signs with each sign limited to a maximum of eight (8) square feet in area.
 - ii. Sign shall not be greater than five (5) feet above the grade level of the adjacent street to which the sign is located or four (4) feet above ground level, whichever is greater.
 - iii. Such temporary signs shall conform to the general requirements defined by this Chapter, and other standards deemed necessary to accomplish the intent of this Section.
- d. Property for sale / lease is permitted one (1) sign per property frontage—up to a maximum of two (2) total signs—when the property is: i) being actively offered for sale through a licensed real estate agent in a listing resource; or ii) being actively offered for sale by the owner through current advertising in either a local newspaper of general circulation and / or through a listing in one or more reputable, recognized online resources.
 - i. Such described property in Residential Zones is allowed six (8) square feet of sign area for property on less than one hundred (100) feet of road frontage and twenty (20) square feet of sign area on property with greater than one hundred (100) feet of road frontage.
 - ii. Such described property in Business and Industrial Zones are permitted twenty (20) square feet of sign area when not adjoining a State highway and thirty-two (32) square feet of sign area when adjoining a State highway.
 - iii. Signage shall not exceed a maximum height of five (5) feet for property containing less than one hundred (100) feet of road frontage and a height of eight (8) feet when containing more than one hundred (100) feet of road frontage. The height of all signs will be measured in accordance with Section 2020 of this Section.
 - iv. For lots with more than one (1) street frontage, all signage must be located at least five (5) feet from the public right-of-way, outside of all vehicular sight triangles, and must be at least fifteen (15) feet from the corner of the lot / intersection.

- v. For through lots (fronting two parallel streets), two (2) signs may not face the same street.
 - vi. Illuminated signage of this type is not permitted.
 - vii. Signs must be removed fifteen (15) days following the date on which a contract of sale has been executed by a person purchasing the property.
- e. Signs erected by, or on the order of, a public officer in the performance of his duty including but not limited to public notices, safety signs, danger signs, traffic and street signs, and signs of historical or cultural interest.
- f. Up to 3 flag poles containing no more than 2 flags per pole. Flag means a piece of fabric or other flexible material solely containing distinctive colors, patterns, standards, words, emblems, symbols, and other information, including but not limited to political jurisdictions. In nonresidential districts, a flagpole with a maximum height of 70 feet bearing a flag or flags of up to 216 square feet is permitted. In a residential district flagpole height is limited to 25 feet, and total flag area is limited to 40 square feet per flag. A vertical flag pole shall be set back from all property boundaries, rights-of-ways, and easements a distance which is at least equal to the height of the pole.
- g. On-premise incidental signage, not exceeding six (6) square feet of area per sign or five (5) feet in height, may permitted per property, as long as the sign provides identification and direction for the safety, necessity, and convenience of the public such as “entrance,” “exit,” “no admittance,” “telephone,” “parking,” and “123 Main St.” Signs directing and guiding traffic and parking on private property, such as drive-thru lanes, shall be permitted on any property. Such signage shall be limited to directional text and/or graphics.
- h. Indoor signage displayed inside a building, including in window spaces, which cannot be viewed legibly by drivers outside the building.
- i. Murals or other works of art that convey no commercial message. Murals or other works of art with a commercial message shall be regulated as a sign in accordance with permitted or Conditional Uses as well as the locations where they are placed. In cases where murals or other works of art contain a partial commercial message, the determination of the signage area will be as set forth and measured in Section 2025 of this Section.
- j. Miniscule messages displayed on or near a primary entrance provided that the area of each message does not exceed thirty (30) square inches and the cumulative area of all miniscule messages does not exceed two hundred and eighty-eight (288) square inches per primary entrance. Examples include “Visa”, “ATM”, and corporate logos.

SECTION 2035 - Miscellaneous Standards

a. Determining Sign Area(s)

The surface area of a sign shall be computed by including the entire area serving as written or graphic advertisement within a regular, geometric form comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not used for advertising matter shall not be included in computation of surface area. A general calculation of the Total Sign Area may also be used, if the general total surface area of the sign meets the described guidelines. Where a sign has two (2) display faces back to back, the area of only one (1) face shall be considered the sign area, provided the two (2) sign faces are not visible from one location therefore constituting two (2) signs.

b. Minimum Location

All permitted signage must be placed outside of the public right-of-way and any public easement—and may not obstruct traffic visibility at street intersections or within parking lots. In the case where a road may not have a dedicated right-of-way the sign must be placed a minimum of 30 feet from the edge of the nearest lane of traffic, and outside of any known easement. No sign shall be placed in any public right-of-way except those in accordance with this chapter, such as warning signs, traffic control and directional signs, and those supported by compelling government interest.

c. General height limitations

The height of the sign will be measured from the top of the sign structure to the finished ground elevation. Berms and mounds cannot be used to increase the height of the sign. Free-standing signage may not be placed in any area used for vehicular movement(s) or parking, including the sign's overhanging area, unless there is: i) a defined curb or wall to prevent vehicle accessibility; and ii) the signage is elevated at least ten (10) feet above the paved level of such area. The height requirement will be increased as necessary where tractor- trailer or other large vehicle traffic would require a greater height clearance;

d. Height limitations for certain wall-mounted signs

A sign displayed on an awning, canopy, or marquee shall not extend above the top thereof, and shall not exceed 5 feet from top to bottom; except that individual sign lettering may be affixed onto the top of an attached canopy, provided the lettering does not project more than two feet above the top of the canopy. However, no awning, canopy, marquee, projecting, or other wall-mounted sign shall project above the top of the wall it is attached to.

e. Projections

No building mounted sign shall project more than eighteen (18) inches from the area of fascia on which they are mounted.

f. Illumination

Sign illumination shall not create glare outside of its lot or tract, according to the standards set forth in the Illuminating Engineering Society of North America’s current Lighting Handbook. External light sources shall be effectively concealed from view from ground level beyond the lot or tract. For external light sources for new freestanding signs over 100 square feet in area, it is recommended that the lighting generally be designed and constructed so that the light is directed down onto the sign face, as opposed to up onto the sign face. Temporary signs shall not be illuminated. This provision is not intended to prohibit exposed neon tubing or its equivalent.

g. Movement

No sign shall employ any parts of elements that revolve, rotate, whirl, spin or otherwise make use of motion so as to constitute a traffic hazard or nuisance;

h. Empty sign cabinets

No sign frame or cabinet shall remain in place without enclosing a display surface, except temporarily for maintenance or repair.

i. Maintenance and removal

All signs shall be maintained in a safe, legible condition, and shall not be in a state of disrepair. Sign faces must be removed from an abandoned sign if the property or use has been abandoned or discontinued for six months or more; however, the sign structure may remain if the property owner is actively pursuing a new tenant or buyer. Disrepair shall include, but not be limited to, burned out lights, broken sign faces or sign structures, peeling paint, and weathered or discolored sign faces or structures. The Zoning Administrator shall have the right of entry in order to inspect all signs for compliance with these standards. If it is determined that a sign has not been constructed and/or maintained as required herein or is otherwise unsafe, the owner of the sign shall be notified in writing; the Zoning Administrator may order the alteration, removal, or repair of the sign. It is intended that signs that have clearly been “handmade”, including signs painted on bed sheets or similar materials, shall not be permitted.

j. Signs not recognized

Sign types not specifically recognized in this chapter that are similar in type to another type specifically described will be treated and permitted, where possible, in accordance with the like type with approval from the Zoning Administrator, or his or her designee.

SECTION 2040 - Nonconforming signs

a. Alterations and repairs

Reasonable alterations and repairs, both as defined herein, may be made to nonconforming signs without the requirement of a sign permit as long as none of the nonconformities is increased. It is intended that reasonable alterations and repairs as permitted herein will allow for: the minor restoration of a sign to a sound condition, such as the replacement of defective parts; the replacement of existing sign cabinet faces with similar sign faces; and other actions required for ongoing maintenance, such as cleaning or painting. Proposed alterations and repairs may be reviewed by the Zoning Administrator for determination as to whether the request goes beyond a reasonable alteration or repair. If a Zoning Enforcement Officer determines a requested repair or alteration goes beyond a reasonable alteration or repair, the alteration/repair shall only be permitted if the request, by virtue of a change to the request or approval of a variance or other applicable exception, fully complies with this subsection.

b. Conversions of nonconforming signs

i. Intent

The intent of allowing the conversion of nonconforming signs is to create provisions to:

- (a) generally allow for the continued use of the signage;
- (b) allow for improvements to be made to nonconforming signs and sign structures; and
- (c) promote the reduction of sign nonconformities.

A sign permit shall be required prior to any sign conversion.

ii. Removal of nonconformities

A conversion, as defined herein, may be made to any nonconforming sign if all nonconformities are removed.

iii. Other allowable conversions

(a) Conversions of wall-mounted signs

Conversion of nonconforming wall-mounted signs shall be permitted subject to there being no increase in any nonconformity; however, a nonconforming wall-mounted sign projecting above the top of the wall, cornice wall, or top roof line shall not be converted unless the sign is moved or reduced in height to eliminate this projection.

(b) Conversion of freestanding signs

(1) Height Nonconformity

A freestanding sign which exceeds the maximum height limitation shall not be converted unless the sign height is reduced to the maximum height provided in Section 2.

(2) Area Nonconformity

A freestanding sign which exceeds the maximum permitted area shall not be converted unless the sign area is reduced to the maximum area provided in Section 2.

(3) Setback Nonconformity

A freestanding sign nonconforming with the minimum required setback shall not be converted unless the Zoning Administrator or Plan Commission has approved a setback reduction.

SECTION 2100 - Parking & Loading Areas

The purpose of this Article is to define minimum parking standards that are consistent with industry standards and practices, available technologies, and traffic engineering in an effort to: protect public security, privacy, and welfare, provide adequate and accessible parking facilities, ensure the safe movement of vehicles, emergency personnel and pedestrians, and provide for the parking, loading and unloading of vehicles.

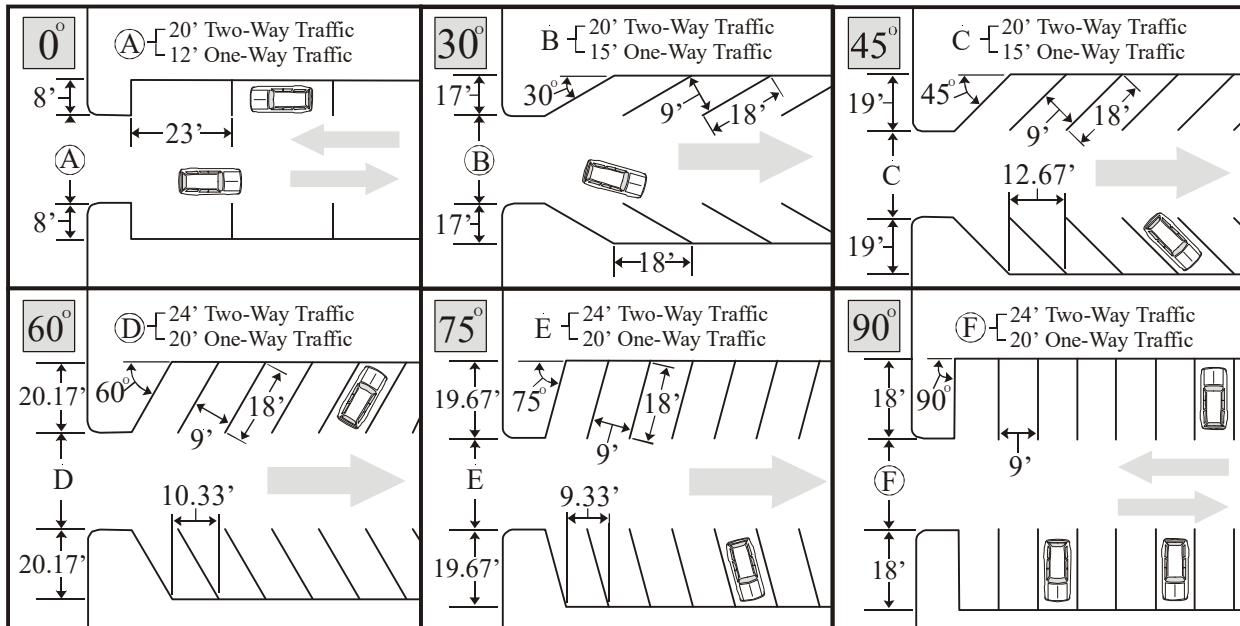
SECTION 2105 - General Requirements

1. No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this order.
2. The provisions of this Section, except where there is a change of use, shall not apply to any existing building or structure. Where there is a change of use, the number of spaces that are required by this ordinance shall be provided;
3. Whenever a building or structure is constructed after the effective date of this ordinance, and a change is proposed in regards to an increase in the floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change. Whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) percent or more in floor area, number of employees, number of housing units, seating capacity or otherwise enlarged, the said building or structure shall then comply with the full parking requirements defined by this ordinance.

SECTION 2110 - Parking Space Dimensions

The appropriate layout and dimensions for parking spaces are dependent upon the angle at which the spaces are designed. Reductions in the parking space dimensions can be made by the Zoning Administrator if cause can be shown. The angle is measured from a line that is parallel to the aisle, or driveway, which is used to access the parking space. These requirements are specifically described in *D.1*

Figure D.1 - Parking Space Dimensions



SECTION 2115 - Loading Space Requirement and Dimensions

A loading space shall have minimum dimensions of twelve (12) feet in width, thirty-five (35) feet in length, exclusive of driveways, aisles, and other circulation areas, and a clearance height of not less than fifteen (15) feet. One off-street loading space shall be provided and maintained on the same lot for every building designed to house uses which require delivery/transport of goods and having a gross floor area of up to five thousand (5,000) square feet. One loading space shall be provided for each additional ten thousand (10,000) square feet of floor area that is designed for such uses. The Zoning Administrator shall have the authority to reduce or waive the number of required loading spaces based on the special circumstances of a particular use or site, and to place whatever conditions on such an exemption as appropriate.

SECTION 2020 - Striping and Signage

All parking areas shall be striped to facilitate the appropriate traffic circulation, which includes the movement into and out of parking stalls, in addition to the delineation of access isles and permitted turning movements. All striping will be with lines that are a minimum of four (4) inches in width. The entrances and exits to the parking area shall be clearly marked. Signage and striping shall be adequately maintained to insure safe and efficient movement of vehicles.

SECTION 2125 - Accessible Parking Requirements

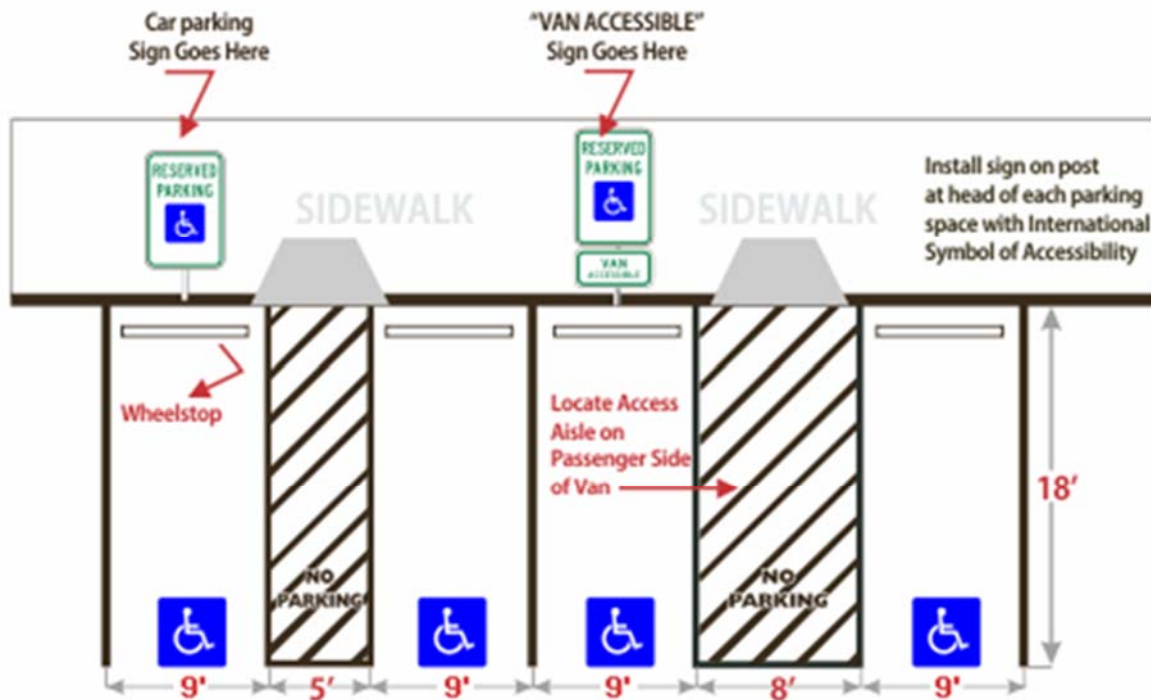
In business districts, or planned developments that are intended for business use, or multi-family housing units, parking spaces for disabled people shall be provided as indicated below:

Total Number of Parking Spaces	Number of Required Spaces for the Disabled
1 to 25	1 space
26 to 50	2 spaces
51 to 75	3 spaces
76 to 100	4 spaces
101 to 150	5 spaces
151 to 200	6 spaces
201 to 300	7 spaces
301 to 400	8 spaces
401 to 500	9 spaces
501 or over	2% of total

1. Parking spaces for disabled people shall use the same dimension requirements as specified in *Figure D.1*. Van-accessible parking spaces must have a 96-inch (8 feet) wide access aisle adjacent to the parking space, and standard vehicle accessible parking spaces must have a 60-inch (5 feet) wide access aisle adjacent to the parking space. (See *Figure D.2*)
2. The accessible path of travel from the parking space to the building must start from the access aisle. Access aisles are to be kept clear of all obstructions at all times.
3. Accessible parking spaces must be located on the shortest accessible route of travel from the parking to an accessible building entrance. In parking facilities that do not serve a particular building, accessible parking spaces must be located on the shortest route to an accessible pedestrian entrance to the parking facility. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances. This usually means that the minimum number of accessible parking spaces must be exceeded in order to provide equal access to multiple entrances.

- Parking spaces for the disabled shall be designated as reserved for the disabled by a pavement marking and a sign showing the international symbol of accessibility. Such signs shall be above grade.

Figure D.2 Accessible Parking Spaces



SECTION 2130 - Paving

All parking and loading spaces required by this ordinance, including driveways, aisles, and circulation areas shall be improved with either asphalt, concrete, brick or concrete pavers, or equivalent material as determined by the Technical Review Committee (including Town members) to provide a durable and dust-free surface. Driveways and parking areas serving single-family residences shall be exempt from this requirement; however, an acceptable driveway and parking area must be maintained for easy access to the residence. The Technical Review Committee, upon written request by the applicant, shall determine exceptions to these requirements.

SECTION 2135 - Drainage

All parking and loading areas shall provide for proper and approved drainage of surface water as defined by this ordinance.

SECTION 2140 - Lighting

Any parking area intended to be used during non-daylight hours shall be properly illuminated to avoid accidents and provide security. During the site plan review process, the Zoning Administrator has the authority to require plans to specify units of illumination measured in foot-candles and illumination patterns when lighting is an integral part of a development’s use. The Zoning Administrator also has the authority to require a specific amount of lighting, based on the table illustrated below. Any lights used to illuminate any outdoor area shall be arranged to prevent direct illumination, reflection, and glare on any adjoining property or on any public street.

General Application		Average Foot-candles
<i>Building Exterior – Site Areas Adjacent to:</i>		
	Active Entrances (<i>pedestrian and vehicle</i>)	5.0
	Inactive Entrances (<i>normally locked</i>)	1.0
	Vital Locations or Structures	5.0
	Building Surroundings	1.0
<i>Parking Areas</i>		
	High Activity	3.6
	Medium Activity	2.4
	Low Activity	0.8
<i>Roadways – Non-Dedicated and Private</i>		
	High Activity	2.0
	Medium Activity	1.0
	Low Activity	0.5

SECTION 2145 - Location of Parking Spaces

The following regulations shall govern the location of off-street parking spaces and areas.

1. Parking spaces for all detached, single-family residential uses, and duplex residential units, shall be located on the same lot as the use that they are required to service, and may not be in any public right-of-way;
2. Parking spaces for all multi-family residential uses shall be located not more than five hundred (500) feet from the principal use and may not be in any public right-of-way;
3. Off-premises parking spaces for recreation, commercial, employment, or infrastructure uses shall be located not more than seven hundred (700) feet from the principal use.

SECTION 2150 - Screening and Landscaping

Screening and landscaping of parking areas shall be in conformance of the Landscaping, Screening, Buffering Section(s) of this ordinance.

SECTION 2155 - Disabled Vehicles

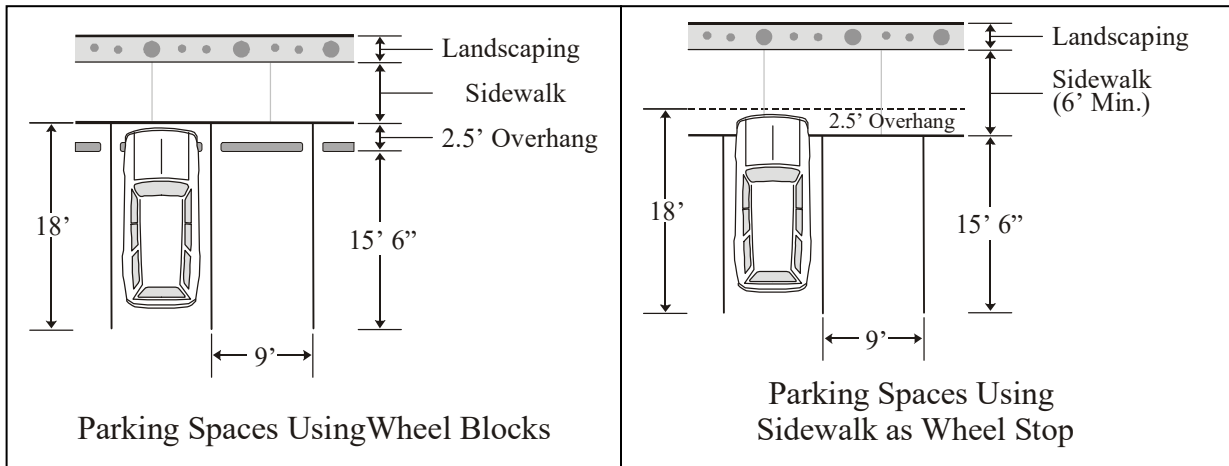
The parking of a disabled vehicle within a parking or loading area that is not capable of moving under its own power for a period of more than three (3) days shall be prohibited, unless such vehicle is stored in an enclosed garage or other accessory building. This does not apply to auto repair businesses with an approved Site Plan for outside storage.

SECTION 2160 - Joint Use

Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap. All applicants that are requesting the joint use of required parking areas shall submit a written agreement between the involved property owners and a parking study which shall be approved or denied by the Technical Review Committee.

SECTION 2165 - Curbs and Wheel Blocks

Curbs, wheel blocks or other suitable devices must be provided to prevent vehicles from extending beyond a property line, pedestrian walkway, or drainage area. A minimum of 2.5 feet shall be provided for the overhang of a vehicle. When a sidewalk is used as the wheel stop and overhang for a parking stall, the width of the sidewalk shall be no less than 6 feet (See *Figure D.4*).



SECTION 2170 - Access Points

Parking and loading areas shall be designed in such a manner that any vehicle using an access point from a public or private street shall be traveling in a forward motion, except for single family and duplex dwellings. Access points shall provide a reasonable distance for any approaching pedestrian or motorist to identify vehicles entering or exiting the parking and loading area. All access points shall be designed with adequate stacking distance to prevent traffic from backing onto public roadways. Where possible and appropriate, parking areas shall be connected to reduce the number of local trips onto public streets. Parking and loading areas shall not be permitted to use a public right-of-way for the purpose of maneuvering a vehicle into the designated space. Exceptions to the loading requirements can be made when the business is located on a dead-end street or the business has infrequent deliveries or the lot is too small to practically locate a loading facility.

SECTION 2175 - Internal Driveways

No parking shall be allowed along internal driveways. Driveways must be clearly divided from parking areas with directional signs or markings in each driveway.

SECTION 2180 - Traffic Control and Circulation Plan

All parking lots shall be required to provide a plan that indicates the location of all traffic control devices such as stop signs, traffic lines, and stop bars, as well as the internal circulation patterns of traffic within the parking lot. Areas of the parking lot that have multiple turning areas shall be designed to form intersections, when practical, with appropriate control measures. Concentrated traffic flow areas shall be designed to channel traffic to designated control points through landscaped islands and curbs. All drive-thru facilities shall have adequate internal stacking area and shall not be permitted to disrupt traffic flow within the parking lot or outside of the site. Any traffic control measures shall be the responsibility of the land owner to maintain in proper working order.

SECTION 2185 - Required Parking Spaces

Parking space requirements described in this section of the ordinance shall apply to the described uses. (“gfa” shall refer to square footage of gross floor area)

Required Parking Space Table:

	Category	Use	Min. Spaces Required
Residential	Note: Dwelling garages shall be credited toward the parking requirements	Detached Single-family & Duplex Dwellings	2 spaces per unit
		Townhouse & Multi-family Dwellings: Efficiency & One Bedroom Units	1.5 spaces per unit
		Townhouse & Multi-family Dwellings: Two or more Bedroom Units	2 spaces per unit
		Mobile Home Park	2 spaces per unit
Commercial	Office	Medical Office & Clinics	5 spaces per 1,000 gfa
		Veterinarian	5.5 spaces per 1,000 gfa
		Government Office, Business or Professional Office	4 spaces per 1,000 gfa
		Banks & Other Financial Institutions	4 spaces per 1,000 gfa
	Retail	General Retail, including Wholesale	4 spaces per 1,000 gfa
		Automobile, Building Materials or Furniture Sales	3 spaces per 1,000 gfa
		Multi-Business Center	4 spaces per 1,000 gfa

	Category	Use	Min. Spaces Required
Commercial	Eating & Drinking Establishments	Fast Food	15 spaces per 1,000 gfa
		Carry-Out, Specialty, Sit-Down	10 spaces per 1,000 gfa
	Lodging	Hotel, Motel, Bed & Breakfast	1 space per room <u>AND</u> 75% of the required spaces for banquet / meeting spaces or restaurants
	Service Establishment	Barber, Beauty Salon, Dry Cleaners, etc.	4 spaces per 1,000 gfa
	Vehicle Facilities	Gas Station, Service Station, Vehicle Repair	1 space per 2 gasoline pumps <u>AND</u> 2 parking spaces for each working bay
	Entertainment	Live Performance Areas or Movie Theaters	1 space per 3 seats
Industrial	Warehouses	Warehouses & Distribution Centers	1 space per employee on the largest shift of the use <u>AND</u> 1 space for each automobile used for the business <u>AND</u> 1 space per 500 sq. ft. of floor area open to the public
	Storage	Mini-Warehouses, Personal Storage, etc.	5.5 spaces per 1,000 gfa of office space
	Manufacturing	Manufacturing, Processing, Fabrication & Other Similar Uses	1.25 spaces per 1,000 gfa

	Category	Use	Min. Spaces Required
Recreational	Outdoor Uses	Golf Course	8.0 spaces per hole (This includes associated uses such as clubhouse, office, driving range, maintenance, etc.)
		Driving Range	1 space per tee
		Miniature Golf	1.5 spaces per hole
		Boarding Stable	.5 spaces per stable unit
		Swimming Pools	1 space per 100 sq. ft. of pool area
		Tennis Courts	1 space per 1,000 gfa
	Indoor Uses	Bowling Alleys	4.25 spaces per lane
		Ice & Roller Skating Rinks	5 spaces per 1,000 gfa
		Billiard Room	2.5 spaces per table
		Recreation Center, Health Club	5 spaces per 1,000 gfa
		Firing Range	1.5 spaces / firing stall
Sports Facilities	Stadiums, Arenas, Fields & Similar Venues	20 spaces per field or diamond <u>OR</u> .25 spaces per seat	
Public Facilities	Cultural Centers	Libraries, Museums, etc.	2.5 spaces per 1,000 gfa
	Hospital	Human	1 space per bed
		Convalescent / Nursing Home	1 space per 4 beds
	Religious Assemblies	Churches, Houses of Worship, Funeral Home, Mortuary, Mausoleum	1 space per 3 seats

Public Facilities	Category	Use	Min. Spaces Required
	Schools	Elementary / Junior High Schools	3 spaces for each room to be used for class instruction or office
		High School, College, Professional, Trade, Vocational	6 spaces for each room to be used for class instruction or office
		Daycare, Preschool, Nursery	3 spaces per 1,000 gfa
Community Services	Police, Fire, Utilities, Post Offices, & Other Services	1 space per 2 employees on the largest shift for which the site is used <u>AND</u> 1 space for each automobile on the site associated with the use	

SECTION 2190 - General Interpretations

In the interpretation of this Section, the following rules shall govern:

- a) Parking spaces for other permitted or conditional uses not listed in this Section shall be determined by the Technical Review Committee. The Committee will establish the number of parking spaces required for a land use based on information that the applicant supplies related to:
 - i. The estimated number of total trips generated during peak conditions (inbound and outbound);
 - ii. The estimated parking duration per vehicle trip (turn-over rates);
 - iii. The estimated number of employees.
- b) When determining the number of parking spaces required by this Section, all fractional numbers shall be rounded to the nearest whole number.
- c) If there is an adequate public transit system, or where parking demand is unusually low, the parking space requirements cited within this Section may be reduced proportionately by the Technical Review Committee.
- d) In areas where the parking of large trucks, vans, or tractor-trailers is planned or reasonably expected, an on-site parking area of sufficient size shall be required to accommodate the parking of such vehicles. These parking areas shall be clearly designated and marked, and shall be exclusive of driveways, aisles, and other circulation areas. The provision of parking areas for such vehicles shall under no circumstances cause a reduction in the minimum required number of automobile parking spaces.

SECTION 2200 – Intent of Landscaping, screening, buffering and fence regulations

The purpose of this Article is to promote and protect the health, safety, and general welfare of the community through the reduction of noise, air, and visual pollution, the stabilization of soils, the containment of wind-blown dust and debris, and the provision of a wide variety of living plant material around buildings, adjacent properties, large expanses of paved areas, and transitional areas between land uses.

SECTION 2205 – Required Landscape Review

All developments that are subject to a Site Plan Review as defined by Article 23 of this ordinance must demonstrate that the requirements of this Article will be achieved. No new site development, building or structure shall be constructed unless landscaping is provided as required by this Article. Any improvements to an existing development, which includes building additions, and loading area expansions, shall be required to bring only the new improvements into compliance with this Article. Single-family residences and duplexes are not subject to the landscaping requirements of this ordinance.

SECTION 2210 - General Requirements

1. A Landscaping Plan will be required as part of the Site Plan Review process. The information required on this site plan is listed in Article 23, Section 2320, Item 12.
2. The owner of the property is responsible for the installation of all landscaping materials and required bufferyards. The maintenance of all landscaping materials and required bufferyards shall also be the responsibility of the owner of the property – unless documents establishing the maintenance and liability of these improvements have been recorded and approved by the Plan Commission (prior to recordation in the Office of the Dearborn County Recorder). Maintenance and liability can be designated or transferred to an established homeowners' association, conservation trust, park board, the commercial management entity associated with a development, or another entity if approved by the Plan Commission.
3. All landscaping materials and required bufferyards shall be kept in a proper, neat and orderly appearance—regularly free of weeds or tall grass, refuse and debris. All unhealthy or dead plant materials shall be replaced by the next planting season, or within one year, whichever comes first.
4. All plant material must be installed, according to the approved landscaping plan, no later than the next planting season or within 6 months from the date that a building occupancy permit is issued, season permitting. If no occupancy permit is required all plant material must be installed by the next planting season from the date of approval for the landscaping/site plan.

5. All plant materials selected should be able to tolerate their specific planting environment and be easily maintained. Also, all landscaping shall be designed and installed to permit access to any area where repairs, renovations or regular maintenance to site buildings, utilities, etc. are expected.
6. All trees from Plant Type D (See Section 2230) shall be a minimum of six (6) feet (not to include the root ball) in overall height at the time of planting. In addition, all trees from Plant Type A and B shall be a minimum of 2 inches in caliper size (at dbh) and all shrubs from Plant Type E shall be a minimum 24 inches B&B or 3 gallon size at planting.
7. In addition to the designated width of all landscaping strips and the types of plants that are required, some type of ground cover shall be incorporated in the design, which may include any combination of grass, low ground cover, shrubs, flowers, or mulch. Gravel, limestone, river rock or similar materials may only be used as mulching around plants or for the purpose of providing landscaping accents. These types of materials shall not exceed thirty percent (30%) of the ground cover associated with the required bufferyard area(s) for the site, unless approved by the Technical Review Committee during the Site Plan Review process.
8. All bufferyards, landscaping strips, and planted areas that adjoin a street; and all vehicular use areas, shall install a minimum six (6) inch high curb along the landscaping strips to protect the planted area from vehicular traffic. If it is determined by the Zoning Administrator or designee that damage from vehicles will not occur, curbing will not be necessary.
9. The Technical Review Committee may require additional landscaping, beyond the requirements of this Article if the developing use will create visual and aesthetic impacts, noise or light impacts, or other negative impacts that will not be reduced by the requirements of this Article.
10. All landscaping shall be located a minimum of 25 feet from the centerline of a public road if the right-of-way is less than fifty (50) feet total or 25 feet half right-of-way. Unless otherwise permitted within this Article or Ordinance the landscaping shall not be permitted within a right-of-way or easement.

SECTION 2215 – Landscaping Reductions

The Technical Review Committee shall have the authority to grant a twenty-five percent (25%) reduction of any of the requirements in this Article upon receipt of a written request that explains the reasoning for the reduction. The Technical Review Committee shall review each written request, and a reduction shall only be granted if an unusual or extreme circumstance exists which causes an unreasonable hardship due to the size or irregular shape of the site and the use being proposed on the site. The Technical Review Committee may also approve an alternative approach if it is determined that the intent and purpose of this Article is achieved.

SECTION 2220 – Enforcement

Inspections shall be conducted by the Zoning Administrator, or designee, before and after construction to assure compliance with the submitted and approved Site Plan. Post development site inspections will be conducted according to Article 23.

SECTION 2225 - Sight Triangles

All required landscaping plans must incorporate sight triangles (see Section 2412) that preserve the visibility of pedestrians and motorists. Any plant material taller than 3½ feet shall not be permitted within sight triangles. Plant material includes trees that are limbed up, because a mature tree trunk can impair motorist visibility.

SECTION 2230 – Plant Types

The Plant Types listed below are arranged by size of plant at maturity and evergreen or deciduous plant types. The height is measured from the surface of the planted area to the top of the plant (does not include the roots of the plant) or by container size. All plants selected from each plant type shall be indigenous to this region or capable of flourishing within the proposed planting area. Information about the proposed plants may be required for review and verification of the plant type from the nursery.

1. Plant Type A Large deciduous trees over 50 feet in height at maturity
2. Plant Type B Medium sized deciduous tree from 25 to 50 feet in height at maturity
3. Plant Type C Large shrubs or small trees 10 to 25 feet in height at maturity
4. Plant Type D Large evergreen trees over 50 feet in height at maturity
5. Plant Type E Shrubs that include all sizes and ground cover

***Please refer to Article 22, Section 2280 for a listing of plants which are unacceptable within rights-of-way for streets, alleys, or required parking areas.*

SECTION 2235 – Berms or Earthen Mounds

Berms, which are earthen mounds that are designed to provide visual interest, screen undesirable views, and decrease noise, may be used as an effective method of landscaping and screening in accordance with the following guidelines:

1. A berm shall be located between the right-of-way and the building setback lines;
2. Berming shall generally vary in height, width and length to create a free-form naturalistic effect;
3. The slope of a berm shall not exceed a 2.5:1 ratio;
4. The use of berms may reduce the size and number of plants required by a specific bufferyard, if it is specified in Section 2260;
5. The design of berms shall include provisions for drainage that is tied into entire site system if necessary or applicable.

SECTION 2240 - Landscaping Along Street Frontages

When a developing use adjoins a street, regardless of whether it is public or private, landscaping shall be required in accordance with a Bufferyard Level 2 (See Table 22.2) along the entire street frontage. If parking is located between the street and a proposed use, the required bufferyard(s) will be increased by thirty percent (30%)—in terms of planting materials and the area needed to adequately maintain and support the additional plants—and will contain an approved architectural screen, plant materials screen, or earthen mound, berm—or an acceptable combination—between 36-42 inches in height unless the screening is 50% transparent. The required landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the street frontage and not clustered entirely at the ends of the property. The landscaping will provide screening for vehicular use areas, while also allowing flexibility for uses, which require high visibility from street frontages. If the street frontage (area between the building and the street) does not contain a vehicular use area or a parking area, then only a Bufferyard Level 1 shall be required.

Activities, such as outside storage, loading/unloading areas, parking of semi-trailers and heavy equipment or other unsightly activities or operations which do not require public visibility for the operation of the use, shall be required to provide screening that corresponds to the type of use being developed and the zoning of adjoining properties, as referenced in Article 22, Section 2270 Table 22.1.

SECTION 2250 – Building Landscaping

Any building with a blank facade, or blank portion of a facade, that is not used for outdoor display, storage or loading shall be required to provide the following landscaping if the wall is visible from a public right-of-way. Blank facades shall be classified as any wall that does not have windows used for display or entry doors for customers or the general public. Buildings that are 10,000 square feet or smaller shall be exempt from the requirements within this section.

1. The plant types found within Bufferyard Level 1 shall be required to break the mass and visual monotony of long blank facades. The landscaping is not required to be placed in a linear design, but shall be dispersed throughout the entire length of the blank facade. If the required front yard bufferyard can be used to adequately reduce the view of the facade from the public right-of-way, no building landscaping shall be required. The Zoning Administrator shall make the determination of whether the required bufferyard can be used for building landscaping;
2. Facades that adjoin a vehicular use area shall have a minimum width of 8 feet for the required planting area. This planting area can be reduced to 4 feet if sidewalks are installed;
3. Landscaping should not be installed in an area that is planned for future expansion and shall not be installed in an area that is used for an emergency exit from the building.

SECTION 2255 – Loading, Storage, Utility & Trash Collection Areas

The loading/unloading areas, storage areas, utility and mechanical equipment and trash collection or compacting areas shall be screened from view of any public street right-of-way and from view of any adjoining residential use. The required screening can be accomplished by a continuous solid closed fence, masonry wall, earthen mound or berm, hedging, evergreen plant materials or combination, which is high enough to effectively screen the items mentioned above from view. Any wall or fence shall be the same or compatible, in terms of texture and quality, with the material and color of the principal building.

SECTION 2260 – Bufferyards

A bufferyard is defined as a planted area that is used to separate uses that are not compatible or provide an aesthetic separation between uses. This planted area should reduce or eliminate noise and light pollution and other adverse impacts, while providing a year-round or partial visual separation. Bufferyards shall consist of a continuous strip of land with screening that shall contain existing vegetation, planted vegetation, an earthen mound or berm, a wall or fence or any combination of these. Bufferyards may be required in addition to any other landscaping requirement defined by this Article except Section 2240. The following are general requirements:

1. The bufferyard shall extend along the entire property line, where the bufferyard is required.
2. A proposed development may reduce the required bufferyard width by one-half if the developing use adjoins an existing use that has an established mature buffer, which meets or exceeds the bufferyard requirements for the adjoining developing use. However, the same quantity of plant material shall still be required within the bufferyard if a healthy planting environment can be provided.
3. The elimination or reduction of bufferyard requirements can be made if a developing site contains healthy mature vegetation. The amount of reduction permitted will depend on the size, type and density of the trees and vegetation that exists on the site. The required plant material can be completely eliminated if the existing vegetation accomplishes the type of screening required by the prescribed bufferyard. If this is not accomplished by the existing vegetation, then evergreens, fencing, berming, masonry wall or combination shall be used to supplement the existing screening as required.
4. Bufferyards can be located within building setbacks. However, this will require approval by the Technical Review Committee and shall only be permitted if the required amount of plant material can be accommodated in an area in which the plants will be permitted to flourish. Planting within these areas shall require a written agreement from the grantee of the easement or owner of the right-of-way. If the vegetation is removed or damaged because of necessary maintenance or construction, it will be the responsibility of the owner of the property to replace the required vegetation at their expense. No structures or activity may be located or situated within the bufferyard except for ingress and egress to the site (including driveway connections between adjoining sites), sidewalks, bicycle trails and passive recreation uses. In addition, detention and retention systems can also be located within the required bufferyards if the visual screening requirements are not altered or diminished.
5. The design and exact placement of the bufferyard shall be the decision of the designer or developer, but shall be reviewed during the Site Plan Review process to ensure compliance with this Article. Trees and shrubs will be planted a minimum of five (5) feet away from property lines, rights-of-way, and easements to ensure maintenance access and to avoid encroachment on neighboring property, unless permitted otherwise by Section 2215 or Item 7 of this Section.

6. When a proposed development adjoins an undeveloped parcel of land, the required bufferyard shall be determined by the type of use being developed and the zoning of adjoining properties and shall be installed in the time period required by this Article as if the adjoining property were developed.
7. Bufferyard Levels 1 and 2, as referenced in Table 22-2, can be shared between uses if an easement is provided and recorded which indicates how the maintenance and replacement of unhealthy plants will be accomplished. The width of the shared bufferyard can be reduced by 50 percent from the combined width of the required bufferyards. However, the number of plants required cannot be reduced within the shared bufferyard.

SECTION 2265 - Required Bufferyards

The type of bufferyard that is required is dependent upon the zoning and use of the property that is being developed in comparison to the zoning and use of the adjoining properties. If the zoning of the developing use is the same as the adjoining property, a bufferyard shall still be required. (See *Table 22.1*)

SECTION 2270 - Bufferyard Types

Each type of bufferyard is described by the minimum number of plants and the type of plants that are required for each 100 linear feet of bufferyard—unless noted otherwise. (See *Table 22.2*) Smaller trees may be replaced with larger trees if desired. A *minimum of two different plant species* that possess similar traits shall be used from each plant type required. Fences or walls that are used within bufferyards shall be located within the center or interior of the bufferyard and the plants shall be installed on both sides of the fence or wall. Fences in the side and rear yards shall be solid and provide 100 percent opacity. Chain link fences with slats shall not be permitted.

*Find the row that corresponds to the use that is being developed, and match it to the column that corresponds to the zoning of the adjoining property.

Table 22.1 - Bufferyards Required by Zoning District and Use

Type of Use Being Developed	Zoning and / or Use of Adjoining Property	Bufferyard Level Required**
SINGLE-FAMILY DWELLING UNIT SUBDIVISIONS	Residential (R1, R2, R3), Commercial (C1, C2, C3), Limited Industrial (I1)	1
	Agricultural (A)	2
MULTI-FAMILY DWELLINGS For the purpose of this Section, multi-family dwelling units shall be units consisting of more than 2 units.	Agricultural (A), Limited Industrial (I1)	1
	Residential (R1, R2, R3), Commercial (C1, C2, C3)	2
MANUFACTURED HOME PARK If the use being developed exceeds 50 home sites, and adjoins a single-family residential use, a Bufferyard 3 is required.	Agricultural(A)	1
	Commercial (C1, C2, C3), Limited Industrial (I1)	2
	Residential (R1, R2, R3)	3
COMMERCIAL USES	Commercial (C1, C2, C3), Limited Industrial (I1)	1
	Agricultural(A)	2
	Residential (R1, R2, R3)	3
INDUSTRIAL USES	Limited Industrial (I1)	1
	Agricultural (A), Commercial (C1, C2, C3)	2
	Residential (R1, R2, R3)	4

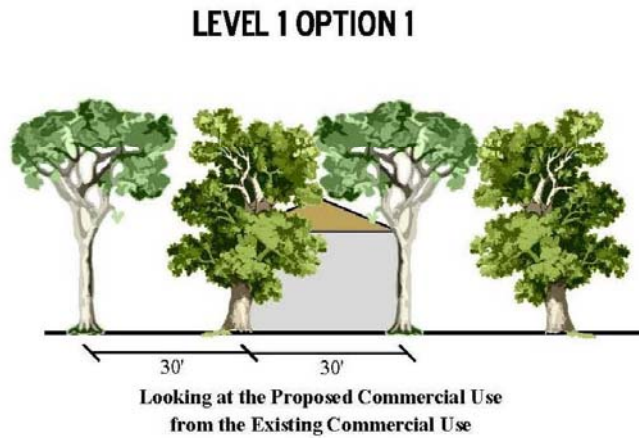
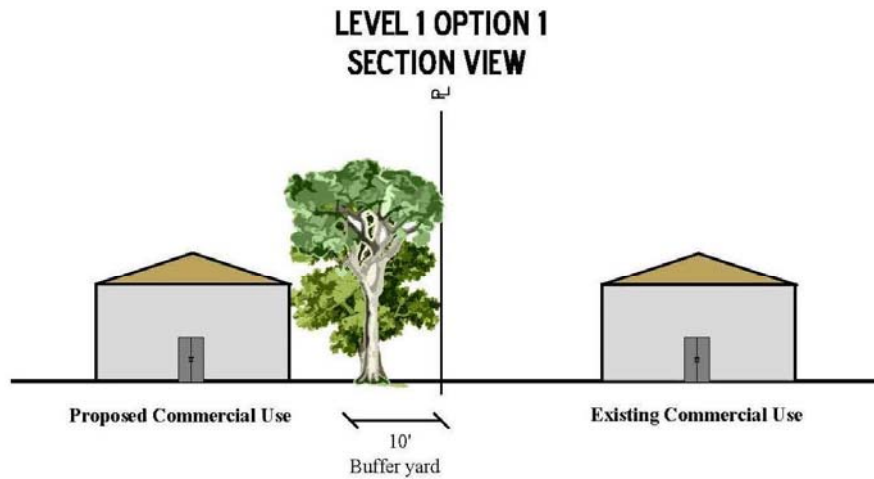
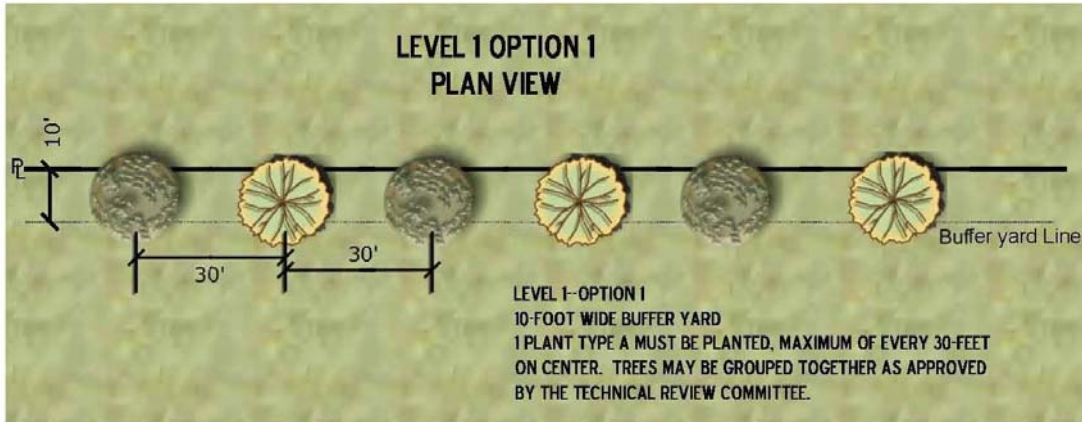
** If parking is located between the street and a proposed use, the front yard bufferyard(s) will be increased by thirty percent (30%)—in terms of planting materials and the additional area needed to adequately maintain and support them—and will contain an approved architectural screen, plant materials screen, or earthen mound, berm—or an acceptable combination—between 36-42 inches in height unless the screening is 50% transparent.

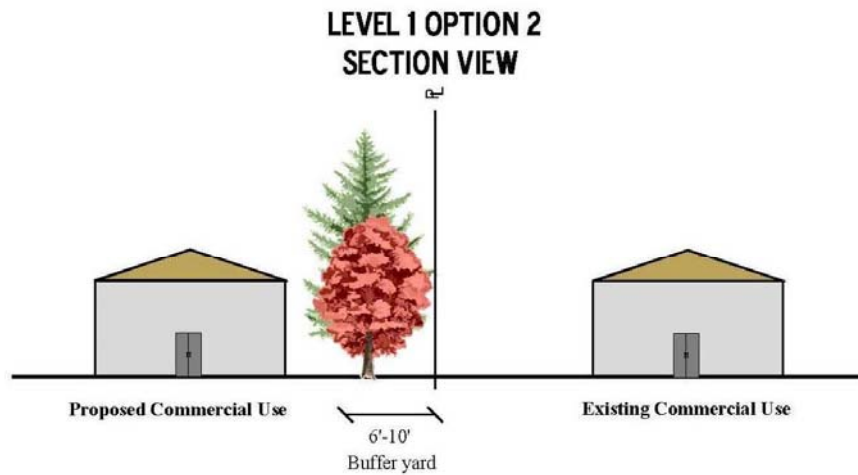
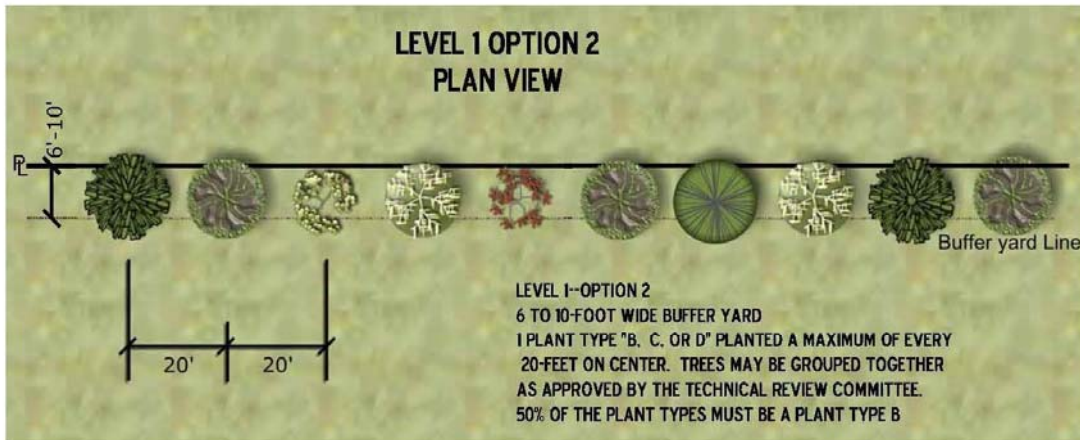
Table 22.2 - Bufferyard Types & Levels

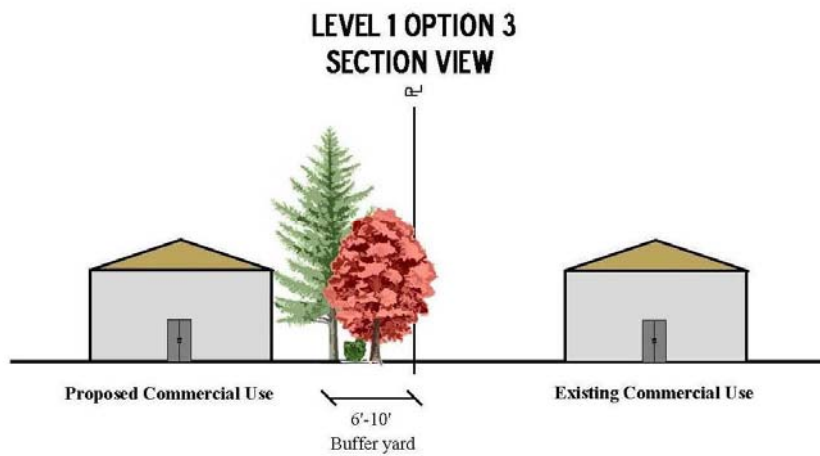
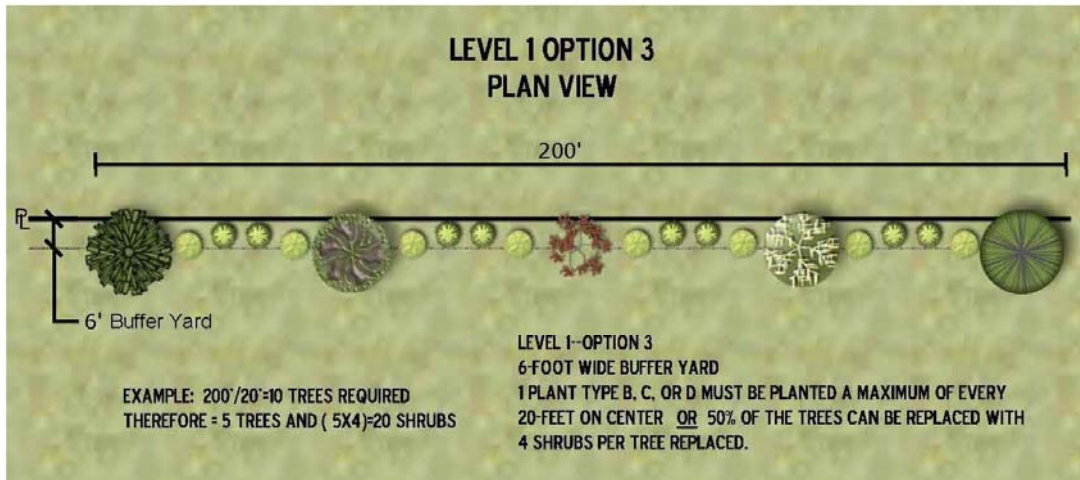
BUFFERYARDS		
Description	Option 1	Option 2
<p>Bufferyard Level 1 <u>*These options are generally for transitional areas, where the land uses are not considered incompatible.</u></p>	<p>1 Plant Type A must be planted at a maximum of every 30 feet on center of linear distance along the bufferyard. The required trees may be grouped together; however, spacing(s) must be approved by the Technical Review Committee. This buffer must be at least 10 feet wide.</p>	<p>1 Plant Type B, C, or D must be planted at a maximum of every 20 feet on center of linear distance along the bufferyard. The required trees may be grouped together; however, spacing(s) must be approved by the Technical Review Committee. <i>A minimum of 50% of the Plant Types in this option must be a Plant Type B variety.</i> This buffer may be 6-10 feet in width</p>
		<p style="text-align: center;">Option 3</p> <p>**Up to fifty-percent (50%) of the trees required in Option 2 can be replaced with 4 Type E shrubs per tree.</p>
<p>Bufferyard Level 2 <u>*These options are generally for transitional areas, where the land uses are considered somewhat incompatible.</u></p>	<p>Option 1 <u>or</u> Option 2 of Bufferyard Level 1 AND + 15 Type E Shrubs (for each 100 linear feet of bufferyard) This buffer must be at least 20 feet in width</p>	<p>Each 100 linear feet of bufferyard must include:</p> <ul style="list-style-type: none"> • 2 Plant Type A Trees for each 100 linear feet of bufferyard • 3 Plant Type B Trees for each 100 linear feet of bufferyard • A continuous 4-foot hedge, wall, or fence <p>This buffer must be at least 10 feet wide.</p>

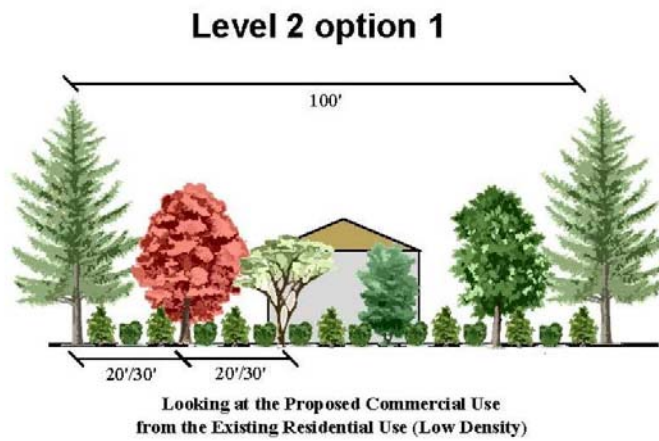
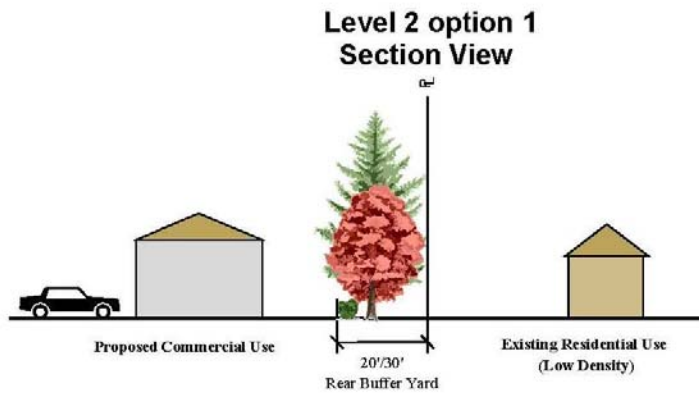
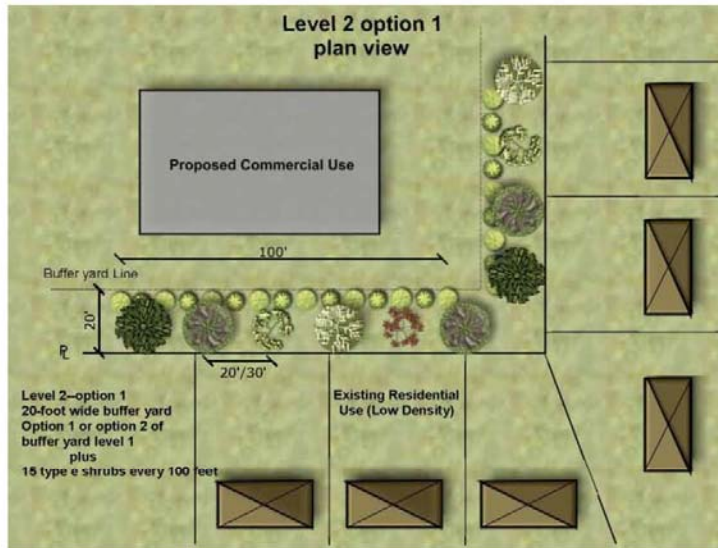
BUFFERYARDS		
Description	Option 1	Option 2
<p>Bufferyard Level 3 <u>*These options are generally for transitional areas, where the land uses are considered to conflict.</u></p>	<p>A continuous, staggered double-row planting of trees from Plant Type D placed 20 feet on center.</p> <p>This buffer must be at least 35 feet in width</p>	<p>Each 100 linear feet of bufferyard must include:</p> <ul style="list-style-type: none"> • 3 Plant Type A Trees • 3 Plant Type B Trees • 3 Plant Type C Trees • A continuous 5-foot hedge, wall, or fence <p>This buffer must be at least 25 feet wide.</p>
<p>Bufferyard Level 4 <u>*These options are generally for transitional areas, where the land uses are considered to conflict significantly.</u></p>	<p>Each 100 linear feet of bufferyard must include:</p> <ul style="list-style-type: none"> • 2 Plant Type A Trees • 3 Plant Type B or C Trees • 5 Plant Type D Trees • A continuous 6-foot hedge, wall, or fence <p>This buffer must be at least 60 feet wide.</p>	<p>A continuous, staggered double-row planting of trees from Plant Type D placed 15 feet on center.</p> <p>AND +</p> <p>An earthen mound or berm that is 6-feet in height</p> <p>This buffer must be at least 50 feet in width</p>

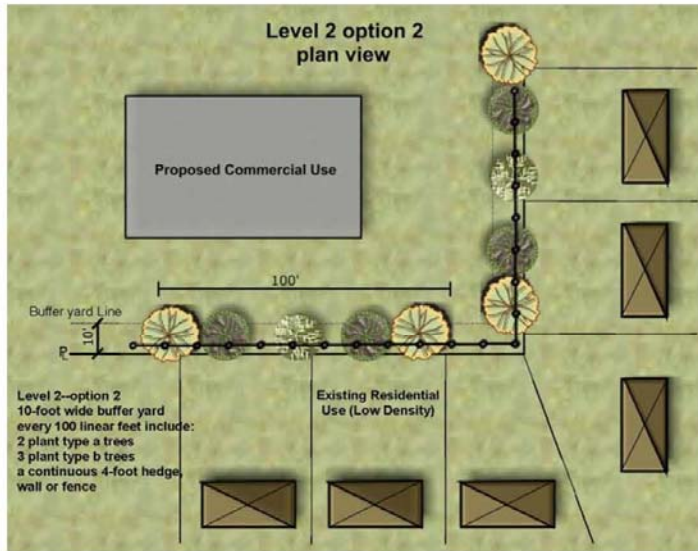
**Alternative Bufferyard scenarios can be presented to the Technical Review Committee during the Site Plan Review process. The Committee may approve an alternative bufferyard scenario if it finds that an applicant’s proposal meets the purpose of this Article, as well as other conditions that may apply.*



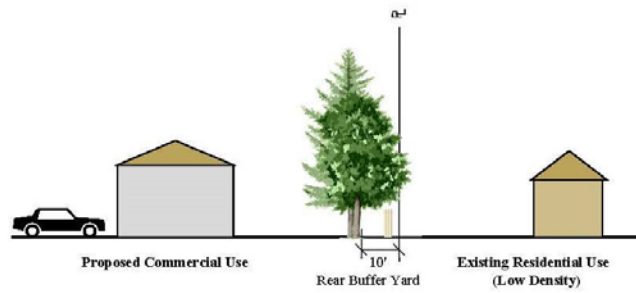




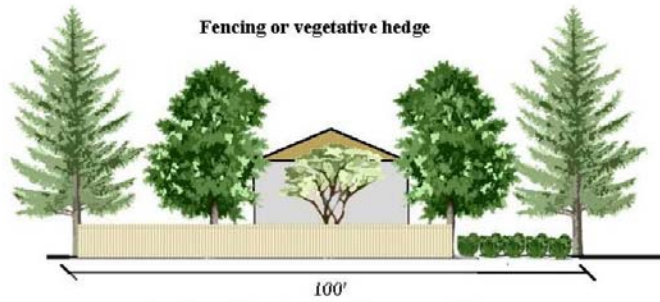




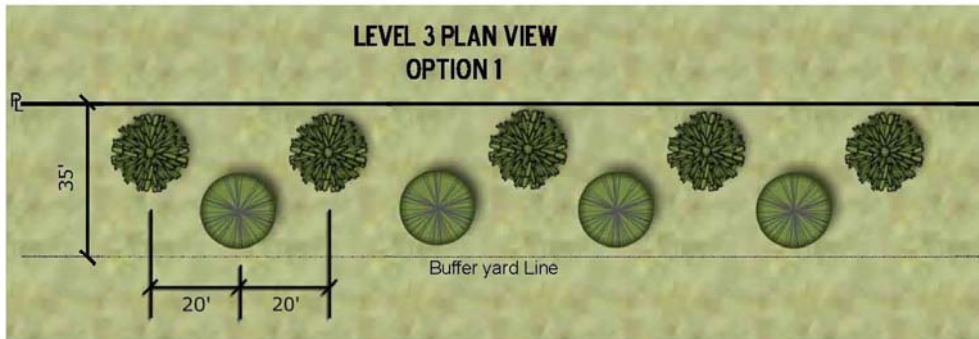
**Level 2 option 2
Section View**



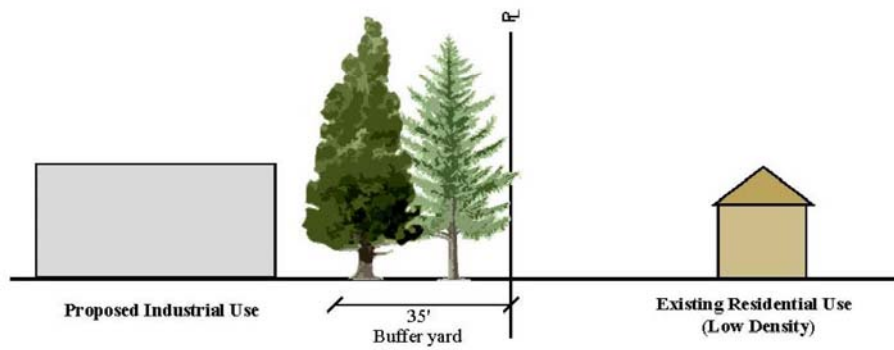
Level 2 option 2



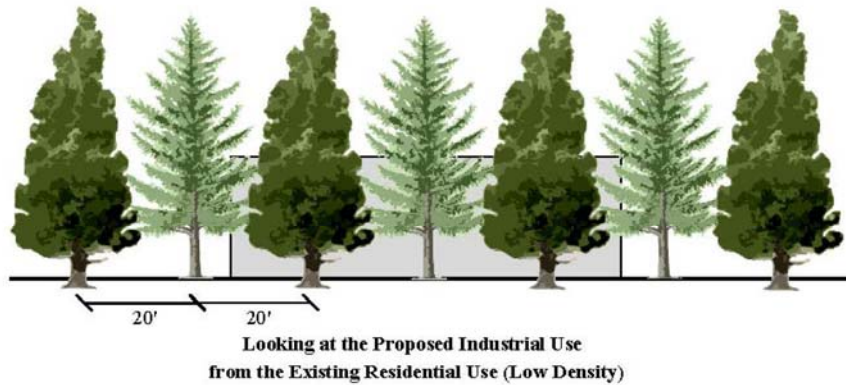
**Looking at the Proposed Commercial Use
from the Existing Residential Use (High Density)**

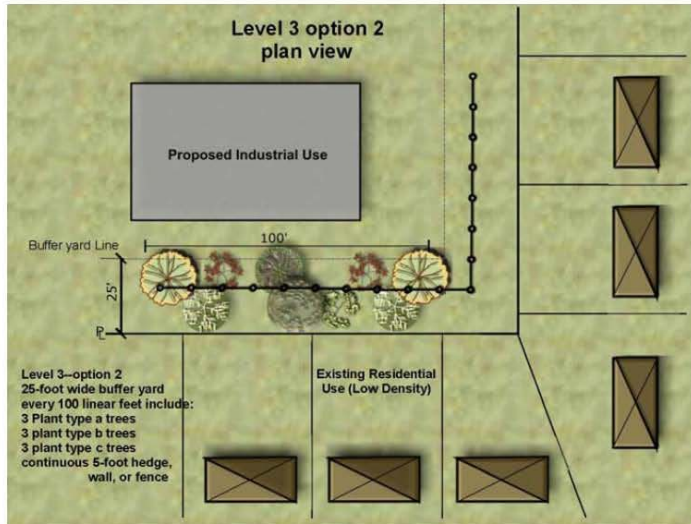


**Level 3 option 1
Section View**

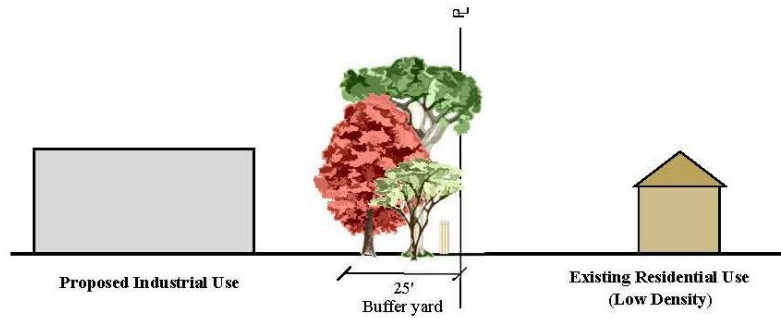


Level 3 option 1



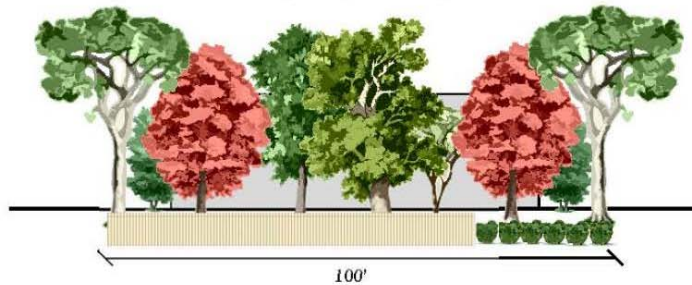


**Level 3 option 2
Section View**

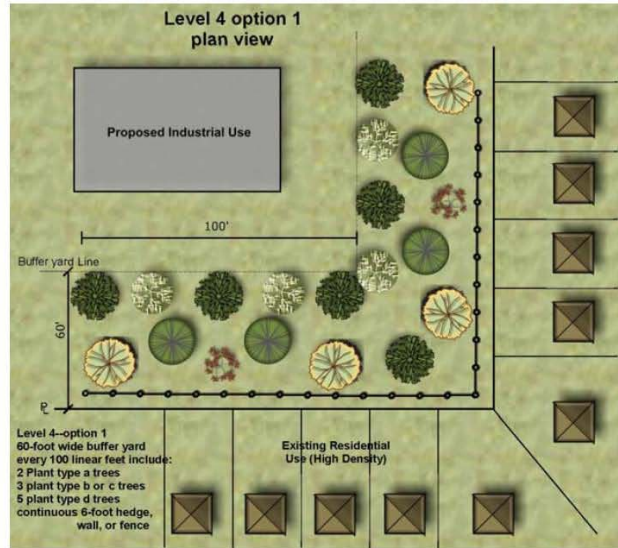


Level 3 option 2

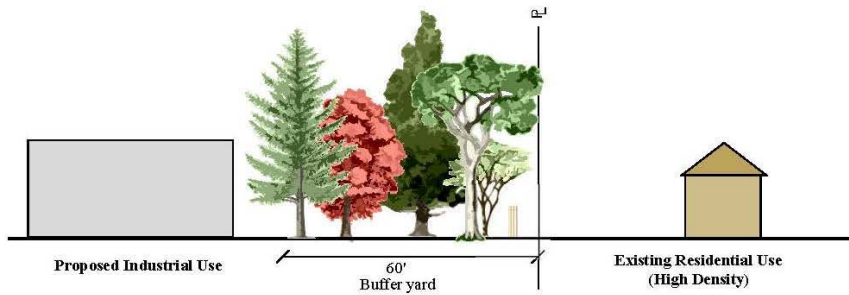
Fencing or vegetative hedge



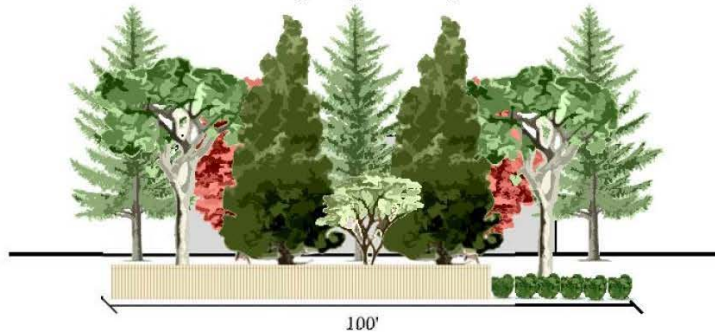
Looking at the Proposed Industrial Use
from the Existing Residential Use (Low Density)



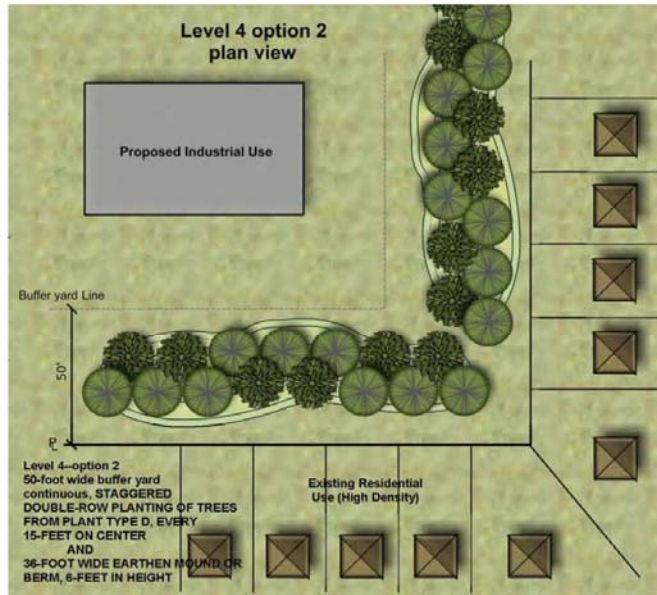
**Level 4 option 1
Section View**



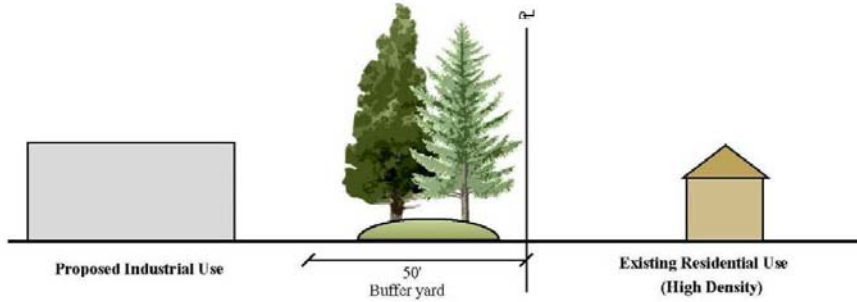
**Level 4 option 1
Fencing or vegetative hedge**



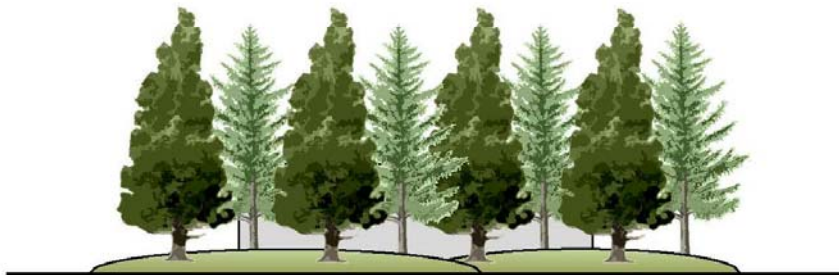
**Looking at the Proposed Industrial Use
from the Existing Residential Use (High Density)**



**Level 4 option 2
Section View**



Level 4 option 2



**Looking at the Proposed Industrial Use
from the Existing Residential Use (High Density)**

SECTION 2275 - Fences, Walls, & Architectural Screens

1. Purpose

The purpose of this subsection is to provide standards for the placement, proper erection, and proper maintenance of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with existing neighborhood character.

2. Location and Height

Fences shall be permitted within all zoning districts. All fences within front yards require a permit. No fence may be located within a public right-of-way nor can it be located in an area which will obstruct the sight triangle for any motorist or pedestrian as defined in this Ordinance.

a. Residential fences

Except as provided below, a fence, wall, or retaining wall, not exceeding six (6) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. Individual posts and/or decorative features such as arbors, trellises, gate caps, and similar features shall be permitted up to seven (7) in height. The fence or wall shall not be located within any area that would create a line of sight (a.k.a. sight distance) issue for adjoining property owners or the general public. Fences or walls shall also not be located any closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure or the required front yard setback, whichever is less. This shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the foundation of the house.

b. Commercial, industrial, and other nonresidential fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. If there is no required front yard or if the building is legal nonconforming with regard to the required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure. In no case shall a fence or wall be located within any area that would create a line of sight (a.k.a. sight distance) issue for adjoining property owners or the general public.

3. Corner and other visibility

In no case shall a fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow within any area that would create a line of sight (a.k.a. sight distance) issue for adjoining property owners or the general public (including motorists, bicyclists, and pedestrians), as measured from a height of three (3) to eight (8) feet from grade.

4. Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance. The Zoning Administrator shall have the authority to respond to concerns with the ongoing maintenance of existing fences, to determine whether a fence is in need of repair, and to direct the property owner to make such repairs. If the design of the fence is such that there is a “finished” side of the fence, the “finished” side shall be located on the side that faces the adjacent properties.

5. Materials**a. Permitted materials**

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchloride (PVC), or similar fencing material. The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing. Fences shall be maintained in good condition at all times.

b. Prohibited materials

In residential and commercial districts, and in areas abutting residential or commercial districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, “abutting” shall include any area separated from a residential or commercial district by an alley right-of-way.

6. Exceptions**a. Agricultural fencing**

A fence, not exceeding five (5) feet in height may be located in a required front yard, subject to the corner visibility provisions in subsection (2)(c) noted earlier in this Section, for agricultural uses. A single strand of barbed wire shall also be permitted as a fencing material in conjunction with a permitted agricultural livestock use or operation.

b. Screening

If a fence or other screening is required to comply with the provisions of the parking lot improvement subsection, the provisions of that subsection shall supersede this subsection, except for the corner visibility provisions in subsection (2)(c) noted earlier in this Section. In situations where fencing for outside storage is proposed or exists, a site plan must be submitted to, and approved by, the Zoning Administrator or his or her designee. Fences constructed and installed for these purposes shall be solid and one hundred percent (100%) opaque. Chain link fences with slats shall not be permitted.

c. Hedges and retaining walls

A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in subsection (2)(c) noted earlier in this Section.

d. Ornamental fences

A residential ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in subsection (2)(c) noted earlier in this Section.

e. Waiver

As part of a review of a proposed site plan project, Zoning Administrator or his or her designee may waive or modify the requirements of this section.

Footnotes:

**Please refer to Article 25, Section 2546 of the Town of Dillsboro Zoning Ordinance for fencing requirements for pools.*

***Please refer to Article 25, Section 2554 of the Town of Dillsboro Zoning Ordinance for fencing requirements for ponds.*

****Please refer to Title 32, Article 26 of the Indiana Administrative Code for state fencing requirements (IC 32-26).*

SECTION 2280 – Unacceptable Plants

The following plant species shall not be planted in a location or manner that causes any interference or obstruction within right-of-ways for streets, alleys, or required parking areas. The plants listed within this Section are not entirely prohibited; however, the use of these species should be limited to agricultural or residential areas where they can be properly installed, monitored and maintained in accordance with this Ordinance.

Non-bearing fruit cultivars or hybrids of the plants listed in this Section may be used as acceptable plants, provided that the plants do not present other unacceptable problems to the above-referenced restrictions (and locations). The Technical Review Committee will determine if a cultivar or hybrid is acceptable, if the plant has been listed as an ‘unacceptable plant’ as set forth in this Section.

*****Plant materials shall not be installed or planted in utility and / or drainage easements.***

(L) = Large trees

SCIENTIFIC NAME	COMMON NAME	COMMENTS
Acer negundo	Box Elder	Weak-wooded trees with extensive shallow root systems.
Acer platanoides	Norway Maple (L)	Invasive species with poor growth habits and susceptibility to disease.
Acer saccharinum	Silver Maple (L)	The use of this tree should be tempered because of its extensive shallow root system that will cause drain tiles to clog and sidewalks to buckle. The tree is also weak wooded, which causes it to become a liability with age.
Aesculus hippocastanum	Horse Chestnut (L)	These trees pose significant maintenance issues, which emanate from large fruit and low rates of leaf drop. Less hardy or tolerant in restricted areas.
Ailanthus altissima	Tree of Heaven (L)	Invasive species with weak-wood and extensive root systems that have been known to damage sewers and foundations.

SCIENTIFIC NAME	COMMON NAME	COMMENTS
<i>Albizzia julibrissin</i>	Mimosa	Weak-wooded, invasive species that is not hardy in this area. It is not very disease and insect tolerant.
<i>Alnus glutinosa</i>	Black Alder, European Alder, Common Alder	These trees pose significant maintenance issues and are prone to pests.
<i>Betula papyrifera</i>	Paper Birch (L)	Susceptible to Bronze Birch Borer. Life expectancy in a site with some stress (i.e. street tree) is short in an urban area.
<i>Betula pendula</i>	European White Birch (L)	Susceptible to Leaf Miners and Bronze Birch Borers. This tree is also intolerant of urban stress and is short-lived with a low-branching pattern.
<i>Castanea dentata</i>	American Chestnut (L)	Very susceptible to diseases. Flowers have an unpleasant odor. Less hardy or tolerant in restricted areas.
<i>Catalpa bigonioides</i>	Southern Catalpa	Weak-wooded trees with messy fruit.
<i>Eleagnus angustifolia</i>	Russian Olive	Short-lived invasive species that is also disease-prone.
<i>Fraxinus americana</i>	American Ash, (L) White Ash (L)	In general, these types of ash trees require significant maintenance and are susceptible to the Emerald Ash Borer.
<i>Fraxinus excelsior</i>	Common Ash, (L) European Ash (L)	
<i>Fraxinus pennsylvanica</i>	Green Ash (L)	
<i>Ginkgo biloba</i> (Female)	Ginkgo (L)	The female of this species is unacceptable anywhere because of its fruit. The fleshy seed is extremely messy with a very unpleasant odor.
<i>Gleditsia triacanthos</i>	Common Honey Locust (L)	This weak-wooded tree is too thorny for use in the urban environment.

SCIENTIFIC NAME	COMMON NAME	COMMENTS
Ligustrum	Privets	If a high degree of maintenance is not provided, these shrubs become leggy and do not meet required opacities. These invasive species are also susceptible to severe winter damage.
Maclura promifera	Osage Orange	The large fruit of this tree makes it unsuitable for high-traffic areas.
Malus	Apple	The large fruit of these trees makes them generally unsuitable for high-traffic areas.
Morus species	Mulberry (L)	The mulberries are unsuitable because of the fruit that they produce, which is fleshy and extremely messy.
Paulownia tomentosa	Royal Paulownia, (L) Princess Tree (L)	Weak-wooded, invasive species with root systems known to damage sidewalks and driveways.
Pinus nigra	Austrian Pine, (L) Black Pine (L)	Highly susceptible to Diplodia tip blight.
Populus nigre "Italica"	Lombardy Poplar (L)	Populars are generally unacceptable because they are disease-prone, weak-wooded, and their roots will clog drain tiles and storm and sanitary sewer lines.
Populus deltoides	Cottonwood	
Populus deltoides	Carolina Poplar (L)	
Prunus cerasifera	Cherry Plum	The fruit of these trees makes them generally unsuitable for high-traffic areas. Additionally, these trees experience serious disease problems and are disease-sensitive.
Prunus persica	Peach	The fruit of these trees makes them generally unsuitable for high-traffic areas. Additionally, these trees experience serious disease problems and are disease-sensitive.

SCIENTIFIC NAME	COMMON NAME	COMMENTS
Pyrus	Pear	The large fruit of these trees makes them generally unsuitable for high-traffic areas.
Quercus palustris	Pin Oak	Susceptible to Bacterial Leaf Scorch.
Rhamnus catharica	Common Buckhorn	Invasive species that is susceptible to winter die back.
Rhamnus frangula	Glossy Buckhorn	Invasive species that is susceptible to winter die back and serious diseases.
Rosa multiflora	Japanese Rose Multiflora Rose	This invasive shrub becomes leggy after harsh winters and in general is very difficult to maintain.
Salix species	Willows	Weak-wooded trees which are susceptible to canker disease and tap sewer and water lines.
Sorbus species	Mountain Ash	These trees are susceptible to a host of diseases and pests that should temper its use. Not considered urban tolerant.
Lonicera maackii	Amur Honeysuckle	Very weedy, invasive species which are difficult to maintain.
Lonicera tartarica	Tartarian Honeysuckle	
Lonicera morrowii	Morrow Honeysuckle	
Ulmus americana	American Elm (L)	In general, these types of elms are disease-prone, weak-wooded, and messy – requiring significant maintenance.
Ulmus carpiniflora	Smoothleaf Elm (L)	
Ulmus fulva	Red Elm (L)	
Ulmus pumila	Siberian Elm (L)	

SECTION 2300 – Intent

The purpose of this article is to regulate multi-family, commercial, office, industrial and other developments of structures and sites in a manner which considers the impacts to adjacent properties and public infrastructure. Single family residences are exempt from Site Plan Review. Site Plan Review will address specific issues such as parking, landscaping, internal and external access, stormwater runoff and erosion, garbage collection areas and outside storage. Further, this article is written for the benefit of a property owner or developer because it provides the design standards and requirements for developing property within the Town of Dillsboro. This article includes references to all other pertinent articles related to the Site Plan Review procedure and requirements.

SECTION 2305 – Authority

The purpose of Site Plan Review is to protect the public health, safety and general welfare of the Town of Dillsboro. The provisions and requirements in this article are written and shall be administered to ensure orderly growth and development of the Town of Dillsboro. No building shall be erected or expanded, nor shall any grading take place or other site improvements occur, on any lot, site, or parcel for uses where Site Plan Review is required except in accordance with the regulations in this Zoning Ordinance and with the requirements stated in this article. All such Site Plans shall be reviewed by the Plan Commission, or its designated department or staff, and a determination either approving or rejecting such plans shall be made in accordance with the requirements of this Article and other applicable, articles of this order.

The Plan Commission, or its designated department or staff, shall not be permitted to reject any Site Plan which is in full conformance with the requirements, terms and conditions of this article and Zoning Ordinance, nor can additional regulations be imposed which are not included within this order. All approved Site Plans shall be binding upon the applicant, property owner, developer, or their successors and shall limit the development or project to the construction work as shown on the approved Site Plan and to all conditions and limitations for such plans agreed to by the applicants. Amendments or changes to the approved Site Plans shall be subject to the provisions of section 2335. Site Plan Review is required when specified by the individual zoning district, when the proposal is beyond the scope of a Zoning Permit as specified in Article 6, or when the scope of the proposal is within the definition of a Minor Site Plan or Major Site Plan as described in Section 2310.

SECTION 2310 – Procedure

Prior to submitting an application for Site Plan Review each applicant, property owner, or developer is encouraged to have a pre-application meeting with the Town of Dillsboro Plan Commission, or its designated department or staff. The purpose of the pre-application meeting is to advise each applicant, property owner, or developer of the Site Plan Review procedure and requirements and discuss any initial concerns and omissions about the Site Plan that is being previewed. In addition, the results of the meeting will also determine whether the development proposed will follow the Minor Site Plan Review procedure or the Major Site Plan Review procedure. Both types of procedures are described below. Typically new developments on undeveloped land will require Major Site Plan Review.

Minor Site Plan: A Site Plan that involves no exterior utility construction (e.g., storm sewer, water, sanitary sewer, etc.), either no grading work or a minimal amount of grading work, no more than 12 parking spaces, no more than a 1,000 square foot increase of the existing building square footage of the primary use or structures, no additional access points or curb cuts, and loading areas that are less than 10,000 square feet.

Major Site Plan: A Site Plan that involves exterior utility construction (storm sewer, water, sanitary sewer, etc.), grading work, more than 12 parking spaces, more than a 1,000 square foot increase of the existing building square footage of the primary use or structures, access points or curb cuts, and a loading area in excess of 10,000 square feet. Major Site Plans may be reviewed by the Project Review Committee and other outside agencies in addition to the Plan Commissions Staff.

SECTION 2315 - Application and Approval

An applicant, property owner, or developer is required to file an application with the Town of Dillsboro Plan Commission, or its designated department or staff. Action in the form of approval or denial of a Minor Site Plan by the Plan Commission's Staff shall occur within 10 working days of when the plan is officially submitted to the Plan Commission's (or its designated department or staff) office in complete form.

Action in the form of approval or denial of a Major Site Plan is by the Plan Commission's Staff, in consultation with the Project Review Committee, and other agencies. Action on the application shall occur within 30 calendar days of when the Site Plan is submitted to the Town of Dillsboro Plan Commission's office (or its designated department or staff) in complete form.

An appeal of the Staff denial of a Minor/Major Site Plan is possible before the Plan Commission at its next regularly scheduled meeting after written notification is made by the applicant to the Zoning Administrator within thirty (30) calendar days of the Staff denial. Final action for approval or denial on the appeal of a Minor/Major Site Plan shall be made by the Plan Commission. Reasons for denial of a Minor Site Plan and Major Site Plan shall be given to the applicant in written form.

A waiver of any Site Plan requirement can be requested as part of the application for the development. In addition, extensions of the time requirements specified by this Article can be requested with the application for Site Plan Review. All waivers and extensions shall be reviewed by Zoning Administrator, or his or her designee, and issued only if such waiver/extension is necessary due to unusual or extreme circumstances inherent in the project site and if the requested waiver/extension does not adversely affect the Site Plan requirements of this Article.

SECTION 2320 - Site Plan Requirements

All Minor Site Plans submitted to the Town of Dillsboro Plan Commission, or its designated staff, shall be in accordance with this article and shall contain the following information:

1. Dimensions of the site or lot;
2. Location and width of all public and private streets, driveways, and other vehicular circulation areas;
3. Location of all existing and proposed structures;
4. The proposed use at the site;
5. Square footage and height of proposed building or addition;
6. Location of all existing water, sanitary sewer, storm sewer, electric and cable television lines, easements and poles;
7. Location of any proposed parking spaces and dimensions and access points;
8. Statement declaring that “no storm water detention, grading, or utility construction necessary for construction of building addition or site work”.

All Major Site Plans submitted to the Town of Dillsboro Plan Commission, or its designated staff, in accordance with this article shall contain the following information:

1. Project name, date, north arrow, location map (a map which clearly shows the location of the property in respect to existing road and landmark);
2. A scale not smaller than 1 inch equals 100 feet or as approved by the Zoning Administrator or designee;
3. A stamp or seal of an Indiana registered professional engineer, architect, landscape architect or land surveyor (the scope of work performed by such professionals in conjunction with a site plan submission is limited to that permitted by their respective licensing authorities). If grading and/or storm sewer construction work are being proposed, an Indiana registered professional engineer or surveyor shall be required to submit grading information and design the appropriate stormwater system. A stamp or seal of a Indiana registered professional engineer or surveyor is required for grading and stormwater construction work;
4. The present zoning of the subject property and all adjacent properties;

5. All existing and proposed public and private rights-of-way and streets; (See Article 24)
6. All abandoned streets;
7. Existing and proposed finished topography of the subject property shown by contours with intervals not to exceed 5 feet. If necessary, the Town of Dillsboro Plan Commission, or its designated staff, may request a geo-technical report of a specific site;
8. Location and height of existing and proposed structures on the property with each existing and proposed use noted;
9. Dimensions of each lot or property boundaries;
10. Proposed housing units proposed on the property depicting location, arrangements, number or units in each building, and where applicable, location and dimensions of all lots;
11. Location and arrangement of all common open space areas and recreational facilities;
12. Location, size, and type of all landscaping features (e.g. berms, walls fences, planting material) including: a landscape schedule that specifies plant species, number of plants per species, plant size at installation, and mature plant size; total square footage of the Vehicular Use Area (VUA), the total square footage required to be landscaped and the total landscaped area provided; and, existing trees which are to be retained including temporary fenced or taped areas which will be used to protect the trees during site disturbance. (See Article 22).
13. Location, orientation, lighting, materials, size, and height of signs (See Article 20);
14. Floodplain and/or floodway zone certification and base flood elevation if applicable;
15. Location of all existing and proposed utility lines and easements (each line should be labeled existing or proposed). This information shall also be accompanied by a written statement from each service provider that addresses capacity issues as well as affirms the applicant's ability to connect or tap into these services:
 - a. Water distribution systems, including line size, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;
 - b. Sanitary sewer system, including pipe sizes, width of easements, gradients, types of pipes, invert elevations, location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances. *A project within the territory of the Dearborn County Regional Sewer District requires written acknowledgement / approval—in addition to acknowledgements / approvals of other service providers (where inter-local agreements may exist or be required), where applicable;*

- c. Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of detention or retention and/or sedimentation basins, and data indicating the quantity of stormwater entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of stormwater generated by development of the subject area, and the quantity of stormwater to be discharged at various points to areas outside the subject property. Show location of all detention/retention ponds (See Subdivision Control Ordinance for Design Standards and Detention Requirements);
 - d. Other applicable utilities (e.g., electric, telephone, etc.) including the type of service and the width of easements, if information is available;
 - e. Statement located on the Plan regarding who will maintain the drainage system;
16. Location of all off-street parking, loading and/or unloading and driveway areas, (See Article 21 & 24);
- a. the type of surfacing;
 - b. width, and depth of parking stalls, including disabled stalls;
 - c. driveway width;
 - d. traffic flow areas for one-way traffic;
 - e. angle of parking used;
 - f. number of parking spaces and loading spaces;
17. Circulation system details that include the following: (See Article 24)
- a. Pedestrian walkways, including alignment, grades, type of surfacing, and width;
 - b. Streets and driveways including alignment, grades, type of surfacing, width of pavement, and right-of-way and whether public or private;
 - c. Provisions for access management, which may include, but are not limited to:
 - (1) a frontage road (public or private);
 - (2) coordination of curb cuts;
 - (3) curb cut connections accessible to adjoining properties;
 - (4) internal and external traffic control measures and traffic circulation patterns; (See Article 21)
 - d. Location of all above ground and underground storage tanks;
 - e. Location of dumpsters;
 - f. Location of outdoor storage areas.

18. Construction or installation details for the following:
 - a. paving, curbing, and sidewalk sections;
 - b. wheelchair ramps and/or curbs;
 - c. on-site traffic/vehicular regulatory signs, including disabled parking stall signage,
 - d. curb cuts;
 - e. garbage storage area enclosure or screening;
 - f. site lighting fixtures;
19. Provisions for control of erosion, hillside slippage, and sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction. Show all affected or disturbed areas during construction on or within close proximity of the site (i.e., excavation, fill or storage). Guidelines for development proposed on steep slopes see Article 25;
20. If the proposed site was part of a zone change request, submit a copy of the approved concept development plan or show the relationship of the location of the proposed structure(s) to the approved zone change request;
21. Each applicant shall be required to submit traffic information estimating at minimum peak hour traffic entering and exiting the site under review. This information shall be used by the Plan Commission in determining the location of curb cuts or any additional traffic management controls on each site. When appropriate, a Traffic Impact Assessment may be required to be submitted for review by the Plan Commission (See Article 24);
22. Architectural information including the location of main doors and overhead doors shown on the site plan and the height of all structures noted on the site plan. Architectural elevations and renderings which illustrate the overall external building design, and materials and colors to be used in the building design, shall be provided for sites that are subject to other design review requirements, such as conditions of zone change or Concept Development Plan approval;
23. Location of existing recorded or unrecorded cemeteries, buildings listed on the National Register or archaeological sites (See Article 25);
24. Location of parking lot and driveway lights and their illumination areas on the project site and adjoining properties (See Article 25);
25. Any development which requires that a public improvement be made as part of the development may require a financial surety to cover the cost of the public improvements. The Zoning Administrator shall determine if a surety is needed.

The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated. For property to be developed in sections or phases, detailed Site Plans containing the above information need not be submitted for the entire property. Plans conforming to these criteria should be submitted for the section or phase to be developed along with conceptual or schematic plans for the entire property in order to show the relationship of the relevant section to the entire development plan.

SECTION 2325 - Expiration and Extension of Approval Period

The approval of a Site Plan shall be for a period not to exceed two years. If no grading work or building construction has begun within two years after approval is granted, the approved Site Plan will be void. Only a single one (1) year extension of an approved Site Plan may be granted upon request to the Plan Commission prior to the two (2) year expiration date.

SECTION 2330 - Completion of Site Plan Construction Work and Requirements

All requirements of the approved Site Plan must be completed within six months of building occupancy unless an extension is granted by the Zoning Administrator upon request. The Plan Commission's Staff will conduct a post-development site inspection after the period specified above or occupancy of the use has begun. The purpose of the site inspection is to verify compliance with the approved Site Plan. Any deviation from the approved Site Plan may require a new application or record drawings. The Technical Review Committee shall make this decision. If no building construction is being proposed, all site construction work, if begun, is to be completed one year from the approval date by the Plan Commission. A copy of the approved Site Plan shall be retained on the job site until all site improvements have been completed and have been accepted by the Town of Dillsboro Plan Commission, or its designated staff.

SECTION 2335 - Changes or Amendments

Any changes made to the approved Site Plan prior to the development of the site or building shall require the approval of the Technical Review Committee. Depending on the extent of the changes, a new application may be required. Any variations to an approved Site Plan that occurred in the development of the site or building will require that "record drawings" be submitted for review to the Committee. In the event that any person holding an approved site plan permit pursuant to this ordinance has violated the terms of the permit or has implemented site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Building Commissioner or Zoning Administrator, or their respective designees, may suspend or revoke an approved improvement plan permit and may recommend that the project be addressed further as a violation—in consideration of Article 6 of this order.

SECTION 2400 – Intent

To promote effective modes of transportation including safe and reasonable access between public roadways and adjacent land, transit service, bicycle, and pedestrian travel. These regulations aim to improve the convenience and ease of movement of travelers on public roads and ways, and provide for the reasonable speeds and economy of travel while maintaining current capacities and levels of service. The location and design of transportation facilities shall be in accordance with the following regulations. These regulations shall apply to all existing, planned, or proposed transportation facilities.

SECTION 2402- Provision for Pedestrian Network

Sidewalk and trail connections to adjacent developments and/or public rights-of-way shall be encouraged and provided along public roads. New developments or re-development of existing sites should provide sidewalks or multi-use trails along public roads. Where adequate public rights-of-way do not exist, rights-of-way or pedestrian or multi-use trail public easements shall be granted. The width of sidewalks, and pedestrian or multi-use trails shall be in conformance with the requirements of the Town of Dillsboro Subdivision Control Ordinance, or (otherwise) to acceptable INDOT specs, as approved by the Town’s Technical Review Committee. At intersections and pedestrian crosswalks, wheelchair ramps shall be installed.

SECTION 2404 - Functional Roadway Classification

The functional classifications of roadways are necessary to differentiate between separate operating systems. The Town of Dillsboro transportation system of roadways is classified by operating class. The classification of highways by operating system in the Town of Dillsboro is determined by several factors.

- **Geometric Characteristics** – The physical design of the roadway including, lane width, pavement width, grade etc.
- **Traffic Volumes** – the volume of Average Daily Traffic the roadway serves.
- **Connectivity** – the level of connectivity and access the roadway provides. Higher design roadway classifications generally connect inter-county or inter-state roadways. Lower level classifications generally provide local access.
- **Access Control** – the level of access that is permitted on the roadway.

Each roadway in the Town of Dillsboro provides a particular function. In general, these functions are differentiated by a hierarchy of traffic movements which includes, from highest to lowest function, local access roads, collection systems, distribution facilities and primary movements. Each roadway in the community is classified by one of these operational functions.

1. ROADWAY CLASSIFICATIONS

The procedure to classify roadways follows a two-phase process.

- 1) *Classification by Access* - A determination made based on the interconnectivity of the roadway and the importance of the route not only within the county but externally as well. This establishes the roadway category; arterial, collector or local roadway.
- 2) *Classification by Traffic Volumes* - Analysis of the Average Daily Traffic (ADT) sub-classifies each facility determining the design parameters appropriate to that level of roadway.

Roadway classifications used for the Town of Dillsboro roadways along with appropriate design criteria and typical sections for each are detailed in the Town of Dillsboro Subdivision Control Ordinance.

A. Arterial System

Arterials are categorized by their linkages to cities or larger towns and they generally provide interstate or intercounty service. They are capable of attracting travel over long distances and have a spacing that is consistent with the population density in the county. All developed areas should generally be within a reasonable distance to an arterial.

Arterial Roadways
US 50*
SR 62
SR 262

To further classify the roadways in this category, two (2) sub-categories are used based on the ADT volumes on the facilities. A list of these sub-categories is listed in Table 24.1. As each sub-category serves a separate level of traffic, design criteria have been developed separately to accommodate these differences. For example, a high-volume arterial’s design standards will be greater than that of a low-volume arterial. Example typical sections and criteria for each are illustrated in Appendix C of the Subdivision Control Ordinance.

Table 24.1 – Arterial Sub-Categories

Sub-Category	Average Daily Traffic (ADT)
Category I*	ADT < 5,000
Category II	ADT > 5,000

Along an arterial roadway, the provision of direct access to abutting land is **subordinate** to providing service to through traffic as facilitated through the following conditions:

- a. Direct private access to arterial roadways shall be permitted only when the property in question has no other reasonable access to the public roadway network;
- b. The design and location of allowable private access points must comply with all applicable sections of this regulation;
- c. Direct private access points to arterial roadways may be designated as "Temporary" and all requirements of Section 2460 shall apply.

B. Collector System

The collector system generally serves intra-county travel as opposed to statewide movements. The trips associated with a collector are predominantly shorter than those associated with arterial routes. Consequently, lesser design speeds are used and the design standards are generally less than that of arterial routes. Collector routes provide service to smaller communities and provide connections to the arterial system. They are categorized as serving the more important intra-county routes.

Collector Roadways	
Arlington Road	Bank Street
Front Street	North Street^^
Rullman Drive	Spangler Road

In order to further define the collector system, the following sub-categories have been developed based on the ADT volumes on the roadway.

Table 24.2 – Collector Sub-Categories

Sub-Category	Average Daily Traffic (ADT)
Category I	ADT <1,000
Category II^^	1,000 < ADT <3,000
Category III	ADT > 3,000

C. Local Roadways

The local roadway system in contrast to the arterial and collector system primarily provides access to adjacent land and to the wider network. It serves principally shorter trips and constitutes all roadways not classified as arterials or collector roads. To further designate this category and the design parameters required a set of sub-categories has been developed based on the roadway traffic volumes. These sub-categories are presented in Table 24.3 below.

Table 24.3 – Local Roadway Sub-Categories

Sub-Category	Average Daily Traffic (ADT)
Category I	ADT <400
Category II	400 < ADT < 3,000
Category III	ADT > 3,000

2. ROADWAY CLASSIFICATION VERIFICATION AND TRAFFIC COUNTS

It is important to note that the Roadway Functional Classifications will need to be continually reviewed and updated by the Town. Functional Classifications can change over time due to new development and changing travel patterns. **The Plan Commission may require a 24-hour traffic count to be conducted at the expense of the applicant on any roadway where an access point is requested.** The traffic count must be performed by a firm approved by the Zoning Administrator.

The functional classification of roadways within the town will change as the community develops and as road improvements and new roadways are constructed. Therefore, development requests shall be reviewed to determine if the request will result in a functional change of the roadways. The classification of an existing or proposed roadway may be reviewed based upon a consideration of existing and projected traffic volumes, newly adopted transportation plans, changes in the existing and/or proposed character of lands adjoining the roadway, amended land use plans and zoning classification, and the availability of reasonable access to affected lands.

SECTION 2406 - Minimum Spacing of Driveways

In order to minimize the potential for accidents and delay to through vehicles, all adjacent driveways onto public roadways must be separated by the minimum distance shown in *Table 24.4 (Item B)*. These minimum spacing requirements may be waived by a majority decision of the Technical Review Committee members, or their respective designees, if necessary for a proposed driveway to meet sight distances. Local streets shall be exempt from the following driveway spacing standards.

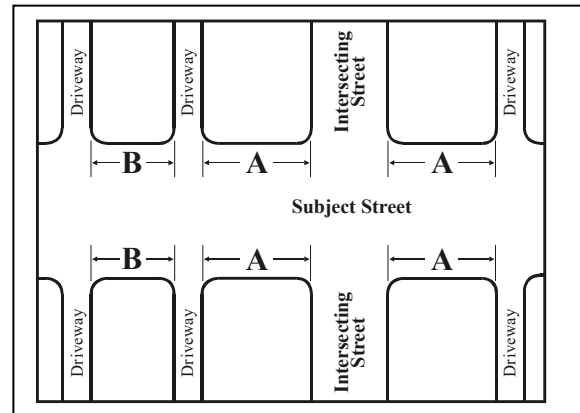
SECTION 2408 - Minimum Corner Clearances of Driveways from Intersecting Streets

In order to minimize the potential for accidents and delay to through vehicles, all adjacent driveways onto public roadways must be separated by the minimum distance shown in *Table 24.4*. These minimum spacing requirements may be adjusted by up to 20% to better accommodate minimum sight distance requirements if approved by a majority decision of the Technical Review Committee members, or their respective designees. Variance requests exceeding 20% must be reviewed by the Town of Dillsboro Board of Zoning Appeals, unless such requirement is waived under section 2406 of this Article for conformance with minimum sight distance requirements, and must conform, to the extent feasible, to the standards set forth in this Zoning Ordinance and the Subdivision Control Ordinance.

Table 24.4 - Minimum Corner Clearances of Driveways

ITEM A+			
Type of Intersection	Arterial	Collector	Local
Signalized	230'	175'	50'
Non-Signalized	115'	75'	50'

ITEM B+		
Posted Speed Limit	Arterial & Collector Roads*	Local Roads
25 MPH	105'	NA
30 MPH	125'	NA
35 MPH	150'	NA
40 MPH	185'	NA
45 MPH	230'	NA
≥ 50 MPH	275'	NA



+Distances shall be measured from edge of pavement
 *These standards were derived from the American Association of State Highway Transportation Officials, Geometric Design of Highways & Streets

SECTION 2410 – Minimum Sight Distances

All driveways for Residential uses shall be designed and located so that the minimum sight distances as shown in *Table 24.5* are provided. The sight distance for speeds not located on the chart should be computed by dividing the speed limit by five (5) and multiplying that number by 35 feet [(speed limit / 5) 35].

All driveways for Commercial uses shall be designed and located so that the minimum sight distances as shown in *Table 24.5* are provided. The sight distance for speeds not located on the chart should be computed by dividing the speed limit by five (5) and multiplying that number by 50 feet [(speed limit / 5) 50].

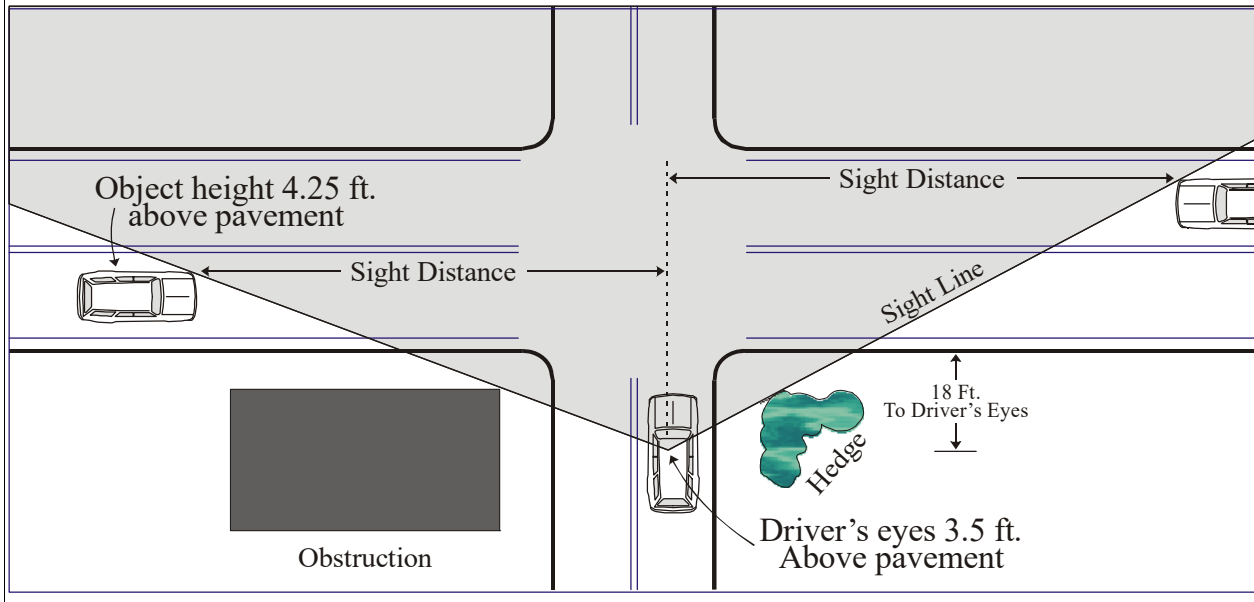
All street intersections shall be designed and located so that the minimum sight distances as shown in *Table 24.5* are provided. The sight distance for speeds not located on the chart should be determined by referencing the ‘*Intersection Safety: A Manual for Local Rural Road Owners*,’ as prepared and distributed by the U.S. Department of Transportation, Federal Highway Administration.

All driveways and street intersections proposed to access State Roads require an access permit from the Indiana Department of Transportation (INDOT). Any road or street that does not have a posted speed limit should refer to the Town of Dillsboro, Indiana Code of Ordinances for its appropriate speed. The sight distances shall be applied as demonstrated by Figure 24.1 The Technical Review Committee can grant a 20% reduction of the required sight distance for proposed driveway accesses in certain situations, such as where the street is: minimally traveled, located on a dead-end street, contains little or no development, or is a gravel road.

Table 24.5 – Minimum Sight Distance Requirements

Operating Speed	25	30	35	40	45	50	55	60	65
New Residential Driveway Access	175	210	245	280	315	350	385	420	455
New Commercial Driveway Access	250	300	350	400	450	500	550	600	650
New Street Intersection	280	335	390	445	500	555	610	665	720

Figure 24.1 - Sight Triangle



SECTION 2412 - Sight Triangle

In addition to the design and location of new access points with adequate sight distance, an adequate sight triangle shall also be maintained. Sight triangles are areas clear of visual obstruction to allow for the safe egress of vehicles from an access point, including an intersecting street onto a roadway. Sight triangles shall conform to the distances detailed in *Figure 24.1*.

SECTION 2414 - Provisions for Maintaining the Level of Service of the Roadway

The Plan Commission may require that all traffic requiring access to and from a development shall operate in such a manner, as to not adversely affect the level of service of the roadway. Provisions for the present or future construction of a frontage road restriction or channelization of turning movements or other improvements may be required, as a condition of approval, in order to maintain the level of service of any adjacent roadway.

SECTION 2416 - Number and Location of Access Points

A driveway permit shall be obtained from the State or Town for the road that is to be accessed. Each pre-existing, nonconforming buildable tract and / or each existing buildable or building tract of land, as defined and labeled on a land division plat in accordance with the Town of Dillsboro Subdivision Control Ordinance, is entitled to one access point provided that its location and design fulfill, as a minimum, the requirements of these regulations including the following:

1. Where an undeveloped parcel adjoins another undeveloped parcel on a collector or arterial roadway, common access points shall be established—preferably along common property lines of such parcels, provided that the potential access meets all other applicable portions of these regulations. When the second a subsequent undeveloped parcel is developed, it shall utilize the common access. In all situations involving a common access, a use and maintenance easement shall be provided, prior to the approval of a zoning request. In addition, such common access easements shall be of sufficient depth to provide adequate stacking distance for vehicles entering the access point from a public street, and shall also provide for dedication of right-of-way if the access should ever be developed into a public street.
2. Where the frontage of a tract of land is greater than 500 feet, an additional access point may be permitted for each additional 500 feet of frontage, provided all access points are otherwise in compliance with all applicable sections of these regulations—and where necessary, an INDOT permit has been approved and provided.
3. If a property has frontage on more than one street, access will be permitted only on those street frontages where standards contained in this ordinance and all other regulations can be met.

4. If a property cannot be served by any access point meeting the standards set forth in this Article, the Plan Commission will designate one or more access point(s) based on traffic safety, operational needs, and conformance to as much of the requirements of these regulations as possible.

SECTION 2418 - Coordination of Access Points

Access points on opposite sides of roadways shall be located opposite each other. If not so located, turning movement restrictions may be imposed as determined necessary by the Plan Commission. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with and between adjacent properties developed (present or future) for similar or compatible uses. As a condition of approval for construction, use, or reuse of any access point, the Plan Commission may require that unobstructed and unencumbered access, in accordance with the provisions of this ordinance, be provided from any such access point to adjacent properties if the uses are similar or compatible and such connection is physically possible.

SECTION 2420 - Change in Property Use

Whenever the use of a parcel of land changes, or two or more parcels of land are assembled under one purpose, plan, entity, or usage, the existing access permit(s) shall become void. The Plan Commission may require the reconstruction, relocation, or closure of the access point(s), based on the new property use. Any such new or re-authorized access point must be in compliance with all applicable sections of this regulation, and may require the submission of a traffic study in accordance with Section 2448 of this order.

SECTION 2422 - Existing Access

Existing access points even if not in use, may not be relocated, altered, or developed without approval of the Plan Commission.

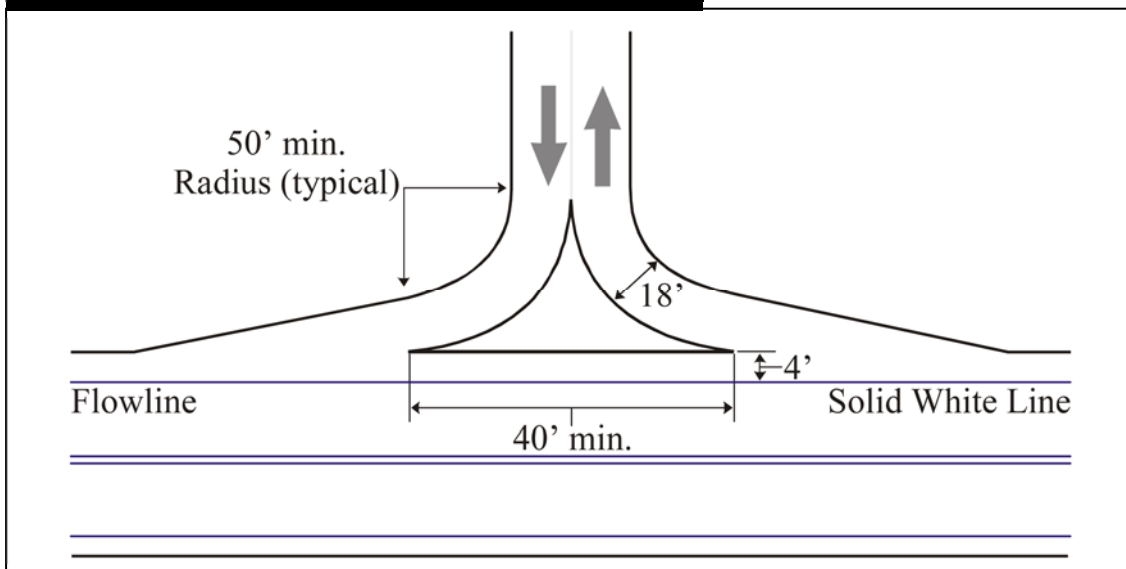
SECTION 2424 - Temporary Access Points

Any access point that does not comply with one or more sections of this regulation may be designated as “Temporary” upon approval by the Plan Commission. Any access point so designated may be terminated, reduced, limited to certain turning movements, or caused to be relocated by the Plan Commission at such time as the particular use served by an access point changes and/or the property is otherwise provided an alternate means of access via a frontage road, an intersecting street, or a shared common driveway. In all cases where said access points are classified as “temporary”, such designation shall be duly noted on the plan submitted for approval and also recorded as a Certificate of Land Use Restriction at the Dearborn County Recorder’s Office with the, expiration date noted. A driveway permit shall be obtained from the State or Town for whichever road is to be accessed.

SECTION 2426 – Restriction of Turning Movements

Where necessary for the safe and efficient movement of traffic, the Plan Commission may require access points to provide for only limited turning movements (see *Figure 24.2*). Access points with restricted turning movements must still meet requirements for number and location of access points as specified in these regulations.

FIGURE 24.2: LIMITED TURNING MOVEMENTS



SECTION 2428 - Construction Access Points

Construction access may be granted to undeveloped property prior to development of a site plan if access is needed for construction or preliminary site access. Construction access points must be approved by the Town Engineer or his designee and must generally conform to the standards depicted in Figures 24.3 and 24.4. These entrances are subject to removal, relocation, or redesign after final zoning permit approval.

FIGURE 24.3: TYPICAL SECTION

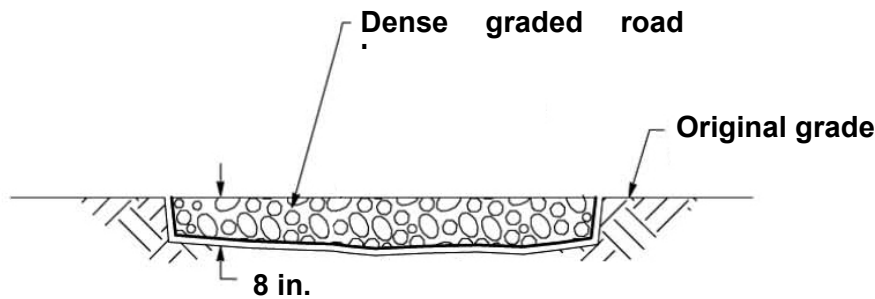
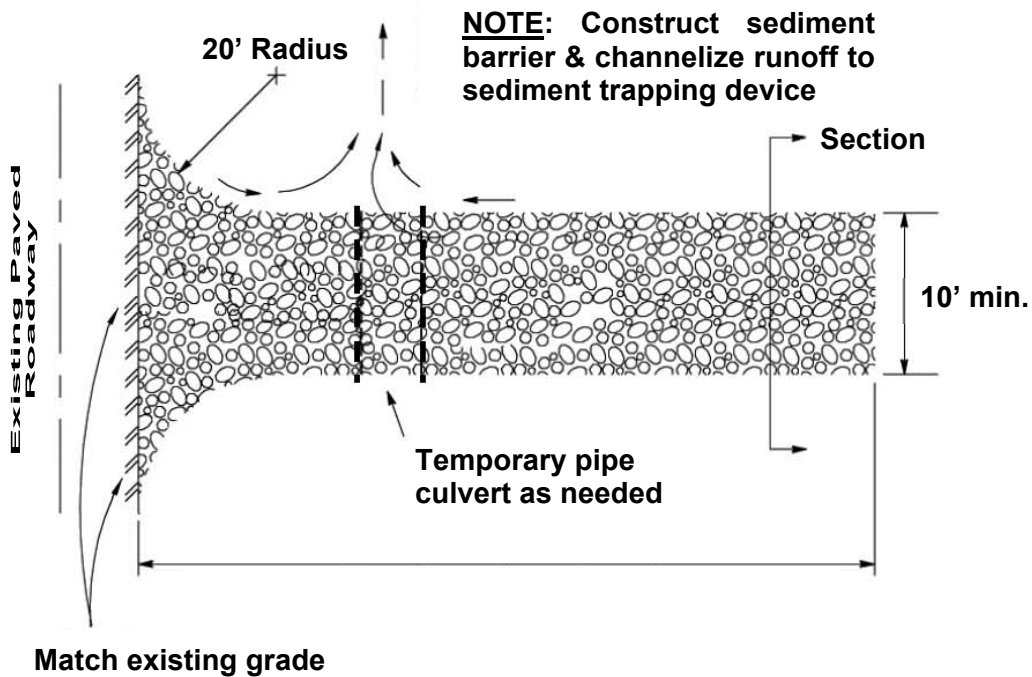


FIGURE 24.4: TYPICAL PLAN VIEW

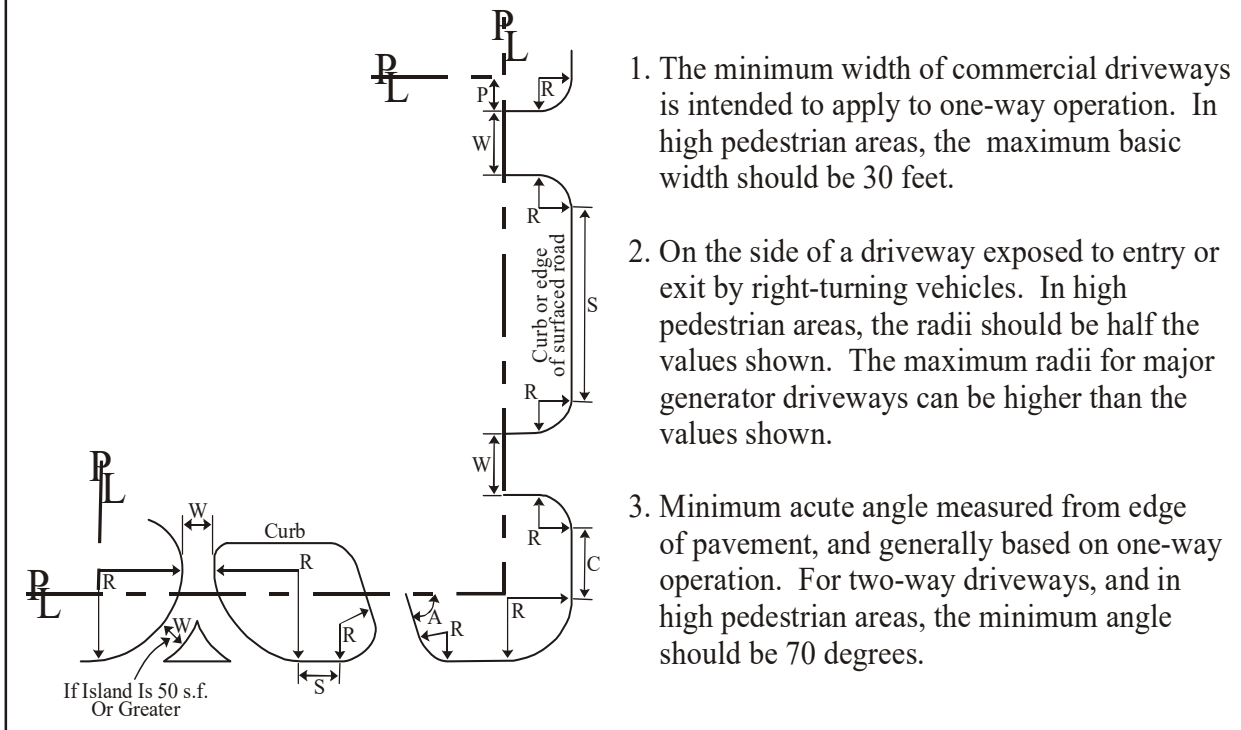


SECTION 2430 - Driveway Design

The design of driveway width, angle, grade, curb radii shall comply with the provisions of this section, *Figure 24.5* and *Figure 24.6* presents the required dimensions and detail for driveway design based on rural or urban conditions. The Technical Review Committee can grant (up to) a 20% variance of the dimensional requirements in certain situations, such as to accommodate certain design vehicles or where the street is located on a dead-end street, or contains little or no development, etc. If center-channelizing islands are used in a 2-way driveway, clearance widths of 1.5 to 2 feet should be added on both sides of the center island.

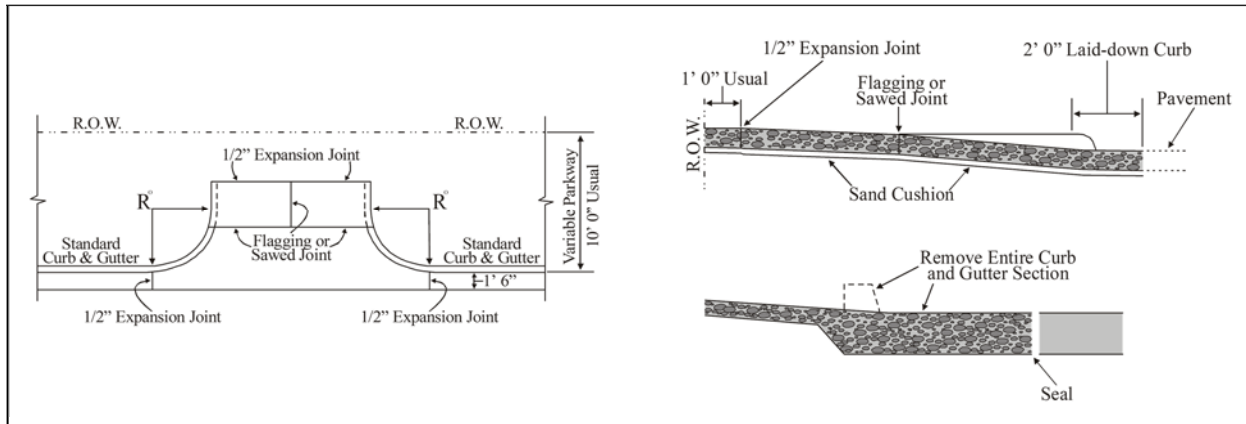
Figure 24.5 - Recommended Basic Driveway Dimension Guidelines

DIMENSION		URBAN			RURAL		
		Res.	Bus.	Manuf.	Res.	Bus.	Manuf.
Width (W) ¹	Minimum	10 ft.	15 ft.*	20 ft.	10 ft.	15 ft.*	20 ft.
	Maximum	30 ft.	35 ft.	40 ft.	30 ft.	40 ft.	40 ft.
Right Turn Radius (R) ²	Minimum	5 ft.	10 ft.	15 ft.	10 ft.	15 ft.	25 ft.
	Maximum	15 ft.	20 ft.	25 ft.	25 ft.	50 ft.	50 ft.
Angle (A) ³		45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	45 ft.



*For the purposes of this Section, driveways for agricultural uses will be considered as corresponding business uses—based on urban or rural locations.

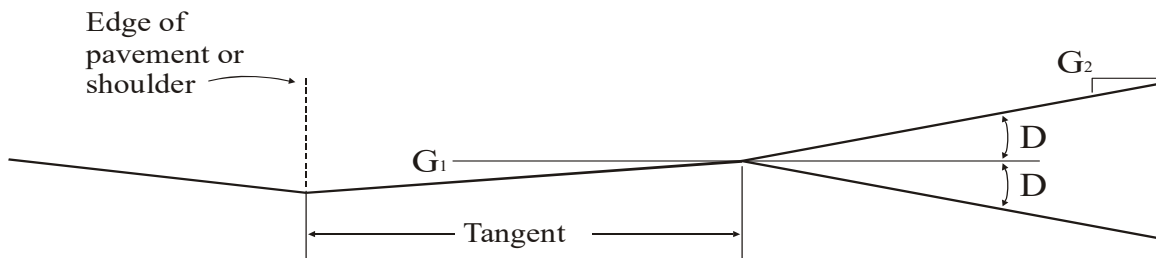
Figure 24.5 - Recommended Basic Driveway Dimension Guidelines



SECTION 2432 - Driveway Grades

In high traffic areas, the grade of a driveway should reflect the design illustrated in Figure 24.4. Existing curbing should be completely removed to insure a safe and efficient access to the development. Where drainage of water flowing onto a roadway is anticipated, a trench drain shall be installed as part of the driveway, **Figure 24.6** indicates recommended driveway grades. The value of G1 is limited by shoulder slopes and the presence of a sidewalk. In general, G1 should not exceed 8% and the change in grade between the driveway grade and street cross-slope should not exceed 10%. Driveway grades, G2 should not exceed 15% for residential driveways and 8% for commercial or industrial driveways. A level "landing" area should be provided at the approach to the roadway. However, the effect of a vertical curve on sight distances should also be considered. Concrete sidewalk sections are to be provided through curbcuts where existing sidewalks exist or are required.

Figure 24.6 - Recommended Driveway Grades



D = Suggested Max. Grade Change

Level of Traffic	Desirable	Maximum
High Volume	0%	+/- 3%
Low Volume on Major or Collector Streets	+/- 3%	+/- 6%
Low Volume on Local Streets	+/- 6%	Controlled by vehicle clearance (+/- 15%)

SECTION 2434 - Vehicle Storage/Circulation

No access will be approved for parking or loading areas that require backing maneuvers in a public street right-of-way except for single-family, duplex or townhouse residential uses on local streets. Any parking facility must have full internal vehicular circulation and storage. Vehicular circulation must be located completely within the property. In addition, each portion of the development must have access to all other portions without using the adjacent street system. Where a proposed development includes a truck loading operation, adequate space must be provided such that all truck maneuvering is performed off street, except as permitted by Article 21 Section 2170.

Adequate stacking capacity must be provided for both inbound and outbound vehicles to facilitate safe movement. Inbound vehicle storage areas must be of sufficient size to ensure that vehicles will not obstruct the adjacent street, sidewalk, or circulation within the development. Outbound vehicle storage areas must be provided to eliminate backup and delay of vehicles within the development.

SECTION 2436 - Spacing Restrictions for Signalized Access Points

Access points shall be designed such that those which will warrant signalization shall be spaced a minimum distance of one quarter mile apart. The location and design of the signalized access points shall be determined by a traffic engineering study, as detailed in Section 2448, prepared by the developer and subject to the approval of the Planning Department. If the installation of a traffic signal is approved, the developer may be responsible for the cost of purchasing, installing operating, and maintaining the signal equipment.

SECTION 2438 - Provision of Exclusive Turning Lanes and Deceleration Lanes

At those access points where vehicles turning to and from the roadway will affect the capacity of the roadway, the developer shall dedicate sufficient right-of-way and construct turning lanes or deceleration lanes as necessary to maintain the capacity of the roadway. If the roadway in question has bike lanes, the developer shall also include adequate right-of-way for the bike lane and continue the bike lane through the access point.

SECTION 2440 - Provision of Frontage Roads

The Plan Commission may require the use of frontage roads to provide access to property adjacent to arterial and collector roadways. The landowner/developer may be required to construct the frontage road to the side and/or rear property lines or reserve sufficient right-of-way to allow future construction of such road.

As adjacent property develops, the landowner/developer shall be required to interconnect the individual portions of frontage roads as appropriate. Access to the roadway via an intersecting street or a common driveway may be required if the use of a frontage road is not feasible, as may the interconnecting of parking lots.

SECTION 2442 - Approval of Access Points Along State-Maintained Routes

A copy of the plans for all access points to be constructed along a state-maintained or controlled route shall be submitted to the Indiana Department of Transportation (INDOT) for review and approval at the same time as plans are submitted to the Plan Commission. Permission for the construction of access points along state-maintained roadways is subject to the approval of plans by both the local and state agencies, as set forth in Section 2444 of this Order (and Article 3 of the Town of Dillsboro Subdivision Control Ordinance). Any requirements within this Article that may be less restrictive or in conflict with INDOT requirements shall follow the INDOT standards. In situations where the requirements of this Article or Ordinance are more restrictive than INDOT requirements, the more restrictive standards shall apply if permitted by State Law.

SECTION 2444 - Approval of Access Points

All new access points to roadways and / or any access points involving a change in use or an increased intensity of an existing use shall require a permit from the State or Town Department of Transportation, depending on the responsible authority for maintenance and issuance of permits. Projects involving either three (3) or more residential units or thirty (30) vehicle trips per day (or more, regardless of the proposed use) shall not be permitted access to Arterial roadways or to an existing or proposed Collector roadway that exceeds 1000 vehicle trips per day without approval of the Commission. Projects involving access to either to a Category I Collector roadway or access to a proposed use that generates more than ten (10) but less than thirty (30) vehicle trips per day —*on all other types of Arterial and Collector roadways*—shall require approval of the Technical Review Committee. Direct access to an arterial or collector roadway shall only be permitted if the other access scenarios such as local street access, frontage roads, shared driveways and other forms of access control are unacceptable, unsafe or inappropriate as determined by the Commission.

SECTION 2446 – Waiver of Requirements

The Technical Review Committee may reasonably waive or modify, with conditions, up to twenty percent (20%) of the technical the requirements of this Article, if it is determined that such action is warranted given the nature of an individual project and such action will serve to preserve the purpose and intent of these regulations.

SECTION 2448 - Traffic Studies

Traffic studies may be required by the Plan Commission in order to assess the impact of a development proposal on the existing and/or planned street system. The primary responsibility for assessing the traffic impacts associated with a proposed development will rest with the developer, while the Plan Commission serves in a review capacity.

The traffic study will be the responsibility of the applicant and must be prepared by a professional individual or firm with adequate experience in Transportation Engineering and Planning. Upon submission of a draft traffic study, the Plan Commission will review the study data sources, methods, and findings. Comments will be provided in a written form. The applicant/developer will then have an opportunity to incorporate necessary revisions prior to submitting a final report. All studies must be approved by the Plan Commission before acceptance.

The applicant should be notified at the pre-application stage with the Zoning Administrator and other members of the Technical Review Committee whether a traffic study will be required, provided adequate information is available to the Plan Commission. If the proposed development appears to generate significant impact on the infrastructure, the applicant will be informed that a traffic study is required.

Transportation consultants are required to discuss projects with the Plan Commission prior to starting the study. Topics for possible discussion at such meetings will include trip generation, directional distribution of traffic, trip assignment, definition of the study area, intersections requiring critical lane analysis, methods for projecting build-out volume, and needs analysis of pedestrian/bicycle facilities. Specific requirements will vary dependent upon the specific site location being reviewed. No traffic study will be accepted unless the traffic study requirements of this regulation are met, and the applicant has a pre-application meeting with the Plan Commission or its designated staff.

Table 24.6 - Sample Table of Contents-Site Traffic Access Impact Study Report

Traffic Study Format

In order to provide consistency and to facilitate Staff review of traffic studies, the format that is described in *Table 24.6*, shall be followed by transportation consultants in the preparation of such studies. The analysis shall be presented in a logical sequence with footnotes where appropriate. A detailed description of the content of a study is detailed in Traffic Access and Impact Studies for Site Development, published by the Institute of Transportation Engineers. The outline in *Table 24.6* was taken from that document, and indicates the information that shall be included in a transportation study.

I. Introduction and Summary

- A. Purpose of Report and Study Objectives
- B. Executive Summary
 - 1. Site location and study area
 - 2. Development description
 - 3. Principal findings
 - 4. Conclusions
 - 5. Recommendations

- C. Qualifications and experience of firm or individual(s) who prepared the study.

II. Proposed Development (Site and Nearby)

- A. Off-site development
- B. Description of on-site development
 - 1. Land use and intensity
 - 2. Location
 - 3. Site plan
 - 4. Zoning
 - 5. Phasing and timing

III. Area Conditions

- A. Study Area
 - 1. Area of influence
 - 2. Area of significant traffic impact (may also be part of Chapter IV)
- B. Study Area Land Use
 - 1. Existing land uses
 - 2. Existing zoning
 - 3. Anticipated future development
- C. Site Accessibility
 - 1. Area roadway system (a. Existing; b. Future)
 - 2. Traffic volumes and conditions
 - 3. Transit service and Pedestrian/Bicycle facilities
 - 4. Existing relevant transportation system management programs
 - 5. Other as applicable

IV. Projected Traffic

- A. Site Traffic (each horizon year)
 - 1. Trip generation
 - 2. Trip distribution
 - 3. Modal split
 - 4. Trip assignment
- B. Through Traffic (each horizon year)
 - 1. Method of projections
 - 2. Trip generation
 - 3. Trip distribution
 - 4. Modal split
 - 5. Trip Assignment
- C. Total Traffic (each horizon year)

V. Traffic Analysis

- A. Site Access
- B. Capacity and Level of Service
- C. Critical Lane Analysis
- D. Traffic Safety
- E. Traffic Signals
- F. Vehicle-Bicycle-Pedestrian Circulation and Parking

VI. Improvement Analysis

- A. Improvements to accommodate base traffic
- B. Additional improvements to accommodate site traffic
- C. Alternative improvements
- D. Status of improvements already funded programmed, or planned
- E. Evaluation

VII. Findings

- A. Site accessibility
- B. Traffic impacts
- C. Need for any improvements
- D. Compliance with applicable local codes

VIII. Recommendations

- A. Site access/circulation plan
- B. Roadway improvements
 - 1. on-site
 - 2. off-site
 - 3. phasing, if appropriate
- C. Transportation System Management Actions
 - 1. off-site
 - 2. on-site operational
 - 3. on-site
- D. Other

IX. Conclusions

The executive summary should be a one or two-page synopsis that concisely summarizes the study purpose, conclusions, and recommendations. Throughout the study, assumptions must be detailed and described. The study should also specify which transportation improvements will be the responsibility of the developer to complete.

SECTION 2500 – Intent of General Standards

The purpose of this article is to set forth the physical, environmental, operational, and other performance or design standards which must be met in each and all districts, uses, buildings, structures, or alterations of lands, and to clarify situations where problems are frequently encountered. The following regulations shall govern setbacks, location of accessory structures, and other aspects pertinent to the administration and enforcement of this ordinance.

SECTION 2502 – Dimensional Table for all Zoning Districts

Table 25.1 lists the required dimensional standards, which are applicable to all zoning districts within this Ordinance.

SECTION 2504 - Exceptions to Height Regulations

Height limitations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other structures usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport. The height of radio/ TV, telecommunication or other similar towers shall be regulated by the applicable zoning district, Article 15 and the required permit process.

SECTION 2506 – Lot Frontage Requirements

All parcels of land to be created or altered must comply within the road frontage requirements identified in *Articles 9, 10, 11, and 13 of this Ordinance, as well as Table 25.1* or as otherwise outlined in the Town’s Subdivision Control Ordinance. Each lot is required to have a minimum lot frontage, which is measured along the roadway. For lots that have irregular geometric shapes the minimum lot frontage shall be measured at the building line.

SECTION 2508 - Setback Requirements for Corner Lots

On a corner lot, the front yard shall be determined by the orientation of the front of the principal building as located on the site. The side yard setback measured from the side yard right-of-way shall be required to have the same setback as the front yard. This side yard setback requirement regulates the location of the principal building and any associated accessory structures. (See *Figure 25.1*).

SECTION 2510 - Buildings Located on Multiple Lots

Homes, buildings, or accessory structures are permitted to be constructed on more than one lot of record as long as the lots are under common ownership. The setbacks and location requirements for the home, building or accessory structure shall be the same as if the lot were combined as one lot of record. Homes, buildings or accessory structures located on multiple lots shall be required to file a Declaration of Contiguous Lots with the County Recorder’s Office, which indicates the following:

For planning and zoning purposes, the lot described herein shall be considered as part and parcel of the adjacent lot(s) owned by [insert owner’s name] pursuant to a deed/s recorded at Deed Record [#s], page [#s], in the office of the Dearborn County Recorder, Indiana. The real estate described herein shall not be considered to be a separate parcel of real estate for land use, development, conveyance or transfer of ownership, without having first obtained the expressed approval of the Town Plan Commission. This restriction shall be a covenant running with the land.

SECTION 2512 - Determining Setbacks from Property Lines

All front yard setbacks along public/private roadways and alleys are measured from the edge of the record, or otherwise assumed, street right-of-way to the front wall of existing and proposed structures.

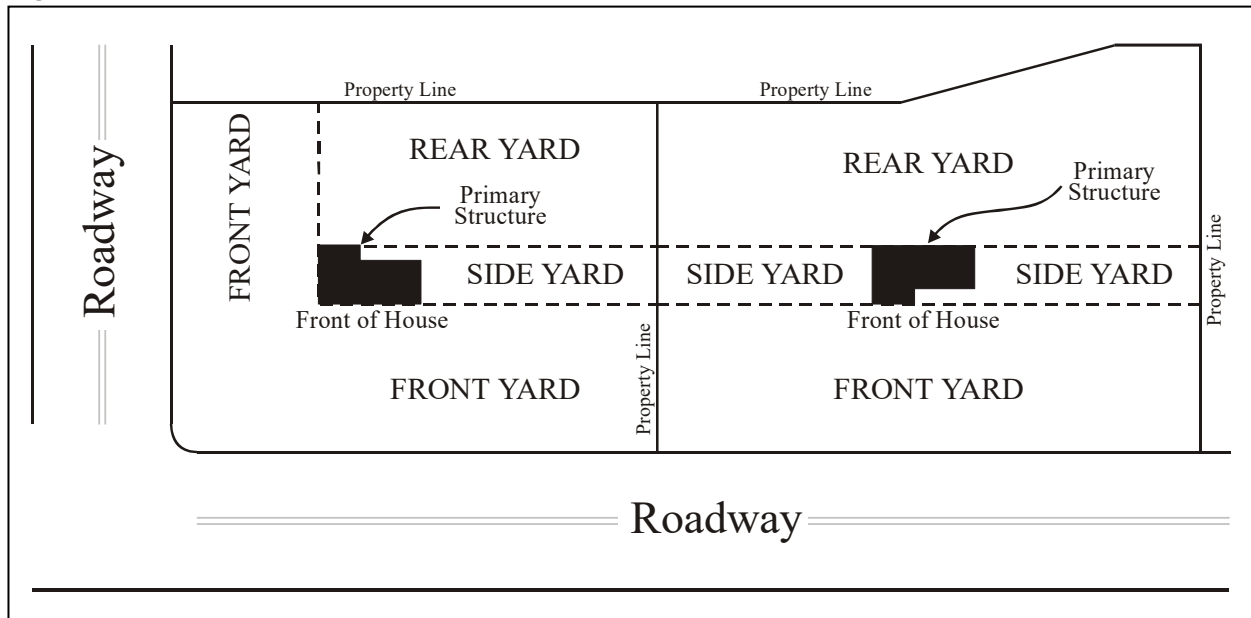
All uses which front along an arterial road, as determined in Section 2404, shall be required to have a minimum setback of 100 feet from the centerline of the roadway if the roadway has less than 100 feet right-of-way. All uses which front along U.S. 50, an arterial road as determined in Section 2404, shall be required to have a minimum setback of 100 feet from the centerline of the nearest two lanes of traffic.

In situations where the setbacks required by this Ordinance are out of character with established setbacks of existing buildings in older neighborhoods or nonconforming lots within, or adjacent to the Town, setback reductions can be made by the Zoning Administrator or designee. The purpose is to allow the proposed use to conform with the established setbacks of structures on either side and in the area.

SECTION 2514 – Determination of Front Yard

In most cases the part of the primary (a.k.a. principal) structure that faces the roadway and which contains the main entrance is considered the front of the primary structure. This orientation determines the front, side and rear yards for setback and accessory use location purposes. (See *Figure 25.1*) However, in some situations the front of the primary structure does not face the road, but rather faces a side or rear property line for views, design reasons, irregular lot shapes or multiple road frontages. In these cases, the Zoning Administrator or designee shall determine the front yard location based on the orientation of the primary structure and of other homes in the vicinity.

Figure 25.1 - Determination of Front Yard



SECTION 2516 – Accessory Uses and Structures

Accessory uses and structures, not including accessory dwelling units, are permitted in all zoning districts in accordance with the provisions of this Section. Accessory use and structures shall be incidental and clearly subordinate to the primary (or principle) structure of the property—in terms of size and purpose, except as specified herein.

Accessory uses and structures shall also be subject to additional location and size requirements that include:

- 1) An accessory structure may be situated in the front yard of a property if its proposed setback to the centerline of the road right-of-way is greater than, or equal to, the required setback for a primary or principle structure in the zoning district in which it is being located—except along Arterial Roadways where the front yard setback must be 100 feet (100') or greater. Accessory structures that do not meet the aforementioned requirement must be located behind the front wall of the principle structure of the property—in the side or rear yard of the site.
- 2) Accessory structures that are proposed to be situated on the site before a principle (or primary) structure has been established must meet the same setback requirements as those established for a principle (or primary) structure. *Accessory structures proposed to be situated in front of an existing, principle (or primary) structure must also meet the same side setback requirements as those established for a principle (or primary) structure.*
- 3) Accessory structures placed in the side or rear yard behind an existing primary structure may be located within five feet (5') of any property line in all zoning districts—or as otherwise specified in the Development Standards Tables in Articles 9-13 of this Ordinance—provided that the structure is not located within a landscape buffer yard or identified easement. For proposed land divisions involving an existing structure that is typically considered incidental to agricultural and residential uses, the five-foot (5') side and rear setback can be applied without necessitating a Variance.

Gas pumps, canopies, automatic teller machines and photo service facilities are permitted in the front yard, but shall be located a sufficient distance from the property line in order to have safe internal traffic flow and meet the requirements set forth in this Order. All setbacks still apply. In addition, uses which are permitted outside display of products for sale, can locate these products within the front yard. These display areas shall be organized and not cluttered in appearance and shall not obstruct traffic flow.

The following are considered incidental accessory uses that do not require zoning permits (Building Permit may be required) and can be located within in all yards. They include walks, driveways, curbs, retaining walls, lattice work screens, trees, shrubs, flowers, plants, mail boxes, name plates, lamp posts, basketball poles, bird baths, benches, and structures of a like nature. In addition, direct television satellite dishes, which are less than 26 inches in diameter and ground mounted, are permitted within the front yard. Playground equipment and similar uses do not require a zoning permit (Building Permit may be required) but are required to be located in the side or rear yards.

SECTION 2518 - Architectural Projections

Open structures such as covered porches, decks, canopies, balconies, platforms, carports, covered patios, and similar architectural projections which occupy space three (3) or more feet above the general ground level of the yard shall be considered parts of the building to which attached and shall not project into the required minimum front, side, or rear yard. Chimneys, overhangs, gutters, bay windows and similar items may extend up to two and one-half (2.5) feet into a required front, side, or rear yard.

SECTION 2520 - Single Family/Duplex Dwelling Units on a Single Recorded Parcel

Only one single family detached dwelling unit or duplex shall be permitted on a single lot of record unless additional dwelling unit/s are permitted as accessory uses by this Ordinance.

SECTION 2522 - Exemptions for Agricultural Purposes

Nothing in this ordinance shall interfere with the right to farm pre-existing agricultural operations as defined in Article 27 of this ordinance.

SECTION 2524 - Access Management

Where a frontage road (public or private) is provided as a part of a development, the setback requirements may be adjusted by the Zoning Administrator, to take the width of the frontage (and associated easements, rights-of-way, etc.) into consideration. Additional Access Management Regulations are noted in Article 24.

SECTION 2526 – Sewage Requirements

All newly created lots recorded by Subdivision Review or Certified Survey in the Town of Dillsboro shall be served with public sewer.

SECTION 2528 - Vibration

No operation or activity shall be carried out in any district which causes or creates levels of vibration that are determined to be a nuisance to the surrounding areas. If necessary, the levels of vibration may be measured on any property line of the tract on which the operation is located. Vibration shall be expressed as displacement in inches and shall be measured with a three-component measuring device that is approved by the Zoning Administrator. The specific type of vibration shall not exceed the designated displacement in inches as defined in *Table 25.1*, based on the frequency. Vibrations that exist outside of the tract on which the operation is located and is not directly related to the operation, such as vibration from motor vehicles or other transportation facilities, may be excluded from these regulations and may be compensated for in the measurement of the vibration.

Table 25.1 – Standards for Vibration

<i>FREQUENCY</i> <i>(Cycles per Second)</i>	<i>VIBRATION DISPLACEMENT IN INCHES</i>	
	<i>Steady-state Vibrations</i>	<i>Impact Vibrations</i>
Under 10	.0055	.0010
10-19	.0044	.0008
20-29	.0033	.0006
30-39	.0002	.0004
40 and over	.0001	.0002

SECTION 2530 – Glare

No operation or activity shall be carried out in any district which causes or creates an amount of glare that is determined to be a nuisance to the surrounding areas, and may not be of such an intensity or brilliance as to cause glare or to impair the vision of drivers, pedestrians, employees or neighbors. All outdoor lighting shall be located, screened, or shielded so that adjacent lots are not directly illuminated. If necessary, the levels of glare may be measured on any property line of the tract on which the operation is located, to determine the amount of glare. The levels of glare shall be measured in foot-candles. No operation or activity shall produce a level of illumination that exceeds 0.5 foot-candles at any adjoining property line of the tract on which the activity is located.

SECTION 2532 – Noise

No Commercial or Industrial operation or activity shall be carried out in any district which causes or creates noise levels that are determined to be a nuisance to the surrounding areas. If necessary, noise levels may be measured on any property line of the tract on which the operation is located, to determine the level of decibels. At the property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the values described in *Table 25.2* of any octave band frequency. The sound pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association. Octave band analyzers shall be calibrated in Preferred Frequencies for Acoustical Measurements. These regulations are intended to regulate noises associated with business activities and not noises generated from individuals such as a loud stereo, car alarm, etc. Noises that are associated with temporary construction, or other similar activities, are exempt from these regulations.

Table 25.2 – Standards for Noise

OCTAVE BAND FREQUENCY <i>(Cycles per Second)</i>	MAXIMUM PERMITTED SOUND LEVELS IN DECIBELS	
	Along Residential District Boundaries	Along Business District Boundaries
0 to 75	67	73
76 to 150	62	68
151 to 300	58	64
301 to 600	54	60
601 to 1200	49	55
1201 to 2400	45	51
2401 to 4800	41	47
Over 4800	37	43

If the noise is not smooth and continuous, one of the corrections described in *Table 25.3* may be added to or subtracted from each of the decibel levels given in *Table 25.2*. Only one of these corrections may be applied.

Table 25.3 - Permitted Decibel Corrections

Type of Operation or Character of Noise	Correction in Decibels
Noise source operates less than 20% of any one hour period	Plus 5
Noise source operates less than 5% of any one hour period	Plus 10
Noise source operates less than 1% of any one hour period	Plus 15
Noise of impulsive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screech, etc.)	Minus 5

SECTION 2534 – Smoke

No operation or activity shall be carried out in any district which causes or creates levels of smoke that are determined to be a nuisance to the surrounding areas. The levels of smoke may be measured from any point of emission, and shall use the Ringelmann Smoke Chart published by the United States Bureau of Mines. Smoke not darker or more opaque than No. 0 on the described chart may be emitted except that smoke not darker or more opaque than No. 1 on the described chart may be emitted for periods not longer than four (4) minutes in any thirty (30) minute period. These provisions, applicable to visible grey smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

SECTION 2536 – Heat

No operation or activity shall be carried out in any district which causes or creates levels of heat that are determined to be a nuisance to the surrounding areas. The level of heat shall be determined at any adjoining property line of the tract on which the operation is located. No activity shall be permitted to cause a temperature change of more than 1 degree Fahrenheit as measured at any adjoining property line.

SECTION 2538 - Home Owner Associations

When Home Owner Associations or similar associations are to be employed for a development, the association documents shall be included with the plans and application for the development.

SECTION 2540 - Required Trash Areas

All uses other than single family residential or duplex developments that provide trash and/or garbage collection areas shall be completely enclosed or otherwise screened or located in such areas to minimize their visual impact from public streets, internal circulation areas, and adjoining properties. (See Section 2255 for Screening Requirements.) Provisions for adequate vehicular access to and from trash collection areas shall be required as determined by the Plan Commission. Additional requirements are located in Article 23.

SECTION 2542 - Public Rights-of-Way

Nothing in this order shall permit the placement of any structure or use in any public right-of-way except publicly owned uses or structures and mailboxes, which are of a breakaway type construction, unless a permit is obtained from the owner of said right-of-way.

SECTION 2544 - Temporary Buildings

Temporary buildings, construction trailers, equipment, and materials used in conjunction with construction work may be permitted in any district during the period construction work is in progress. Such temporary facilities shall be removed upon completion of the construction work. Continued placement, use or storage of such facilities or equipment on site beyond the completion date of the project shall require a zoning permit authorized by the Zoning Administrator. These temporary buildings cannot be used for advertisement of any kind except that the temporary building may display the builder's and/or developer's names.

SECTION 2546 - Private or Residential Swimming Pools

A private or resident swimming pool, except portable swimming pools with a diameter less than twelve (12) feet or with an area of less than one hundred (100) square feet, must comply with the following conditions and requirements:

1. The pool is intended and is to be used primarily for the enjoyment of the occupants of the principal use of the property on which it is located;
2. It may not be located closer than (5) feet to any property line;
3. 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 Building Department at the time of construction and completely surrounding the pool and deck area when the pool is not in use.
 - (c) A power safety pool cover which shall: i) 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; ii) 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 or a key and switch or touch pad with a personal access code; iii) be capable of supporting a four hundred (400) pound imposed load upon a completely drawn cover; iv) is installed with a track, rollers, rails, guides, or other accessories necessary to accomplish the other items in this section; v) bear an identification tag indicating the name of the manufacturer, name of the installer, installation date, and applicable safety standards, if any.

SECTION 2548 - Community or Club Swimming Pools

Community and club swimming pools shall comply with the following conditions and requirements:

1. The pool is intended solely for the enjoyment of the members, families of members, and guests of members of the association or club;
2. The swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access. Said fence or wall shall not be less than six (6) feet in height and maintained in good condition.

SECTION 2550 - Recycling Collection Points and Garment/Furniture Drop-off Centers

Recycling collection points and drop-off centers will be permitted in any Business or Industrial zoning district if it meets all of the following performance standards.

1. The recycling collection point or drop-off center shall be placed only in the side or rear yard of the Principally Permitted Use and may be no closer than ten (10) feet to any property line.
2. The area must be enclosed or otherwise screened to minimize its visual impact.
3. The Zoning Administrator may make exceptions to these requirements.

SECTION 2552 - Temporary Certificate of Occupancy

In situations where a property has a permanent principally permitted single family dwelling unit which is destroyed or damaged to the point where it is not livable, a zoning permit allowing temporary occupancy may be issued. (The requirements of Article 4 still apply.) However, it will still be necessary to obtain a Building Permit from the Building Department for the placement of a temporary residence. The zoning permit shall be limited to six (6) months, but can be renewed for a period of six (6) additional months by the Zoning Administrator. The purpose of the temporary permit is to allow the residents of the damaged or destroyed home time to rebuild or locate a new permanent living arrangement. A zoning permit is required and all applicable setback standards and health permits apply. No fee will be assessed for the application. Extension beyond the time indicated above will require approval from the Board of Zoning Appeals.

In addition, temporary occupancy may be given for a temporary residence for an applicant who is constructing a single-family home and must or desires to move from their existing residence before their new residence is completed. The applicant must obtain the appropriate zoning permit for their proposed single-family residence and indicate the location of their temporary residence on the zoning permit. All health and building code requirements must be met for the temporary dwelling. Before the temporary dwelling can be located and occupied, the following items must be completed:

1. The foundation for the approved home shall be installed;
2. The water source, septic/public sewer, phone and electric shall be installed and inspected as necessary by the Dearborn County Building Department before a temporary occupancy permit can be issued;
3. The temporary dwelling shall be located in the side or rear of the home being constructed and shall comply with all setback of primary structures;
4. The temporary occupancy shall be permitted for only six months but can be renewed for a period of six (6) additional months by the Zoning Administrator;
5. The temporary residence must be removed from the property at the end of the approved period. If the temporary residence is a recreational vehicle it can remain on the property in the appropriate location as required by this Article, but cannot continue as a residence.

SECTION 2554 – Pond and Lake Requirements

The construction of ponds or dams within the Town is permitted as long as the following requirements are met and a Zoning Permit or Site Plan is issued. Retention and detention ponds installed to comply with the stormwater requirements of this Ordinance and the Town of Dillsboro Subdivision Control Ordinance are exempt from the requirements listed below and shall not be considered a pond, lake or dam. The following requirements are not intended to supersede or contradict any State or Federal regulations pertaining to construction of a pond, lake, dam or watercourse. The more restrictive requirements shall be followed and the issuance of a permit from the Plan Commission does not relieve the applicant of any State or Federal permits, which may be required.

1. No part of the pond or lake shall be constructed closer than 150 feet from any public right-of-way, or public/private easement. If the width of an easement containing a public roadway cannot be determined, 30 feet shall be added to the 150-foot setback, and shall be measured from the centerline of the roadway;
2. Ponds or lakes shall not be constructed closer than 30 feet from a property line, but at no time shall be closer than 150 feet to an existing residence on an adjoining parcel;
3. The pond or lake shall have a spillway constructed, which allows the overflow to follow the natural drainage course, and it shall be constructed so as to prevent soil erosion at the outflow of the dam;
4. Ponds or lakes, which have more than a one square mile area of drainage from upstream or contain more than 30 acres of water, shall be required to follow Site Plan Review as detailed in this ordinance. The plan must be prepared and stamped by a registered Indiana Engineer or Surveyor;
5. Ponds or lakes which have a depth greater than twenty (20) feet measured from crest of emergency spillway to flow line of original ground shall be required to follow Site Plan Review and have the plan prepared and stamped by a registered Indiana Engineer or Surveyor;
6. Any pond or lake constructed closer than 150 feet to a public or private roadway and the enclosure/water impounding area of the pond or lake is located below, or at the same grade, as the roadway, a guardrail shall be required to prevent vehicle entry from the road. A guardrail may not be necessary if vegetation exists between the pond or lake and the roadway, which would reasonably prevent vehicle entry from the road. If the pond or lake is located closer than 150 feet to the roadway, and is at a grade above the roadway, a guardrail may be required if vehicle entry from the roadway is possible. The Town Engineer, or another Town Highway Department official, shall determine if a guardrail is required, and the guardrail shall be constructed according to the requirements and specifications of the Town of Dillsboro Subdivision Control Ordinance. All ponds or lakes constructed closer than 150 feet to any public roadway shall require a permit from the Town Highway Department.

SECTION 2556 - Home Occupations

Occupations of personal services, professional office, studios or crafts, which are maintained or conducted solely within a dwelling, will be permitted only if they meet all of the following performance standards and obtain the necessary permit:

1. The use is clearly incidental to the principal residential use;
2. The use is conducted entirely within a dwelling or an accessory building provided the use does not occupy more than 250 square feet or 25 percent of the building;
3. Only members of the household residing on the premises may be the primary owners/operators of such operation. No more than one (1) person, other than members of the household residing on the premises, shall be engaged in such operations;
4. No commodity shall be sold on the premises in connection with such home occupation;
5. There shall be no change in the exterior appearance of the building or premises, to evidence that such property is used for a non-residential use;
6. No traffic shall be generated by such home occupation in greater volumes than would be expected in the residential neighborhood;
7. No home occupation shall result in exterior evidence of such use being conducted by reason of atmospheric pollution, light flashes, glare, odors, noise, parking or vibration discernible from abutting properties;
8. No signage or on-premise advertising shall be used in conjunction with a Home Occupation;
9. Any home occupation conducted under this section shall not be a nuisance to any abutting properties or to the general neighborhood.

SECTION 2558 - Parking of Vehicles and Outdoor Storage

The outdoor storage of materials, vehicles, products, parts or other similar items shall be prohibited unless approved through Site Plan Review (See Article 23) and permitted within the zoning district. In situations where outside storage exists or is proposed, the Zoning Administrator or designee shall have the authority to determine the appropriate screening if necessary or required. Unauthorized outdoor storage may include:

1. Unlicensed or inoperable automobiles or automobile or machinery equipment or parts, including tires;
2. Building construction materials, except materials to be used in conjunction with a permitted ongoing construction project;
3. Home appliances and fixtures such as refrigerators, sinks, and stoves;
4. Indoor furniture;
5. Inoperable, dismantled, or wrecked boats, automobiles, campers, motorcycles, and small trucks (one-ton, panel, or pickup);
6. Pull trailers over 32 square feet in size;
7. Junk, as defined herein; scrap metal, wood, and similar materials; and
8. Shelving, racks, or similar items.

The parking and / or outdoor storage of vehicles shall be limited as follows:

- a. Operable, licensed automobiles, motorcycles, small trucks (one-ton, panel, or pickup) and vans shall only be permitted to be parked in an alley, driveway, or street;
- b. Operable, licensed boats, campers, recreational vehicles, and pull trailers of up to 32 square feet in size shall only be permitted to be parked in a driveway; and
- c. Large trucks (over one-ton), semi-trucks, and semi-trailers, and buses shall only be parked in a driveway and shall not be permitted to be parked in residential districts.

SECTION 2560 - Temporary Uses of Land or Structures

Temporary uses such as carnivals, revival meetings, concerts and uses of a similar nature can be permitted under the following conditions with a zoning permit:

1. A Zoning Permit will be required with a detailed site plan which indicates the location of the activity on the site, the location of parking, location of sanitary facilities, etc., and a written explanation of the event proposed, purpose, the specific hours and dates of the event and when the event will terminate;
2. The proposed site is of adequate size to accommodate the use without creating congestion in the streets or inadequate circulation for fire or other emergency vehicles. All parking for the event will be located on site or at other secured locations within 1000 feet of the event. Parking for the event shall not be permitted along public roadways;
3. Written confirmation is received from the appropriate police and fire department to alert them to the event;
4. Outdoor lighting will be shielded or directed away from adjoining residential property and streets;
5. All signs used to advertise the event shall be removed the following day after the event has ended;
6. Sanitary conditions are to be approved by the Dearborn County Board of Health if necessary;
7. Permits from the appropriate highway departments for access into and out of parking areas if necessary;
8. Letter of credit or bond as needed to repair any damage that may be created as a result of the event to public roadways as determined by the Town Highway Department if necessary;
9. Provide the names and addresses of the adjoining property owner for notification of the event;
10. Submit the application at least **30** days prior to the event;
11. The event shall not create a nuisance or hazard to the public health, safety, or welfare and the event will not create objectionable dust, noise, light or odors to adjoining properties. The Zoning Administrator or designee shall have discretion to limit the permitted times or scope of the event;
12. The applicant shall be responsible for all clean up to remove and properly dispose of all debris and to restore the site.

SECTION 2562 - Residential Townhouse and Multi-Family Design Standards

The purpose of this section is to provide requirements for the density, height, lot size, setbacks, and infrastructure requirements governing the development of townhouses and multi-family dwellings permitted in this order. In addition to the following standards, all townhouse and multi-family developments shall be designed in accordance with sound engineering principles particularly with regard to vehicular access, interior site circulation, and surface drainage. In addition, the development of townhouse and multi-family dwellings must comply with Article 23, Site Plan Review. The following are the minimum requirements.

1. All townhouses and multi-family developments must be served by public sanitary sewer and water;
2. No townhouse or multi-family dwelling shall exceed 5 stories or 55 feet in height. (See limitations below);
3. No building may be constructed within thirty (30) feet of a public right-of-way. All townhouse and accessory structures must maintain a minimum thirty (30) feet setback from all property lines of adjacent property not included as part of the development and must comply with all bufferyard requirements found in Article 22. Exceptions to the setbacks above and bufferyard requirement can be made for uses located within established towns where existing setbacks may be closer. Setbacks in these instances will be reviewed at Site Plan Review to conform to the existing setbacks if less;
4. Density and height requirements shall be determined by the parcel size of the property as indicated below.
 - a. Two (2) acres or less, eight (8) dwelling units per acre and 35 feet in height;
 - b. Ten (10) or less acres, 16 units per acre and 45 feet in height;
 - c. Greater than ten (10) acres 24 units per acre and 55 feet in height;
 - d. In situations where townhouses or multi-family dwellings are located within 100 feet of an existing single-family residence, the height of the building shall not exceed 35 feet.

SECTION 2564 - Manufactured and Mobile Homes

Manufactured homes shall be permitted in any area zoned for single family or duplex homes if the home was designed and built in a factory and bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974. In addition, the following limitations shall apply:

1. The manufactured home must be constructed after January 1, 1981 and exceed 950 square feet of occupied space;
2. The homes shall meet all requirements applicable to single family or duplex homes and shall be subject to all necessary zoning, building, and occupancy permits;
3. The homes must be permanently attached to a solid foundation extending down below the frost line, a minimum of 30 inches, or on basement wall. The space between the floor joists of the home and the excavated area under floor grade shall be completely enclosed with a permanent perimeter foundation or basement wall, except for required openings;
4. The homes shall be covered with an exterior material of one or more of the following types:
 - a. Horizontal aluminum or vinyl lap siding;
 - b. Cedar or wood siding;
 - c. Stucco, brick or stone; and
 - d. Other materials approved by the Plan Commission;
5. The homes shall have a roof composed of a material customarily used on site-built residential dwellings, such as shingles or tile which shall be installed onto a surface appropriately pitched for the materials used;
6. Manufactured homes not meeting the terms above shall be permitted only after receiving a Conditional Use Permit by the Board of Zoning Appeals or when the home is to be located in an existing or approved mobile home park.
 - a. A mobile home, which exists at a particular location at the time of the passage of this Ordinance, shall be allowed to remain at such location. The mobile home may be replaced at the same location with a newer mobile home of equal or better condition and of equal or greater size. Normal permitting procedures shall apply.

SECTION 2566 - Manufactured Home Park

Manufactured home parks, which will not have individual lots of record for each housing unit, will require a Conditional Use Permit from the Board of Zoning Appeals and shall meet the requirements listed below as well as the requirements of a Conditional Use. Manufactured home parks, which have individual lots of record, will not require a conditional use and shall be handled the same as a conventional subdivision.

1. The minimum area of a manufactured home park shall be five (5) acres;
2. The park shall be required to follow Site Plan Review;
3. Landscaping guidelines shall be created which establish landscaping requirements for each unit, the entrance/s to the park and any common area. Additional perimeter buffering may be required;
4. Each park shall provide an active recreational area or areas equal in size to at least eight percent (8%) of the area of the park. Streets, parking areas and drainage facilities shall not be included in the required recreational area. At a minimum, the recreational area should include playground equipment, outdoor fields, basketball/tennis courts or the like, and similar recreation uses. Parks designed for retirees can substitute passive recreation uses for active uses;
5. Laundry facilities shall be provided for the park if not provided within each residential unit;
6. Commercial convenience establishments are permitted provided they are accessory to the park and draw their primary trade area from the park and not the surrounding area;
7. Storage for individual residential units shall be handled with written guidelines established for the entire park;
8. Home sites shall be a minimum of five thousand (5000) square feet in area and shall be indicated as lease lots on the appropriate Site Plan. In no case shall the density exceed seven (7) units per acre;
9. Setbacks and lot frontage shall be as established in Table 25.1 for each individual lease lot within the park. Setbacks around the perimeter of the development shall be a minimum of thirty (30) feet;
10. Foundation skirting shall be required around each mobile home completely enclosing the undercarriage;
11. Each residential unit shall be provided with two (2) parking spaces on the lease lot. Additional parking shall be provided as needed or required by this Ordinance;
12. Sidewalks shall be required as identified within the Town of Dillsboro Subdivision Ordinance;
13. Street construction shall be as identified within the Town of Dillsboro Subdivision Ordinance.

SECTION 2568 – Hillside Development Guidelines

The purpose of these environmental standards is to provide information for the development of hillside sites so that development is compatible with the environment and to protect those characteristics of the environment that have significant public value and which are vulnerable to damage by development. The guidelines listed below can be used as requirements for reviewing Zoning Map Amendments as defined in Article 5 if applicable but are informational guidelines only for property being developed under the permitted zoning.

Hillsides where these standards apply have the following characteristics:

1. Slopes of 20% or greater; and,
2. Soil types identified in the Comprehensive Plan or Soil Survey of Dearborn and Ohio Counties as having development limitations; or,

These hillsides may also have the following characteristics:

1. Existence of geologic formations which limit development;
2. Prominent hillsides which are readily viewable from a public thoroughfare, from a significant historical site, or from an established nature preserve or park;
3. Hillsides which provide views of a major stream or valley;
4. Hillsides which function as community separators or boundaries by their location or vegetation;
5. Hillsides which support a substantial natural wooded cover.

The Town Plan Commission and prospective developers should utilize the following development guidelines for the construction of any type of structure on hillsides. The Plan Commission should use these guidelines as general parameters for reviewing applicable development proposals subject to major subdivision, site plan, and zoning map amendment, or concept development plan reviews. The information listed below is not intended to be used as requirements for developing hillsides within the Town.

1. Use irregular architectural edges to inter-lock buildings with hillside vegetation. Emphasize attachment with plantings which overlaps building edges, especially at the foundation;
2. Cluster new development, retaining surrounding tree cover and minimizing changes in topography;
3. Match scale of buildings to scale of terrain;
4. Retain the natural slope lines as seen in profile. Restore the vegetation lines which convey the slope lines;
5. Plan buildings to fit into hillside rather than altering the hillside to fit the buildings;
6. Maintain a clear sense of the hillside brow by siting buildings back from it;

7. Maintain the natural appearance of the brow by retaining existing trees, planting new indigenous trees, and other landscape measures;
8. Stagger or step building units according to the topography;
9. Use narrow lanes, one-way streets and split-level roads to avoid excessive earth moving and locate roadway stream crossings where grading is minimized;
10. Site buildings not only to provide views, but also to provide a variety of community and private viewing places;
11. Plan buildings, drives and parking areas to acknowledge the natural contour line of the site;
12. Meet large parking requirements with multiple small parking areas, and screen with planting, berms, and terraces;
13. Respect the site's conditions of steepness, soil, bedrock, and hydrology so as to insure hillside stability both during and after development. Utilize erosion control measures during and after grading activity;
14. Replant all cuts, fills and any other earth modification;
15. Respect and retain natural site features such as streams, slopes, ridge lines, wildlife habitat, plant communities, and trees,
16. Employ sufficient, and in some cases, additional stormwater runoff systems that control the amount and rate of flow of stormwater leaving the post-development site that could affect adjacent steep slopes. Use natural drainage courses wherever possible;
17. Designate disturbed limits clearly on the plan and in the field before site work begins.

Additional guidelines may be considered at the discretion of the developer and are considered to be advisory. These additional guidelines are listed in [Development Guidelines for Greater Cincinnati Hillsides](#).

SECTION 2570 – Cemeteries

If a cemetery exists on a parcel of land and the exact location of gravesites is not known or determined, a developer or property owner is advised to contact the appropriate State agencies for assistance and requirements. **Waivers of this Section of this order may be reviewed by the Technical Review Committee; however, no State or Federal standards shall be lessened or adjusted by an agent or agency of the Town.**

1. No new structure or building addition shall be built within 100 feet of an existing cemetery regardless of adjoining property lines or land ownership—unless a development plan is submitted to, and approved by, the Indiana Department of Natural Resources—Division of Historic Preservation and Archeology. This one hundred (100) foot building limitation is required regardless of whether the cemetery is part of a building lot or is being conveyed as a

- separate lot. This one hundred (100) foot building limitation shall be preserved by exclusive cemetery easement. (Please refer to IC 14-21-1)
2. Cemetery boundaries shall be determined by a registered archaeologist arranged by the applicant. The Technical Review Committee shall review the work and information of the registered archaeologist. The professional archaeologist shall be responsible for determining the approximate boundaries of the cemetery and to providing information with respect to the history of the cemetery;
 3. Existing cemetery fences and walls shall be maintained and repaired for security purposes;
 4. If a cemetery exists and a property owner or developer wishes to build on the lot where the cemetery is located, or if proposed to be a separate lot, the property owner or developer is required to erect a new fence (if one does not exist) surrounding the cemetery. The new fence shall be made of a material which is compatible and fits in with the character of the existing cemetery and surrounding residences or buildings. If a portion of an original fence or wall remains and cannot be replaced or repaired with the same material a compatible material shall be used. If the existing fence is an inappropriate material (barbed wire fence or the like), it should be replaced with a new fence made of an appropriate material;
 5. Weeds shall be removed from a cemetery and the grass shall be kept mowed;
 6. All ironwork and stonework shall be inspected for damage and repairs shall be made by the owner of the property;
 7. Other planting or foliage shall be pruned and be generally left in its natural state and all other debris or trash shall be removed from the cemetery;
 8. A statement by the property owner, applicant or developer shall be made on the site plan or subdivision plan regarding cemetery ownership and maintenance;
 9. A Certificate of Land Use Restriction and a deed restriction shall be recorded in the Dearborn County Recorder's Office acknowledging the location, size, ownership and maintenance of the cemetery. The bottom of the owner's deed must specifically acknowledge that the site contains a burial ground by referencing 'CEMETERY' in bold, capital letters on the bottom of the deed document. (Please refer to IC 14-21-3) This information shall also be recorded on a Final Plat for a subdivision that has not yet been recorded;
 10. A minimum of ten (10) feet of public access shall be provided and recorded to the existing cemetery for ingress/egress. Public and private streets shall be designed or located to provide access to an existing cemetery;
 11. With cemetery relocation or the relocation of graves, the Plan Commission and County Cemetery Commission shall be notified in writing by the property owner or developer by supplying to the Board and its staff copies of all necessary permits from the appropriate agencies for the relocation procedure

SECTION 2572 - Environmental Provisions

No use, building, structure, alteration, or improvement of land shall cause hazard or degradation, or otherwise abuse the environment of its own land or adjacent land or the value of benefit of the environment to the public at large. The following provisions are detailed in the Town of Dillsboro Subdivision Control Ordinance and will be used to determine the capability, suitability, or general compliance of a proposed use, building, structure, alteration, or improvement of land with the environmental objectives of this order.

1. Storm Water Management, Drainage and Lot Grading;
2. Basic Design Criteria for a Storm Drainage System;
3. Basic Design Criteria for Storm Water Drainage Channels, Water Courses, and Erosion Control;
4. Basic Design Criteria for Stormwater Runoff Control Facilities;
5. Detention Basins Standards and Specifications;
6. Residential Lot Grading and Drainage;
7. Steep Slopes and Erosion Hazards

SECTION 2574 - Maintenance of Retention/Detention Areas

Storm sewer systems are designed to collect and convey stormwater runoff from street inlets, runoff control structures, and other locations where the accumulation of stormwater is undesirable. The objective is to remove runoff from an area fast enough to avoid unacceptable amounts of ponding damage and inconvenience. No storm sewer shall be permitted to run into a sanitary sewer system. In general, the amount of stormwater runoff should be equal, in terms of pre-development and post-development, given the design of the stormwater system. Stormwater runoff from a site or subdivision shall not adversely impact natural drainage from an uphill drainage basin or to a downhill drainage basin or adjacent properties. The property owner shall be responsible for stormwater drainage facilities located on private property where runoff will be principally collected within that property and be minimally discharged over a larger area before the stormwater naturally drains on adjacent properties, unless a large drainage basin exists or is being planned. Stormwater drainage easements shall be required if stormwater is discharging directly from a pipe to an adjoining property and not being dispersed on the subject property.

SECTION 2576 - Water Supply and Sewer Service

No new use or structure, which would require water supply and sewage disposal, shall be shall be conducted or constructed without the infrastructure to ensure that there is sufficient water supply and public sewer service, which is capable of meeting the needs of a particular user’s site.

SECTION 2580 – Exempt Uses

The extension of public utilities that are not part of a site plan or subdivision review, such as water and sewer lines, pump stations, and well heads, shall be permitted in all zoning districts within the Town and will not require a permit from the Plan Commission for the construction of the facility. However, this section applies to zoning approval only as outlined within this Ordinance and does not eliminate the requirements of any permit that may be necessary from other federal, state or local agencies and departments.

SECTION 2600 – Intent of Address and Road Name Assignments

The purpose of this article is to protect the safety and welfare of the general public by establishing and maintaining an effective system of numbering, for properties that have been developed into uses that are permitted by this ordinance. Such a system shall allow the 911 Emergency Service to identify properties that are in need of immediate assistance. A uniform numbering system shall also enhance the delivery of mail by the U.S. Postal Service, as well as the delivery of additional goods and services.

SECTION 2605 – Administration

The Zoning Administrator or designee shall issue numbers to all primary structures that are located in the Town of Dillsboro. A number shall be assigned to a primary structure when a Zoning Permit is approved for that structure, and the number shall be assigned in a manner that is in conformance with this article. A list of all numbers that have been issued shall be maintained in a format that is easily accessible and categorized by the post office that is responsible for the mail delivery of that structure.

SECTION 2610 – System of Numbering

1. Grid System

The method of numbering shall be based on the Purdue Grid System, which classifies the direction of roadways as being North-South, and East-West. The North-South grid shall be represented by horizontal lines, and the East-West grid shall be represented by vertical lines. Grid lines shall be separated at one (1) mile intervals creating a block, or “section,” that will be used to determine the range of numbers. The point at which the North-South grid begins at zero (0) is at the Ohio-Switzerland County Line; and the point at which the East-West grid begins at zero (0) is at the Indiana-Ohio State Line.

2. Range of Numbers

The blocks that have been defined by the grid system shall represent intervals of 1000 numbers and shall be used to determine a range of numbers to be used when issuing addresses. The grid shall begin at the point defined as “zero” and increase by 1000 for each interval throughout the county.

3. Classifying the Roadway

The road, on which the number shall be assigned, is dependent upon the location of the driveway, or main access point. If there is more than one main access point, the address shall be assigned at the access point that is nearest the front of the property, based on the positioning of the structure. The road that the address will be assigned on shall be classified as North-South, or East-West depending on the overall direction of the street. Measure the road's distance horizontally and vertically from the point at which the road begins to the point at which the road ends. The road shall be classified as North-South, if the vertical distance is greater than the horizontal distance; and the road shall be classified as East-West, if the horizontal distance is greater than the vertical distance.

4. Assigning Numbers

Specific numbers shall be assigned based on the direction of the street, and the location of the structure within the defined grid. Each section of the grid shall have a defined minimum and maximum that each address must fall within. Within the range of numbers, the address shall correspond to its distance from the minimum and maximum. The specific number that is assigned shall be odd or even, depending on the direction of the road, and the side of the road that the structure is on. The determination of the type of number to be issued shall use the following requirements:

- a. If the address is being issued on the East side of a North-South road, the address shall be an Even number;
- b. If the address is being issued on the West side of a North-South road, the address shall be an Odd number;
- c. If the address is being issued on the North side of a East-West road, the address shall be an Even number;
- d. If the address is being issued on the South side of a East-West road, the address shall be an Odd number.

SECTION 2612 – Road Names / Private Access Names

Names for new roads, both public and private, and private lanes shall be reviewed in accordance with this Section. Unique road names shall be required in all cases. Names which refer to local history, landmarks, locations / places, and natural features will be considered preferential—and in cases where Town officials must make a road name determination shall be used wherever possible and practical. In no case shall any proposed road or lane name contain any punctuation marks, be abbreviated, or be phonetically similar to an existing road or private land name. **Lengthy road names shall be avoided; the length of all road names and their associated signage must be approved by the Technical Review Committee.** Once a road name has been approved for use by the appropriate authorities, it shall be added to the Town’s administrative records and be included in 911’s Master Street Address Guide (MSAG).

For the purpose of providing consistent road name assignment and management of Town records, suffixes for road and private lane names shall be displayed on transportation signage and for the purposes of data entry for public records **only** as indicated herein:

- **Road; Abbreviated Form – RD**
- **Lane; Abbreviated Form – LN**
- **Avenue; Abbreviated Form – AVE**
- **Drive; Abbreviated Form – DR**
- **Street; Abbreviated Form – ST**
- **Court; Abbreviated Form – CT**
- **Way; Abbreviated Form – WAY**
- **Ridge; Abbreviated Form – RDG**
- **Circle; Abbreviated Form – CIR**
- **Boulevard; Abbreviated Form – BLVD**
- **Point; Abbreviated Form – PT**
- **Parkway; Abbreviated Form – PKWY**
- **Place; Abbreviated Form – PL**
- **Trail; Abbreviated Form – TR**
- **Pike; Abbreviated Form – PK**
- **State Route; Abbreviated Form – SR**
- **State Road; Abbreviated Form – SR**
- **U.S.; Abbreviated Form – US**
- **Interstate; Abbreviated Form – I**

Planned Development & Subdivisions: New Road Names

Road names for planned developments or subdivisions shall be submitted to the Plan Commission by the developer for review and approval through the appropriate, prescribed process. The acceptability of proposed road names shall be evaluated by referencing Dearborn County's 911 MSAG, the Town's and Dearborn County's roadway inventories, and the Town's address database. If the proposed name(s) meet the provisions set forth in this Article, the proposed names will be utilized when final plans for a development are approved.

Road Name Changes

In the event that a road name or private lane name is identified to be problematic for the purposes of providing adequate emergency services, postal delivery, or another concern or threat to the health, safety, and / or general welfare of the public, the Zoning Administrator or designee will forward a recommendation regarding a change to the Town Council—to be reviewed at a public hearing. Proposed road or private lane name change recommendations shall be made *only after* consultation and coordination with the following Town and Dearborn County entities: 911, the Department(s) of Transportation & Engineering, the Department(s) of Planning & Zoning, the Assessor's Office, the Surveyor's Office, the Auditor's Office, the GIS Coordinator, the affected post office, and a representative of the Town Council, which may be the Town Manager. The Plan Commission will notify any property owner directly impacted or affected by a proposed road name change of the date, time, and place of the Town Council meeting where the recommended name change will be discussed—at least 10 days prior to the date of the public hearing. If a road name change is approved by the Town Council, it shall be added to the Town and County's records and be included in 911's Master Street Address Guide (MSAG).

SECTION 2615 – Private Lanes

A common driveway that is used to access two (2) or more primary structures which are located more than 100 feet from, or are not visible from, the Town-maintained roadway that is used to access the structures, shall be assigned a lane name that is approved by the Zoning Administrator, or designee. Landowners that use the private lane shall have the option of proposing a lane name that will be used by the Town. If a name cannot be decided upon, the Zoning Administrator, or designee, shall assign an appropriate name. All private lanes shall use the suffix of "Lane." No private lane name shall be permitted which uses a first, personal name; and, no private lane name shall be the same as, or similar to, an existing lane name.

Private lane names may be given to any common driveway that is used to access two (2) or more primary structures, if the Zoning Administrator, or designee, considers it necessary to avoid confusion.

SECTION 2618 – Private Street and Private Lane Sign Standards

All private street and private lane signs must adhere to the standards set forth in this Section, unless specified otherwise by the Zoning Administrator, Town Engineer or other designee:

1. The sign must be 8" in height;
2. The sign must have a brown background;
3. Roadway name lettering shall be series C or D, mixed lettering. The first letter shall be 6" uppercase in height followed by 4.5" lowercase height—all lettering white in color.
4. The sign background and lettering shall be retro reflective;
5. The length of the sign is to be determined by the approved road name;
6. The corners of the sign shall be rounded;
7. The sign must be made out of 0.8mm gauge aluminum;
8. The sign must be installed on the right side of the road and perpendicular to the road that is being intersected;
9. The sign must be installed on a breakaway post. The post can be type A or B u-channel post; with a maximum 2.5" round post with 12-gauge wall thickness and either a minimum 2.25" square post with 12-gauge wall thickness or 4" x 4" wood post.
10. Sign posts shall be imbedded into the ground a minimum of 42 inches;
11. The sign must be installed at a height of 5.5 to 7 feet (measured from the edge of pavement to the bottom of sign. If a road name sign is installed in conjunction with a stop sign, the bottom of the stop sign shall be installed at a height of 5 feet.
12. The lateral offset from both edges of pavement shall be a minimum of 6 feet. A 12-foot offset is recommended.
13. It is the property owner's or site developer's responsibility to ensure that private road or private lane signage is installed and maintained at all times. As the retroreflective elements of a sign deteriorates over time, all signs should be replaced approximately once every ten (10) years;
14. Signage that does not meet the specifications set forth in this Section, including "homemade" signs, will NOT be permitted.

*These signage requirements are based on the 2009 Manual of Uniform Traffic Control Devices (MUTCD), Section 2D.43 and Indiana Department of Transportation (INDOT) standards.

SECTION 2620 – Display of Address

1. Location

All addresses that are issued by the Town Plan Commission shall be posted in a conspicuous location that can be identified from the roadway that is used to access the structure. The number may be posted in any prominent place, including on the structure itself, an outside light post, or a similar location. It may be displayed on a mailbox if it is according to postal regulations.

All structures that are located more than 100 feet off the roadway used to access the structure, not visible from the roadway, or located on a private lane, shall display the number at the entrance of the driveway, or private lane, in addition to a prominent location on, or near, the structure.

2. Size

Residential addresses shall be displayed with numbers that are a minimum of three (3) inches in height, made of a durable, weatherproof material, and shall contrast in color from their background for easy visibility. Addresses for commercial, institutional, and industrial uses shall be a minimum of six (6) inches in height and meet all other specifications set forth in this Section.

SECTION 2625 – Re-Numbering

The Zoning Administrator, or designee, has the authority to re-number any structure in order to comply with the Uniform Numbering System. The owner of any property that is re-numbered, shall be notified of the change and the reasons for the change. All changes must be reflected within **two (2) weeks**.

SECTION 2630 – Notification of Local Agencies

All new and changed addresses shall be reported on a regular basis to local groups and agencies that are directly involved in the implementation of the Uniform Numbering System, including, but not limited: 911, the Department(s) of Planning & Zoning, the Assessor's Office, the Auditor's Office, and the affected post office and phone company. The groups and agencies shall be notified in a timely manner, in order to prepare for any measures that may be necessary to reflect the changes. Upon request of the Town Council, a current status report of the implementation of the Uniform Numbering System, shall be provided.

SECTION 2635 – Violation

Any property owner that fails to display, or maintain, the assigned number as required by this article, shall be held responsible for violating the provisions of this ordinance. A fine of not less than \$10.00 and not more than \$25.00 shall be charged for each offense. Each day that the violation exists shall constitute a separate offense.

SECTION 2640 – Enforcement

The Town Council may institute a suit for injunction in the courts of Dearborn County to restrain any person, firm, or corporation who shall remove, alter, deface, destroy or conceal any number assigned to, or place upon, any building in compliance with this ordinance. A suit for injunction may also be filed against any person who places, or permits to place, any improper number that is not in compliance with this ordinance. The Town Council may institute a suit for mandatory injunction directing a person, firm, or corporation to correct any violation of the provisions of this ordinance, or to bring about compliance with the provisions of this ordinance. If the Town Council is successful in any such suit, the defendant, or respondent, shall bear the cost of the action, including reasonable attorney’s fees.

SECTION 2700 - Purpose

For the purpose of this order, certain terms or words used herein shall be interpreted as listed below. Definitions not found within this Article shall be defined as found in the current edition of *Webster’s Dictionary*, and/or *A Glossary of Zoning, Development, and Planning Terms* as published by the American Planning Association.

1. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
3. The word “shall” is a mandatory requirement, the word “may” is a permissive requirement, and the word “should” is a preferred requirement.
4. The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied.”
5. The word “lot” includes the words “plot” or “parcel.”

AASHTO. American Association of State Highway and Transportation Officials.

ABANDONMENT (OF A USE). The cessation or discontinuation of a use or activity on a property by the owner of that property, with no indication of intent to resume the use or transfer the rights to that use to another owner. This shall not include temporary or short-term interruptions to a use or activity as a result of: maintenance, remodeling, or otherwise improving the property; normal periods of seasonal or vacation closure; or lapses between owners or tenants involved in the same or similar use or activity.

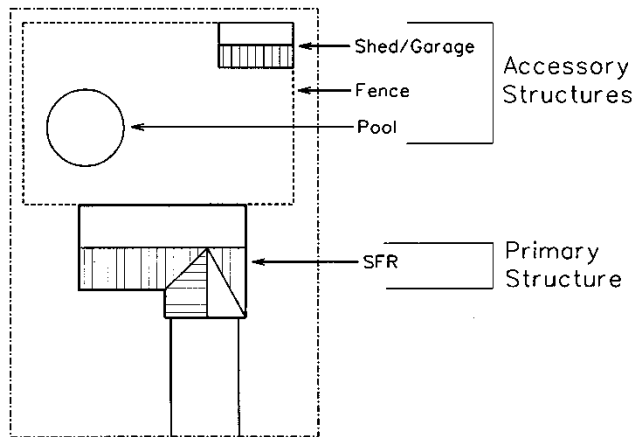
ACCESS. A driveway or similar point of access onto a road, street, or highway which connects to the general public street system.

ACCESSORY DWELLING UNIT. An additional dwelling unit within a single-family residence, or within a residential accessory structure, which does not occupy more than 35% of the total floor area of the primary residential structure.

ACCESSORY STRUCTURE, AGRICULTURAL. A structure customarily found in connection with a permitted agricultural use.

ACCESSORY STRUCTURE, NONRESIDENTIAL. A structure that is: located on the same lot or tract as the primary nonresidential structure; clearly incidental to and customarily found in connection with a primary nonresidential structure or use; and subordinate to or serving the primary nonresidential structure or use. Nonresidential accessory structures shall generally include, but not be limited to, automatic teller machines, fences, garbage dumpsters, parking areas, signage, swimming pools, storage buildings, and walls.

ACCESSORY STRUCTURE, RESIDENTIAL. A structure that is: located on the same lot or tract as the primary residential structure; clearly incidental to and customarily found in connection with a primary residential structure or use; and subordinate to or serving the primary residential structure or use. Residential accessory structures shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance. The Zoning Administrator shall have the authority to respond to concerns with the ongoing maintenance of existing accessory structures, to determine whether a structure is in need of repair, and to direct the property owner to make such repairs. Residential accessory structures shall include, but not be limited to: architectural projections above 3 feet in height, decks, detached garages, fences, gazebos, swimming pools, and storage buildings/sheds. In residential zoning districts, the use of portable storage units, semi-trailers, truck bodies, and similar items shall not be permitted to be used as accessory storage structures.



Accessory and Primary Structures

ACCESSORY USE. A use that is: located on the same lot or tract as the primary structure or use; clearly incidental to and customarily found in connection with a primary structure or use; and subordinate to or serving the primary structure or use. Examples of accessory uses shall include, but not be limited to, nonresidential display and storage, patios, ponds, and residential play houses, play equipment, and swing sets. The keeping of domestic pets shall also be considered a residential accessory use.

ADDITION. Any construction involving an extension or increase in the height, size, or square footage of an existing building or structure.

ADJACENT OR ADJOINING PROPERTY. Any property adjacent or directly diagonal to a subject property. Properties located across a public right of way shall also be considered adjacent.

ADMINISTRATIVE APPEAL PETITION. A petition filed when the petitioner feels that there was an error made in an order, requirement, decision or determination by an administrative officer or staff member.

ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. A commercial establishment which has either more than 20% of its dollar volume of sales or of 20% of its items for displayed for sale, of either:

1. Books, magazines, periodicals, and other printed material or compact discs, films, motion pictures, photographs, video cassettes, or other visual representations characterized by an emphasis on sexual activities or sexual anatomical areas; or
2. Devices, instruments, paraphernalia, toys, or other items designed for use or marketed primarily for the stimulation of human genital organs.

ADULT CABARET. A bar, nightclub, restaurant, theater, or other commercial establishment which displays:

1. Persons who appear nude or semi-nude; or
2. Live performances characterized by sexual activities or the exposure of sexual anatomical areas; or
3. Films, motion pictures, or other visual reproductions characterized by an emphasis on sexual activities or the exposure of anatomical areas.

ADULT CARE. (See DAY CARE)

ADULT CARE CENTER. A building, other than the operator's primary residence, where adults receive day care from a provider while unattended by a relative, legal guardian, or custodian for regular compensation, for more than three (3) hours but less than twelve (12) hours in each of ten consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. (See IC 12-10 et seq. for Adult Day Care services in the Indiana code.)

ADULT CARE HOME. A residential structure, which is the primary residence of the adult care provider, in which more than six (6) but not less than twelve (12) adults not related to the provider receive care for regular compensation.

ADULT ORIENTED BUSINESS. For the purposes of this Ordinance, an adult bookstore, adult cabaret, adult novelty store, adult video store, escort service, massage parlor, piercing salon, tattoo parlor, or similar use.

ADVISORY PLAN COMMISSION. A plan commission serving a local government jurisdiction established as defined under IC 36-7-1-2, or as may be amended. The Town of Dillsboro Plan Commission is an advisory plan commission, referred to in this Ordinance as “Plan Commission” or “Commission”. The plan commission is the Town’s public agency that is empowered to prepare a comprehensive plan, zoning regulations, subdivision regulations, corridor or special area studies, etc. The plan commission is responsible for evaluating proposed land use changes and their conformance with any applicable plans or regulations as well as reviewing subdivisions, zoning permits, site plan review and other applications outlined within the Zoning or Subdivision Ordinance.

AGRICULTURAL LIVESTOCK OPERATION. An agricultural operation where domestic farm animals are kept for use as part of a farm or raised for sale.

AGRICULTURAL LIVESTOCK OPERATION (LOW INTENSITY). An agricultural operation where domestic farm animals are kept for use as part of a farm or raised for sale; such livestock operations shall be located on at least five (5) contiguous acres, and shall be further limited as set forth in the table below.

NUMBER AND TYPE OF LIVESTOCK PERMITTED PER ACRE	
Type of livestock	Number permitted (per acre)
Beef or dairy cow	2
Veal calf	6
Horse	1
Sheep or goat	3
Turkeys, ducks, geese, and/or chickens	10
Limits for livestock not specifically noted shall be determined by the Zoning Administrator or Plan Commission	

AGRICULTURAL USE. The use of a tract of land of at least five (5) contiguous acres for normal agricultural activities, including agriculture, farming, floriculture, horticulture, and viticulture; along with accessory uses necessary for the packing, treating, or storage of produce.

AGRONOMIC CROP PRODUCTION. The use of a tract of land of at least five (5) acres in size for field crop production.

ALLEY, IMPROVED. A public right-of-way, constructed of gravel or pavement, which allows for primary or secondary access and services to the back or side of a property.

ALLEY, UNIMPROVED. A public right-of-way that exists on a plat or other recorded public document, which is not improved and is not used for access to a property.

ALTERATION (of a sign). Any change to an existing sign or sign structure, excluding a change to a sign face in an existing sign cabinet or a sign conversion, as defined herein.

ANIMAL KENNEL. Any premise or portion thereof on which five or more dogs or cats or other household pets over four months of age are kept, or on which two or more such animals are maintained, boarded, bred, or cared for in return for remuneration or kept for the purpose of sale.

ANTENNA. A system of poles, reflecting discs, rods, wires, or similar devices used for the transmission or reception of electromagnetic or radio waves.

ANTIQUÉ SHOP. A building or structure used for the sale of antique furniture, collectibles, home furnishings, and similar or related items.

APARTMENT. A dwelling unit, in a building containing three or more dwelling units.

APPLICANT. An owner or owners, or the legal representative of the owner(s) of real property who submits an application to the Plan Commission or Board of Zoning Appeals requesting an action involving the subject property. This may also include a contract purchaser, option holder, or prospective purchaser.

AREA (of a sign). The area in square feet of the smallest, simplest geometric figures that enclose the area that forms the outside shape of the sign face. For signs with complex or irregular shapes, the area of the sign shall be calculated by dividing the sign into multiple geometric figures. For non-ground-mounted signs, the sign structure shall be included in the calculation of the area of the sign; for ground-mounted signs, the sign structure shall not be included in the calculation of the area of the sign. For two-sided signs, only the area of a single side shall be counted in the calculation of permitted sign area.

ARTISAN/CRAFT SHOP. Establishments for the preparation, display and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leather craft, hand-woven articles and related items.

AS-BUILT PLAN. A plan or survey which indicates how a structure and / or site improvements were actually constructed or developed on a lot or tract.

ASSISTED LIVING FACILITY. A residential establishment or institution other than a hospital or nursing home, which provides living accommodations and medical services primarily to individuals 55 years of age or older, and to individuals who require similar care due to illness or disability. Accessory services like dietary supervision, housekeeping, recreational activities, and transportation may also be provided.

AUTOMATED TELLER MACHINE (ATM). An electronically operated device used to conduct on-site financial transactions.

AUTOMOBILE. A self-propelled, free moving vehicle with wheels, typically used to transport not more than 10 passengers and licensed by the appropriate State agency as a passenger vehicle.

AUTOMOBILE BODY SHOP. A facility which provides collision repair services, including body frame straightening or alignment, disassembly or replacement of damaged body parts, complete body painting services, welding services, complete wreck rebuilding, and frame repair services.

AUTOMOBILE DETAILING. A facility which provides automotive-related services such as applying paint protectors, exterior cleaning and polishing as well as installation of aftermarket accessories such as auto alarms, headlight covers, spoilers, sunroofs, tinting, and similar items. Engine degreasing or similar automobile cleaning services shall not be included under this definition.

AUTOMOBILE MAINTENANCE FACILITY (QUICK SERVICE). A facility which provides engine tune-ups and servicing of brakes, air conditioning, exhaust systems, oil change or lubrication; wheel alignment or balancing; or similar servicing, rebuilding or repairs that normally do not require significant disassembly of automobiles, or overnight storage of automobiles.

AUTOMOBILE PARTS SALES. A facility primarily used for the retail sale of automobile components, parts, and accessories.

AUTOMOBILE REPAIR. A facility which provides general automobile repair, including: minor repair of engines; steam cleaning; or minor painting or detailing services for automobiles or trailers. An automobile repair facility may also provide accessory services in the form of minor body or fender straightening services as long as no disassembly or replacement of damaged major body parts is required. This definition shall not include any services provided under the definition of “automobile body shop”.

AUTOMOBILE SALES. A facility or premises where two or more vehicles are sold or offered for sale during a calendar year.

AVERAGE DAILY TRAFFIC (ADT). The total bi-directional volume of traffic passing through a given point during a given time period, divided by the number of days in that time period.

AWNING. A cloth, plastic or other nonstructural covering that is either permanently attached to a building or can be raised or retracted to a position against the building.

AWNING SIGN. A sign displayed on an awning.

BANNER SIGN. A sign made of lightweight, flexible material such as canvas, cloth, vinyl, or plastic; either enclosed or not enclosed in a rigid frame.

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

BASEMENT. A portion of a structure which is wholly or partly underground, and having at least one-half of its height, measured from floor to ceiling, below the average grade of the adjoining ground.

BED AND BREAKFAST ESTABLISHMENT. A house, or portion thereof, where short-term lodging rooms are provided for compensation, with or without meals. The operator(s) shall live on the premises.

BERM. An earthen mound designed to screen one area from another, provide visual interest, or decrease noise.

BILLBOARD. See “SIGN, OFF-PREMISE”

BLOCK. A tract of land bounded by streets, or a combination of streets, alleys, public parks, cemeteries, or railroad rights-of-way.

BOARD. See “BOARD OF ZONING APPEALS”

BOARD OF ZONING APPEALS. A board established consistent with the IC 36-7-4-900 series. The Town of Dillsboro Board of Zoning Appeals shall be referred to as the “Board of Zoning Appeals” or “Board”.

BOARDING HOUSE. A building or structure in which lodging is provided for compensation, for at least three but not more than 10 persons.

BOND. A form of security or surety, including cash, credit, property, surety bond, or other surety in an amount and form satisfactory to the Town Board. If a bond is required as part of this ordinance, said bond shall be first approved by the Town Board.

BUILDING. A roofed structure for the shelter, support, enclosure, or protection of persons, animals, or property.

BUILDING, ATTACHED. A building structurally connected to another building, including by a wall or foundation.

BUILDING, DETACHED. A building having no structural connection with another building.

BUILDING PERMIT. A permit that is issued by the Dearborn County Building Commissioner, or his / her designee, which involves a structural improvement that must be obtained before beginning construction, alteration or repair of any building or structure.

BUILDING SETBACK LINE. A horizontal distance line which is generally parallel to the related front, rear or side lot line. The building setback line cannot encroach upon the required minimum yard dimensions for principally permitted and accessory uses or structures as specified in this order.

BZA. See “BOARD OF ZONING APPEALS”.

CAMPGROUND. Any lot or tract designed with facilities for short term occupancy by recreational vehicles or other camping equipment, excluding mobile homes.

CANOPY. An attached or freestanding horizontal structure or projection, typically with a roof but no walls, that provides protection from the weather.

CANOPY SIGN. A sign displayed on a canopy.

CARPURT. A roofed structure designed and intended to shelter motor vehicles, with at least two sides of the structure unenclosed.

CAR WASH. An activity conducted for the purposes of cleaning passenger cars, pick-up trucks, compact vans, and class I or II commercial vehicles, whether performed automatically, semi-automatically or manually.

CEMETERY. Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery. (See IC 14-21-1 et seq. for the State laws pertaining to cemeteries and burial grounds.)

CHANGEABLE COPY AREA (Electronic). A sign or portion of a sign that allows for periodic changes in the sign message by electronic means, such as an electronic message center, projection screen, or similar technology.

CHANGEABLE COPY AREA (Manual). A sign or portion of a sign that allows for periodic changes in the sign message by manual means, not including painted or poster billboards or similar signs.

CHILD CARE. A service that provides for the care, health, safety, supervision and/or guidance of a child's social, emotional, and educational growth, on a regular basis, in a place other than the child's own home. The following uses shall not be considered as child care under the terms of this chapter:

1. A program for children operated by the department of education or a public or private school;
2. A nonresidential program that provides child care for less than four hours a day;
3. A recreational program for children that operates for not more than 90 days in a calendar year;
4. A program whose primary purpose is to provide social, recreational, or religious activity for school age children such as scouting, boys club, girls club, sports or the arts; and
5. Child care where the provider cares for fewer than six children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative.

CHILD CARE CENTER. A licensed facility designed to provide care for one or more children in a non-residential building, in accordance with IC 470 IAC 3-4.7-1, IC 12-7-2-28, and IC 12-17.2-4 et seq:

1. While unattended by a parent, legal guardian, or custodian;
2. For regular compensation; and
3. For more than four hours but less than 24 hours in each of ten consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

The child care provider must hold a valid license from the State of Indiana. It is intended that child care centers be classified as commercial uses and be located in commercial zoning districts.

CHILD CARE HOME. Care provided in a residential setting for more than five children, who are unrelated to the provider. The provider receives compensation and cares for children for a period of more than ten consecutive days excluding intervening Saturdays, Sundays, and holidays. The child care provider shall hold a valid license from the State of Indiana. This term includes a Class I Child Care Home and a Class II Child Care Home which are defined as follows:

- a. “Class I child care home” means a child care home that serves any combination of full-time and part-time children (in accordance with IC 12-17.2 et seq.), not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least grade one (1). The addition of three (3) school aged children may not occur during a break in the school year that exceeds four (4) weeks.
 - i. A child:
 - 1. for whom a provider of care is a parent, stepparent, guardian, custodian, or other relative; and
 - 2. who is at least seven (7) years of age;

shall not be counted in determining whether the child care home is within the limit set forth in this subsection.

- b. **Class II Child Care Home.** A child care home that serves more than 12 but not more than 16 children at any time, in accordance with 470 IAC 3-1.1 and 470 IAC 3-1.2—and in conformance with IC 12-17.2-5-6.5. The children may be at the home on either a part-time or full-time basis. The provider may employ an assistant as required by state law.

CHURCH or PLACE OF WORSHIP. A building where persons regularly assemble for religious worship and which is maintained and controlled by a non-profit religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. This definition shall include a synagogue, temple, mosque, or other similar place for worship and religious activities.

CLINIC. Any establishment where human patients are examined and treated by doctors or dentists but are not hospitalized overnight.

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

COMMISSION. The Town of Dillsboro Plan Commission.

COMPREHENSIVE PLAN. A plan, or portion thereof, establishing goals and objectives for community character, community involvement, community services, collaboration, economic development, housing, land use, transportation, and similar community issues, developed pursuant to the I.C. 36-7-4-500 series, adopted by the Plan Commission and the Town Council, including any adopted amendments.

CONCEPT DEVELOPMENT PLAN. A plan that generally illustrates, depicts, and/or describes a development proposal, in accordance with the requirements of this ordinance. A Concept Development Plan is reviewed in conjunction with Zoning Map Amendment requests and other public hearing requests as specified in this ordinance. A Concept Development Plan approval shall be binding upon the future development of the real property in question.

CONDITIONAL USE. A use which may be allowed in a particular district contingent upon approval by the Board of Zoning Appeals, due to the special nature of the use.

CONDOMINIUM. A form of real estate ownership of a multiple family residential dwelling or other nonresidential building, where each occupant has 100% ownership of his or her own apartment/building or unit, and undivided interests in common elements such as walkways, elevators, and the like, subject to IC 32-25 et seq., the Horizontal Property Law.

CONFINED LIVESTOCK FEEDING OPERATION. The feeding of livestock, poultry, and/or small animals for commercial purposes usually in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means. The term shall include confined feeding operations (at least 300 cattle, 600 swine or sheep, or 30,000 fowl, or as may be amended by the State) and concentrated animal feeding operations (at least 1000 young cattle or veal calves, 2,500 swine, or 100,000 fowl, or as may be amended by the State), which require permit approval from the Indiana Department of Environmental Management. (See 327 IAC 15 for General Permit Rules, and 327 IAC 16 for Confined Feeding Rules)

CONTINUANCE. An action of the Board of Zoning Appeals or Plan Commission that results in the tabling of an action on a permit or petition until the next regularly-scheduled meeting.

CONVENIENCE BUSINESS. Any small commercial location, facility, or structure where small purchases of groceries, including but not limited to food, drink, and household items, are sold.

CONVERSION (of a sign). The complete replacement of the cabinet and/or display surface of an existing sign.

CORNER LOT. A lot at the junction of and abutting two (2) intersecting streets.

COVENANTS (a.k.a. RESTRICTIONS). Contracts entered into between private parties or subdivision restrictions recorded as a part of the final plat, and which constitute a restriction on the use of all private property within a subdivision for the benefit of property owners and provide mutual protection against undesirable aspects of development which would tend to impair stability of values. The individual, or group, that initiate the protective covenants shall be responsible for the enforcement, it is not the responsibility of Town designated staff.

COUNCIL, TOWN. The Town Council or legislative body of the Town of Dillsboro.

DAIRY FARMING OPERATION. An agricultural operation on a tract of land at least 20 acres in size, which produces milk and milk products.

DANCE HALL. An enclosed structure used for dancing or similar social gatherings. Any use which falls under the definition of ADULT CABARET shall not be included under this definition.

DAY CARE (ADULT or CHILD). A service that provides for the care, health, safety, and supervision of an individual, not related to the provider, on a regular basis, in a residential structure other than the individual's own home. The provision of day care shall be a permitted use in all residential zoning districts, as set forth in IC 470 IAC 3-1.1-26 for Child Care and IC 12-10 et seq. for Adult Day Care), if the following conditions are met:

1. The home must be the primary residence of the day care provider; and
2. Services shall be provided for fewer than six adults or children not related to the provider; and
3. Care is provided for less than 24 hours per day.

DAY CARE CENTER. An establishment operated for the purpose of providing care and maintenance to children separated from their parents or guardians or a person in *loco parentis* (*in the place of a parent*) during a part of the day for two or more consecutive weeks, excepting a school or other bona fide educational institution.

DAY-TIME HOURS. 7:00 AM to 7:00 PM, local time.

DECK. An outdoor platform accessory structure other than a porch, constructed on the ground, either attached or not attached to a primary structure, and generally open to the sky.

DENSITY. A unit of measurement; which is typically the number of dwelling units per acre of land for residential uses. For commercial and employment uses, density is typically expressed in this Order as a ratio of square footage of building area per acre of land area.

DETENTION POND. A facility constructed or modified to restrict the flow of storm water through the facility's outlet to a prescribed maximum rate and, concurrently, to detain the excess waters that accumulate behind the facility's outlet.

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

DEVELOPMENT STANDARD. Bulk, height, location, and other similar standards for development set forth in this Ordinance, including building/structure setbacks, landscaping, lot area and width, parking, signage, and other required standards.

DISABLED (a.k.a. HANDICAPPED) PERSONS. A person with a physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, deafness or hard of hearing, sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime.

DOMESTICATED, HOUSEHOLD PETS.

Animals typically smaller than one hundred and fifty pounds (150 lbs.) at maturity (by species and breed) that are customarily kept within a home or upon its immediate premises for the residents' personal use and enjoyment. These animals may not be raised for commercial purposes and must be appropriately confined to a dwelling unit, a private enclosure, or an enclosed area so as to not create a nuisance to adjoining property owners. Household pets can include, but are not limited to: domestic dogs, domestic cats, domestic birds, rabbits, lizards, snakes, spiders, fish, and domestic rodents.

DOWNTOWN COMMERCIAL AREA. The center for business and community activity and economic transactions, usually more-dense with higher intensity commercial, governmental, office, and personal service land uses, along with a mix of other related uses, including residential uses.

DUPLEX. See "DWELLING, TWO-FAMILY"

DWELLING. A building or portion thereof, which is designed or used for residential purposes.

DWELLING, ATTACHED SINGLE-FAMILY. Single-family dwelling units attached by a common wall or walls, and legally platted so that each unit sets on an individual lot providing for fee simple ownership of each lot. This type of dwelling may or may not have additional common grounds owned by a homeowners or property owners association.

DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

DWELLING, TWO-FAMILY. A detached residential building containing two dwelling units, designed for occupancy by not more than two families; often also referred to as a duplex.

DWELLING UNIT. A room or group or rooms designed and equipped exclusively for use as living quarters for the use of a single family, including provisions for living, sleeping, cooking, eating, and sanitary facilities. The term shall include mobile homes but shall not include travel trailers or recreational vehicles.

EASEMENT. A legally authorized use for a defined area by a property owner to the public, a corporation, another person, or an entity for a specified purpose.

EMPLOYEE. Any person who works for an individual, group, or business, for compensation that is paid by the operator of the activity to the person providing the work.

ESSENTIAL FACILITY. Construction that includes structures as defined herein, used to house or provide an essential public or government utility or service, such as a fire or police station, sanitary sewage treatment building, water tower, water treatment facility, telephone switching station, and similar facilities.



ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance, by public utility or governmental agency (regulated by the (IRUC) Indiana Utility Regulatory Commission) of underground gas, electrical, steam, water or other distribution systems, collection, communication, supply, disposal, or other transmission system. Includes, but is not limited to poles, wires, main drains, sewers, pipes, traffic signals, hydrants, or other similar equipment for the public's health, safety and general welfare.

FAMILY. One or more related persons or up to five persons not related by blood, marriage, or adoption, occupying a property and living as a single household unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

FINANCIAL INSTITUTION. Any building where the primary occupation is concerned with such State regulated businesses as banking, savings and loans, loan companies and investment/securities companies.

FEMA. Federal Emergency Management Agency.

FENCE. A structure, other than a building, which is a barrier and used as a boundary or means of security or confinement.

FINDINGS OF FACT. The information that a board uses when making a recommendation or decision on an application.

FIRM. (Flood Insurance Rate Map) is an official map of the community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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

FLOOD HAZARD AREA. The lands within the jurisdiction of the community subject to inundation by the regulatory flood.

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

FLOOD PROTECTION GRADE. The elevation of the regulatory flood plus two feet at any given location in the special flood hazard area (SFHA).

FLOODWAY FRINGE. Those portions of the flood plain which lying outside the floodway.

FRONTAGE. That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot. Lots shall not be considered to front on stub ends of streets and the case of corner lots will be considered to front on both intersecting streets.

FRONT YARD DEPTH (a.k.a. SETBACK). The prescribed minimum open space extending across the entire width of the lot between the front line of the building (building line) and the front lot line/street right-of-way.

FUNERAL HOME. A building used for the preparation of the deceased for funeral and the ceremonies connected therewith before burial or cremation.

GARAGE SALE. A sale of household goods, furniture, equipment, utensils, appliances, tools, personal clothing or effects, novelty items, glassware, farm products, or similar personal property, including, but not limited to any sale commonly termed “porch sale,” “yard sale,” “lawn sale,” “group or family sale,” “rummage sale,” “white elephant sale,” “attic sale”.

GAS STATION. A facility used partly or entirely for storing or dispensing flammable liquids, combustible liquids, liquefied flammable gas, or flammable gas into the fuel tanks of motor vehicles.

GOVERNMENT BUILDINGS. A building, or part thereof, owned or leased by a governmental agency and used for governmental functions by an agency or political subdivision of the United States, the State of Indiana, Dearborn County, or Town of Dillsboro. Also referred to as “Public facility,” and may include essential services.

GRADING. The process of moving or removing dirt, rock or vegetation from the property for the purpose of improving or developing the property. Grading can include removing material from the property to another site for the purpose of providing fill material to improve or develop the site. For the purpose of this Ordinance grading is not considered mining.

GREENHOUSE. Any location, facility, or structure where plants are grown for hobby, sale, or personal use or consumption.

GROUP RESIDENTIAL FACILITY. A residential facility for a group of individuals who are not developmentally disabled or mentally ill, having full or part time supervisory staff providing care, education, social or counseling services, and participation in community activities. This definition shall include emergency or homeless shelters and group homes; it shall not include assisted living, nursing, or retirement facilities.

HEAVY INDUSTRY. A use engaged in the basic processing and manufacture of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

HOME-BASED BUSINESS. An accessory use of a dwelling unit for gainful employment which does not meet the definition of home occupation, but which: a) is clearly incidental and subordinate to the use of the dwelling unit as a residence, b) is carried on solely within the main dwelling, garage, or other outbuilding, and does not alter or change the exterior character or appearance of the dwelling, c) is located in a zoning district which allows residential uses, and d) is a business other than a child day care. In the Agricultural zoning districts, it is intended that home-based businesses be generally related to the use of the property for agricultural purposes (unless a request for a specific use is approved by the Plan Commission); clients or customers shall be permitted to come to the dwelling, garage, or outbuilding to conduct business.

HOME DAY CARE. An establishment operated for the purpose of providing care and maintenance to children separated from their parents or guardians at an established residence of a licensed day care provider.

HOME OCCUPATION. An accessory use of a dwelling unit for gainful employment which a) is clearly incidental and subordinate to the use of the dwelling unit as a residence, b) is carried on solely within the main dwelling and does not alter or change the exterior character or appearance of the dwelling, c) is located in any zoning district which allows residential uses, d) is a business other than a child day care, and e) is operated only by residents of the dwelling, f) has only a limited number of clients or customers (i.e. 10 or less per day on average, less than 50 per week) who come to the dwelling to conduct business.

HOSPITAL. An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, clinics and administrative offices operated in connection therewith.

HOTEL. A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such it is open to the public in contradistinction to a motel, boarding house, a lodging house, or an apartment, which are herein separately defined.

HOUSEHOLD. One or more individuals occupying a single dwelling unit.

IMPERVIOUS SURFACE. An area that has been compacted or covered by a layer of material that is highly resistant to infiltration by stormwater. Impervious surfaces include buildings, parking areas, driveways, sidewalks, and graveled areas.

IMPROVEMENT LOCATION PERMIT. A permit or certificate of zoning compliance indicating that the proposed use, erection, construction, reconstruction, alteration, or moving of a building or structure, or use of land, referred to therein, complies with the provisions of this Ordinance.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device approved by the Health Department to serve the disposal needs of one single-family residential dwelling. An individual sewage disposal system is privately-maintained.

INFRASTRUCTURE. The total composition of public, semi-public and private utilities, facilities and services which make urban areas possible. The infrastructure includes roads, rail, transit, sewage, water, storm drainage, education, fire, police, recreation, general public health, general public administration and revenue.

INDOT. Indiana Department of Transportation.

ITE. Institute of Traffic Engineers.

JUNK. Any automobile or other similar motorized vehicles (including wrecked, inoperable, dismantled, or unlicensed automobiles and watercraft, including associated parts/tires), appliances, furniture, machinery, recyclable materials, scrap and waste materials, and similar materials accumulated or collected for disposal, storage, resale, or similar uses.

JUNKYARD. (INCLUDING AUTOMOBILE WRECKING). A junkyard is an open area where junk, waste, scrap, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, papers, rags, rubber tires, bottles, and inoperable equipment or machines or motor vehicles. A junkyard includes automobile wrecking or salvage yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment, but does not include uses established entirely within enclosed buildings or composting operations. The presence of two or more non-operational motor vehicles on a lot for a time period exceeding thirty (30) days shall constitute evidence regarding the establishment of a junkyard.

KENNEL. (See ANIMAL KENNEL.)

KEEPING OF ANIMALS. The keeping of animals refers to the presence or caring of animals for any length of time.

LANDFILL. A facility designed and used for the disposal of solid wastes in an appropriate manner that minimizes potential environmental degradation. Hazardous, toxic, or radioactive waste disposal is not permitted in a landfill.

LANDMINIUM. A single family attached dwelling unit separately owned and valued for property tax purposes which includes land under the unit along with common areas under group ownership and paid by a homeowners association.

LANDSCAPE SCREEN OR BUFFERYARD. A defined area composed of vegetation and/or structures located between different and/or conflicting types or intensities of land uses or activities. A landscape screen or bufferyard may include a combination of trees, shrubs, earthen berms, landscaping fences, and/or open space qualities. The purpose of a landscape screen or bufferyard is to minimize the potential negative impacts of noise, light, dust, dirt pollution, and differing visual effects of one use or activity upon another.

LANDSCAPING. The preservation, addition, and maintenance of trees, bushes, plants, and/or other natural features.

LEGAL NONCONFORMING STRUCTURE. Any structure or part of a structure legally existing at the time of enactment of this Ordinance or any of its amendments, which does not conform to the provisions of this Ordinance.

LEGAL NONCONFORMING USE. Any use or arrangement of land or structures legally existing at the time of enactment of this Ordinance or any of its amendments, which does not conform to the permitted use provisions of this Ordinance.

LEVEL OF SERVICE (LOS). A measure of the mobility characteristics of an intersection as determined by vehicle delay and secondary factor, the volume/capacity ratio.

LIBRARY, PUBLIC. A building used primarily for the collection, care and circulation of books and other reference materials which are available to members of the general public for reading or reference.

LIGHT INDUSTRY. The processing and fabrication of certain materials and products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. Light manufacturing includes, but is not limited to, the production of the following goods:

- apparel
- ceramics
- dies and gauges
- electrical instruments
- electronic devices
- food products
- home appliances
- jewelry
- light sheet metal products
- lightweight nonferrous metal castings
- lithographic plates
- machine tools
- musical instruments
- novelties
- office machines
- optical goods
- pharmaceutical goods
- plastic goods
- precision instruments
- printed material
- timepieces
- wood products

Light manufacturing does not include animal slaughtering, curing, rendering of fats, or similar uses.

LOADING, OFF-STREET. Space logically and conveniently located outside of the right-of-way for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required.

LODGE, PRIVATE. A building or facility owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

LODGING HOUSE. A building, other than a dwelling unit or dormitory, where lodging with or without meals is provided in exchange for compensation.

LOT. One or more parcels of land occupied or capable of being occupied by one or more structures. The lot shall have frontage and access on an improved public street, or an approved private street.

LOT, DEPTH OF. A mean horizontal distance between the front and rear lot lines.

LOT, MINIMUM AREA OF. The horizontally projected area of a lot computed exclusive of any portion of the right-of-way of any public or private street or alley.

LOT OF RECORD. A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded in the office of the County Recorder.

LOT, WIDTH OF. The distance between the side lot lines as measured on the building line.

MANUFACTURED HOME. A dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the Federal Manufactured Home Construction and Safety Standards Law of 1974 (942 USC 5401 et seq.) and IC 22-15-4-1, as it may be amended. (Also see Mobile Home and Modular Home)

MANUFACTURING. The processing and fabrication of any article, substance, or commodity.

MINING, MINERAL EXTRACTION. Mining or quarrying, including the extraction from the subsurface or surface of sand, gravel, rock, clay, silt, shale, stone, and other mineral or material subject to IC 36-7-4-1103 (Site Plan Review Required);

MOBILE HOME. A dwelling unit composed of one or more components substantially assembled in a manufacturing plant and designed to be transported to a building site on its own chassis for placement on a supporting structure. A mobile home is constructed in accordance with the standards established in the U.S. Department of Housing and Urban Development's building code for manufactured housing. A mobile home is not constructed in accordance with the standards established in the state and local building codes that are applicable to site-built homes. The removal of a mobile home's wheels and/or the attachment to a permanent foundation shall not change its classification. Mobile homes do not include modular homes, dwelling units with automotive capabilities, or recreational vehicles.

MOBILE HOME PARK. An area of land on which two or more mobile homes are regularly accommodated with or without charge, including any building or other structure, fixture, or equipment that is used or intended to be used in providing that accommodation.

MOBILE FOOD SERVICE UNIT. A vehicle, typically a pushcart, towed trailer, truck, or van from which food and beverages are sold.

MODULAR HOME. A dwelling unit composed of two or more components substantially assembled in a manufacturing plant and transported to a building site by truck for final assembly on a permanent foundation. A modular home must be constructed in accordance with the standards established in the state and local building codes that are applicable to site-built homes. Modular homes do not include mobile homes. For the purposes of this order, a modular home is considered to be a single-family dwelling unit.

MOTEL. A facility primarily for transients traveling by automobile, with a parking space on the lot for each lodging unit, and with access to such unit directly from the outside.

MULTIPLE FAMILY STRUCTURE. A residential structure containing three or more dwelling units.

MULTIPLE TENANT COMMERCIAL STRUCTURE. A structure containing two or more commercial or retail tenant spaces.

MULTI-MODAL TRANSPORTATION. Facilities, or a system of facilities, that accommodate more than one mode of transportation such as motor vehicles, bicycles, pedestrians, buses, light rail, etc. Such facilities may include but are not limited to, carpooling lots, bus stops, transit stations, bike ways or lanes, bike racks, pedestrian paths, etc.

MURAL. A painting or other picture on the side, top, or roof of a building or structure which does not function as a sign as defined herein.

MUSEUM or GALLERY. Institutions established for the purpose of acquiring, conserving, studying, interpreting, assembling and exhibiting to the public for its instruction, education and enjoyment a collection of artifacts or objects of artistic, historic or scientific interest.

M.U.T.C.D. Manual on Uniform Traffic Control Devices

NEIGHBORHOOD FACILITY. A facility intended to serve the needs of a specific segment of a community or area. Neighborhood facilities shall include, but not be limited to, a branch YMCA or YWCA; a Boys and Girls club; or a Boy Scout or Girl Scout facility.

NIGHT CLUB. A restaurant, coffee house, tavern, or similar establishment where a dance floor or entertainment is provided. This definition shall not include any establishment meeting the definition of “adult cabaret”.

NONCONFORMING USE OR STRUCTURE. A structure which lawfully existed at the time of adoption or amendment of the zoning regulations, which does not conform to the regulations of the zoning district in which it is situated.

NUISANCE. Something that is considered harmful to health and well-being, annoying, obnoxious, and unpleasant.

NURSING HOME. Premises used for the housing of and caring for the ambulatory, aged, or infirm. There shall be only incidental convalescent care not involving either trained nurse or physician residing on the premises. There shall be no surgery, or other similar activities such as is customarily provided in sanitariums and hospitals.

OCCUPANCY PERMIT. A document issued by the Building Commissioner, or his / her designee, upon completion of the construction of a structure, or change in use of structure or parcel of land and indicating that the use or structure is in compliance with all applicable local and state codes and that the structure and land may be used for the purposes set forth in the improvement location permit.

OFFICE. Any room, studio, clinic, suite or building wherein the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by salesmen, sales representatives or manufacturer’s representatives; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents, dentists or physicians, urban planners and landscape architects.

OFFICE PARK. A defined geographic area planned and coordinated for the development of various office/business uses and associated activities. An office park is designed, constructed, and managed on an integrated basis with particular attention given to vehicular circulation, parking utilities, stormwater management, building design, signage, and landscaping.

OPEN SPACE. A land area designated for recreation, resource protection, and/or buffering purposes. Open space may include, but is not limited to lawns, decorative plantings, walkways, trails, playgrounds, fountains, swimming pools, woods, natural drainage features, and any other passive or active recreational facilities that the Plan Commission deems appropriate. Open space is not defined as existing or future road rights-of-way, streets, driveways, parking areas, or buildings.

OPERATOR. The owner, permit holder, custodian, manager, operator or any person in charge of any permitted or licensed activity.

OUTDOOR DISPLAY. The placement of goods, equipment, or materials for sale, rental, or lease in an area not enclosed by a structure consisting of walls and a roof, excluding yard sales as defined herein.

OUTDOOR STORAGE. The temporary or permanent keeping of goods, products, automobiles, equipment, or materials in an area not enclosed by a structure consisting of walls and a roof.

OWNER. The person, persons, or other entity having legal title to particular real estate, or such other person, persons, or entity acting on behalf of and with the written permission and authority of the legal title holder, such as a holder of an option or contract to purchase the real estate, or a lessee. In the context of this order, "owner" means the person, persons, or entity bearing responsibility for a development review application or proposal, and the term "owner" may be used interchangeably with terms such as applicant, developer, owner by option, etc.

PARK. See "PUBLIC RECREATION FACILITY"

PARKING AREA (LOT). A group of more than six parking spaces, or an open area not including any part of a street, alley, or residential driveway designed or used for the temporary parking of motor vehicles.

PARKING SPACE, OFF-STREET. Parking lot area designed and exclusively designated for the purpose of automobile parking. Must be adequate for parking an automobile with room for opening doors on both sides, properly related access to a public street or alley and maneuvering room. All off-street parking spaces shall be located totally outside of any street or alley right-of-way.

PARKING STRUCTURE. A self-contained and privately maintained area or structure accessed by a public street but allowing no through traffic routes and providing such off-street parking as may be required under this Ordinance for the building served. Said parking unit may be entered by a private drive from the public street, provided, that such drive offers adequate ingress and egress for emergency vehicles and otherwise complies with acceptable Town standards.

PETS. (See DOMESTICATED, HOUSEHOLD PETS and / or UNDOMESTICATED, NON-HOUSEHOLD ANIMALS)

PLACE OF WORSHIP. See "CHURCH"

PLAN COMMISSION. See "ADVISORY PLAN COMMISSION"

PLANNED UNIT DEVELOPMENT. A defined land area to be planned and developed as a single development or an ordered series of developments. A planned development may include a variety of land use types and densities that are characterized by imaginative designs. A planned development's imaginative design shall creatively address architectural design, location of structures, integration of differing land uses, access management, interior vehicular and pedestrian access, stormwater management, landscaping, signage, and the preservation of natural topography, drainage, and vegetation.

PLANT NURSERY. Any facility, structure, or location where plants are grown for sale.

PLANTING STRIP. An area of land between the street and the sidewalk, designed to allow for the growth of vegetation and trees.

PLAT, MINOR. A low intensity subdivision, as further set forth herein.

PLAT, MAJOR. A higher intensity subdivision, as further set forth herein.

PLAT, PRIMARY. A preliminary subdivision document, as further set forth herein.

PLAT, SECONDARY. A final subdivision document, as further set forth herein.

POND. Any inland body of water that in its natural state has a surface area of 500 square feet or more with a depth no less than 3.5 feet, and body of water artificially formed or increased that has a surface area of 500 square feet or more with a depth no less than 3.5 feet. For purposes of measuring pond setbacks under this Ordinance, ponds shall include any man made supporting structure containing such body of water.

PRE-APPLICATION MEETING. Informal discussions between a developer or individual and the planning staff occurring prior to the submission of an application for action by the Plan Commission. The pre-application meeting allows the planning staff to acquaint the applicant with the applicable procedures and regulations, suggest improvements to a proposed design, encourage the applicant to contact appropriate authorities on the provision of public utility service, and provide the applicant with any pertinent information relating to the proposed application.

PRIMARY (a.k.a. PRINCIPAL) STRUCTURE. The structure in which the primary (main) use of the lot is conducted.

PRIMARY STRUCTURE HEIGHT. The height, from the ground to the crown of the roof, of the structure in which the primary use of the lot is conducted. For structures with exposed lower levels, such as single-family residences with daylight or walkout basements, the lower level area shall not be included in the height measurement.

PRIMARY (a.k.a. PRINCIPAL) USE. The principal use to which premises are devoted, and the main purpose for which the premises exist.

PRIVATE CLUB. A facility open only to members, not for use by the general public.

PRIVATE RECREATION. Any activity privately owned and not open for use by the general public.

PRIVATE RECREATION FACILITY. A private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

PROFESSIONAL OFFICE. Any structure or portion thereof used or intended to be used as an office for such services as are provided by health practitioners, lawyers, architects, engineers, and similar professions.

PUBLIC RECREATION FACILITY. A facility owned by a public or quasi-public body designed for the preservation of historic or scenic property, or for park/recreational use by the general public.



Public recreation facility

PUBLIC UTILITY STRUCTURE. All of the buildings, wells, dams, reservoirs, plant and equipment of a public utility (regulated by the IRUC and / or FURC) including all real and personal property, and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished or supplied for, by or in connection with the business of any public utility.

PUBLIC WAY. A publicly dedicated area in which a public entity or the general public have the legal right-of-passage regardless of improvements to the dedicated area. Public ways include, but are not limited to, an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel viaduct, walk, or bicycle path.

RECREATIONAL USE. A public or private use of a building, structure or property which involves either an active or passive activity conducted indoors or out for the purpose of pleasure, leisure, fellowship or exercise commonly involving a sporting activity, camping, hiking, jogging, hunting, bicycling, fishing, swimming, boating, and other related activities.

RECREATIONAL VEHICLE. A wheeled vehicle designed primarily for the purpose of personal recreation, pleasure, or travel, but not for permanent habitation. Recreational vehicles include, but are not limited to, motor homes, camper trailers, boats, dune buggies, stock cars, and motorcycles that are not street legal. Such wheeled vehicles may also be considered to be a trailer pursuant to the definition in this article. Recreational Vehicles may be used for recreational purposes during seasonal periods of the year but may not be used for more than 90 consecutive days or for more than 180 days of each calendar year.

RECREATIONAL VEHICLE PARK. An area of land used for the parking of two or more recreational vehicles.

RECREATIONAL VEHICLE SALES. Any location where recreational vehicles (a vehicle designed for temporary dwelling for travel and vacation) are sold or distributed.

RECYCLING FACILITY. A facility which receives distinct solid waste items such as: books, magazines, newspapers, and other paper products; glass; metal cans; and other similar items for treatment and processing for recycling purposes. For the purposes of this ordinance, this term shall include tipping stations and waste transfer facilities.

REGULATORY FLOOD. Flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the State Department of Natural Resources. This flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

RESTAURANT. An establishment in which the principal (main) activity is the sale of food and beverages for consumption on the premises.

RETAIL. A use engaged in the sale of merchandise and/or services directly to the end purchaser or end user, and where sales to the general public are not restricted or prohibited as may occur in a wholesaling use. A retail use is generally not conducted in conjunction with warehousing or distribution functions, with the exception of factory outlet stores where the retail use is accessory to the warehousing or distribution use.

RETENTION POND. A retention pond is a facility designed to hold a specific amount of water indefinitely.

RIGHT-OF-WAY. (a.k.a. R/W) An area or strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges. For land platting purposes, the term “right-of-way” shall mean that every right-of-way established and shown on a plat is to be separated and distinct from the lot(s) or parcel(s) adjoining such right-of-way and not included within the dimensions or areas of such lot(s) or parcel(s). Rights-of-way intended for streets, crosswalks, water lines, sanitary sewer, storm drains, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat such right-of-way is established.

RIGHT-OF-WAY EASEMENT. A legally authorized use for a defined area by a property owner to the Town or other governmental jurisdiction for use as a public roadway and the maintenance of the roadway and/or other utilities as specified.

ROADSIDE STAND. A temporary structure designed or used for the display or sale of agricultural and related products.

SCHOOL. A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under Indiana State Laws, including pre-kindergarten, kindergarten, elementary, middle, junior high, and high schools, but excluding trade, business, or commercial schools.

SCREENING. A fence, evergreen hedge, or wall at least six feet in height, provided in such a way that it will block a line of sight. The screening may consist either of one or several rows of bushes or trees, or of a constructed wall or fence.

SEASONAL SALES . A commercial use that may include indoor or outdoor retail sales of seasonal items, including but not limited to fireworks; fruits and vegetables; plants, flowers, and garden supplies; Christmas trees; and other similar uses.

SELF-SERVICE STORAGE FACILITY (MINI-WAREHOUSE). Buildings and premises consisting of individual, self-contained units that are leased to individuals, businesses, or organizations for self-service storage of personal property.

SERVICE SHOP. Buildings and premises wherein the primary use is the supply and dispensation at retail of gasoline, oil, grease, batteries, tires and motor vehicle accessories, and where in addition, the services for minor engine repair, tire servicing, exhaust systems, washing, brake repairs and other minor repair activities may be rendered and sales made, but only as accessory and incidental to the primary occupation.

SHOPPING CENTER. A commercial real estate development which includes more than one single or multiple tenant retail facility, located on a lot or tract, or a combination of lots or tracts.

SHOPPING MALL. A commercial real estate development comprised of department, retail, and/or other commercial stores, the majority of which have entrances facing on a common enclosed mall area. The terms “enclosed mall shopping center” as used herein shall not include freestanding buildings located at or about such enclosed mall shopping centers.

SIDE YARD WIDTH. The prescribed minimum open space extending from the side of any primary or accessory structure to the side lot line throughout the entire depth of the yard. Any lot line not a rear line or a front line shall be deemed as a side line.

SIDEWALK. Paved surface typically found along a street to allow for pedestrian use and travel, usually constructed of concrete or asphalt.

SIGHT DISTANCE. The length of roadway that is visible in front of a driver. The minimum sight distance available should be sufficiently long to enable a vehicle traveling at or near the design speed to stop before reaching a stationary object in its path.

SIGN. Any surface, fabric, or device bearing lettered, pictorial, or sculptured matter designed to convey information visually and exposed to public view; or any structure, including billboards, poster panels, or other graphic displays, designed to carry the above visual information.

SIGN AREA. The area of all signs shall be the area in square feet of the smallest, simplest geometric figures that enclose the area that form the outside shape of the sign face. For signs with complex or irregular shapes, the area of the sign shall be calculated by dividing the sign into multiple geometric figures. For non ground-mounted freestanding signs, the sign structure(s) shall be included in the calculation of the area of the sign; for ground-mounted freestanding signs, the sign structure(s) shall not be included in the calculation.

SIGN, FREESTANDING. A sign which is supported by one or more poles, posts, or braces on the ground or permanently attached to the ground, and which is not attached to or supported by any building.

SIGN HEIGHT. The distance between the lowest grade level within two feet of either side of a sign and the highest part of the sign or its supporting structure.

SIGN, INCIDENTAL. A small auxiliary sign typically used to provide information such as: directions on or to a property, historical information, official notices, parking limitations, residents names, street names and numbers, traffic information; warnings and other similar information. Direction and similar incidental signs may also include logos or other proprietary symbols.

SIGN, MAINTENANCE OF. The act of permitting a sign structure, or part of a sign structure to continue; or to repair, refurbish a sign, structure, or part of either.

SIGN PERMIT (SIGN IMPROVEMENT LOCATION PERMIT). A permit or certificate of zoning compliance indicating that the proposed use, erection, construction, reconstruction, alteration, or moving of a sign complies with the provisions of this Ordinance.

SIGN, TEMPORARY. A sign displayed upon the same lot, tract, or development parcel for up to 30 days in any calendar year in conjunction with certain activities or events. Examples are business openings, closings, or relocations; business special sales; construction or renovation projects; garage or yard sales; institutional campaigns or events; the offering of real properties for lease or sale; political campaigns; and other similar temporary activities or events. In cases where the duration of the event by necessity exceeds 30 days, such as longer-term construction projects or real estate sales/lease offerings, such signs may remain on the property until the conclusion of the activity.

SITE PLAN. A plan prepared to scale showing accurately and with complete dimensioning, the location of all proposed uses and all site development features for a specific site. A site plan addresses physical design, location of structures, access management, interior vehicular and pedestrian access, stormwater management, landscaping, signage, provisions of all required improvements, and the interrelationship of the various site plan components.

STOPPING SIGHT DISTANCE. The distance traveled by the vehicle from the instant the driver of a vehicle sights an object necessitating a stop to the instant the brakes are applied, and the distance required to stop the vehicle from the instant brake application begins.

STREET. The full width between property lines bounding every public way or whatever nature, with a part thereof to be used for vehicular traffic and designated as a public or private roadway used, or intended to be used, for vehicular traffic.

STRUCTURE. Anything constructed or erected or applied, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, including, in addition to buildings, billboards, carports, decks, porches, and other building features, but not including construction or features such as drives, earth berms or mounds, patios, sidewalks.

SUBSTANTIALLY UNDERWAY. Any activity in which earth has been moved and/or removed and construction has begun on the site including but not limited to the digging and poring of the foundation or footers, raising of walls. May also include the laying of material for the construction of roads or parking areas.

SUPPLY YARD. A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the wrecking, salvaging, dismantling, or storage of automobiles and similar vehicles.

SWIMMING POOL. A structure designed or constructed to be filled with water and intended to be used for swimming or similar purposes, which is both over 24 inches in depth and over 250 square feet in size. This definition shall include structures above or below ground level; structures containing water or empty; residential and nonresidential structures; and portable structures.

TAVERN. A place of business where liquor and/or beer is sold and consumed.

TECHNICAL REVIEW COMMITTEE. The committee responsible for the technical evaluation of site plan applications required under this order. Membership may include, but is not limited to, the Town Manager, a representative from the Plan Commission or its Zoning Administrator or his or her designee, a representative from the local Health Department, a representative from the Soil and Water Conservation District (SWCD), a representative from the applicable public works department, a representative from the applicable water and/or sewer district, the applicable local engineer or designee or consultant, the applicable fire district, a representative from the Dearborn County Building Department, and the County Surveyor or his or her designee.

TEMPORARY BUILDINGS. Temporary buildings, including construction trailers, equipment, and materials used in conjunction with construction work may be permitted in any district during the period construction work is in progress. Such temporary facilities shall be removed upon completion of the construction work. Continued placement, use or storage of such facilities or equipment on site beyond the completion date of the project shall require a zoning permit authorized by the Zoning Administrator. These temporary buildings cannot be used for advertisement of any kind except that the temporary building may display the builder's and/or developer's names.

THEATER. A facility for audio and visual productions and performing arts, excluding adult motion theaters and adult entertainment businesses.

TOWNHOUSE DWELLING UNIT. A single-family attached dwelling consisting of one dwelling from ground to roof, a separate entrance, and having more than one floor or story but sharing walls with another dwelling unit or an accessory structure of another dwelling unit, where three or more dwelling units attached.

TRAILER. Any wheeled vehicle designed to be hauled, pulled, or towed by automobile, truck, tractor, or other vehicle, including but not limited to campers, utility wagons, construction and farm equipment. Such wheeled vehicle may also be considered to be a recreational vehicle pursuant to the definition in this article.

TRIPS. Generally referred to in this ordinance as one-way trips and not two-way round trips.

UNDOMESTICATED, NON-HOUSEHOLD ANIMALS. Animals typically larger than one hundred and fifty pounds (150 lbs.) at maturity (by species and breed) and / or species that are considered exotic, wild, or foreign to Dearborn County (as defined in Chapter 90, Sections 90.02 and 90.23 of the Dearborn County Animal Control Ordinance), which are not customarily kept within a home or upon its immediate premises and / or that may be used for production, commercial and / or recreational purposes.

USE. The specific purposes for which land and/or a building are designated, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE. Subject to the approval of the Board of Zoning Appeals, a modification of the strict terms of the relevant regulations of this Ordinance where modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship, in the case of use variances; or practical difficulty, in the case of development standards variances.

VETERINARY CLINIC. A place used for the care, diagnosis and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention and may include overnight accommodations on the premises for treatment, observation and/or recuperation.

VICINITY MAP. A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and service within the general area in order to better locate and orient the area in question.

WAREHOUSING AND DISTRIBUTION. A use engaged in storage, wholesale, transfer, and/or distribution of manufactured products, bulk materials, food and drink, supplies, and/or equipment.

YARD. A required open space unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward, provided accessories, ornaments, and furniture, may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

Front Yard: A yard extending between the side lot lines across the front of the lot and from the front lot line to the front of the principal building. For flag lots, the front yard is measured from the rear lot line of the adjoining lot that is between the flag lot in question and the street.

Rear Yard: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

Side Yard: A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

ZONING. A police power measure, enacted by the governing body of local governments to promote public health, safety, morals and general welfare, which divides the community into districts or zones in which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts.

ZONING ADMINISTRATOR. An official appointed or contracted by the Town Council for the enforcement and application of this Ordinance.

ZONING MAP, OFFICIAL. The map officially adopted by the appropriate legislative unit that delineates the boundaries of all officially adopted zoning districts. The official zoning map may include geographic information, such as the location of streets, railroads, watercourses or bodies, and/or public facilities that are provided for benchmark or orientation purposes.