

RUSH COUNTY

and the communities of
Carthage and Glenwood

UNIFIED DEVELOPMENT ORDINANCE





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Rush County Unified Development Ordinance

User Guide

The breadth and details of a Unified Development Ordinance can be intimidating for first time users not familiar with such regulations or even for veteran code users. This guide will help you understand the structure of the Ordinance and point you in the right direction. For those of you using the Ordinance on the County's web site, there are links to help you navigate (see [1.2 Ordinance Format and Navigation](#)).

Planning and Zoning 101

What's Regulated? A Unified Development Ordinance (UDO) combines the Zoning Ordinance, Subdivision Regulations, and other land use ordinances into one set of regulations. These regulations cover aspects of the built environment, including:

- What can be constructed (single family, stores, offices etc.),
- Size, height, and placement of buildings,
- How much parking is needed and standards for parking design,
- Design standards for landscape, lighting, and signs, and
- The design of stormwater management and utilities.

The Comprehensive Plan is the framework for this Ordinance. Think of it as the "blueprint" for future policies, expectations, and recommendations. One key element is a future land use map that illustrates the intended arrangement of land uses and their density. Some key features in the Plan are recommendations to preserve the historic and natural resources while accommodating new development. Details are provided for future improvements to the transportation system, with a goal to give people choices in how they travel. The Plan is occasionally amended, a process typically led by the Plan Commission at the direction of County Commissioners or Town Council. A table explaining how the UDO addresses the goals of the Comprehensive plan can be found at the end of this guide.

Key Term

Future Land Use Map: A guide for planned future land use. The text of the Comprehensive Plan provides the detail on the Future Land Use descriptions.

The Zoning Map is generally based on the Comprehensive Plan's future land use plan and related policies. The zoning map classifies the County and Towns into different zoning districts. The Ordinance describes what uses are allowed and the standards for building and site design in that district.

Process to Create and Amend the Ordinance. The ordinances that regulate development go back several decades. The Ordinances have been amended from time to time to respond to changes in federal and state laws, administrative rules, and case law. In addition, amendments are occasionally made to improve the Ordinance, address new opportunities, and to be consistent with changes in planning and policies. Any amendment follows a process with a public hearing at the Plan Commission and followed by a Plan Commission recommendation. The County Commissioners or Town Council considers the Plan Commission's recommendation and determines if the proposed amendment meets the criteria for amendments. They then vote to approve or reject the amendment.

If you have a hard copy of the ordinance, write the date of receipt on the cover of first page. Refer to this date when asking the planning staff about any Ordinance amendments since that date (particularly to the zoning map).

Key Term

Zoning Map: Regulates use of the property today. The UDO provides the details of what can be built and the standards for development for the districts shown on the Zoning Map.

How this Ordinance is Organized	
Chapter 1 Ordinance Foundation	Describes the state statutes that authorize the UDO, defines generally where and how the Ordinance applies, the legal framework for the Ordinance, who is involved in administering the Ordinance, and how to handle existing legal uses that may no longer meet the requirements of the Ordinance.
Chapter 2 Zoning Districts	Establishes the various zoning districts explaining the intent of each district and the development standards to follow when building in each district.
Chapter 3 Permitted Uses	Identifies what land uses are permitted in each district and the type of approval necessary. Each use is defined, and special requirements are noted (for example, some uses require a larger separation from residential uses). This chapter also covers temporary uses and events.
Chapter 4 General Standards	Covers standards that generally apply to all properties, plus agriculture preservation standards, and property maintenance standards.
Chapter 5 Design Standards	Identifies items that need to be incorporated into documents submitted for approval. Standards are provided for site layout, streets, and easements.
Chapter 6 Rural Center Improvement Standards	Provides standards that apply only in Rural Centers. Some standards apply to new and existing development, while others only apply to new development.
Chapter 7 Subdivisions	Establishes the types of subdivisions and details the approval process for each type.
Chapter 8 Process and Permits	There are separate submittal forms and checklists for different types of requests, such as approvals for a rezoning, site plan or variance. An applicant needs to obtain the appropriate application, fill out the forms, and provide the information listed as required for that type of approval. This chapter also outlines the review and approval process of each application.
Chapter 9 Enforcement	This chapter outlines the procedures for notification and action that can be taken if there is a violation of this Ordinance, i.e., someone knowingly or unknowingly does not comply with regulations set forth in the UDO.
Chapter 10 Definitions	Terms used in Zoning, Subdivision Ordinances and Building Codes do not always match up with what is commonly understood. This chapter defines the meaning of terms used in the UDO that have specific meanings. For example, what is an "accessory use" to a home or what is meant by different use terms like "Child Care Center."

How do I determine the current zoning and planned use of my property?

Check the Official Zoning Map: What is permitted in one district may not be permitted in another. To analyze the permitted uses or design requirements for a piece of property, first look at the Official Zoning Map to see how the property is zoned. This map is on the County's website and in the Planning Department office. The zoning map is periodically amended, such as when a property owner receives approval for rezoning their land. The Planning Department maintains the current Official Zoning Map.

Recommendations from the Comprehensive Plan, and other plans and studies may have recommendations related to your property or proposed project. Generally, rezonings must be consistent with the Future Land Use Map. Proposed developments should also align with the goals and policies of the Comprehensive Plan.

What uses are allowed? What standards apply?

The zoning map classifies land into different zoning districts. Those districts are described in **CHAPTER 2: ZONING DISTRICTS**. In that chapter you will find a list of the various zoning districts illustrated by colors on the Zoning Map. Those districts include:

A1	Rural Preservation
A1R	Transitional Agriculture
A2	Agri-Business
A3	Regulated Livestock
A4	Agricultural Park
R1	R1 Residential
R2	R2 Residential
R3	R3 Residential
R4	R4 Residential
MH	Mobile Home
B	Business
C	Commercial
I1	Light Industrial
I2	Heavy Industrial
DT	Downtown Mixed-Use
IN	Institutional
PUD	Planned Unit Development

Text for each district that describes the intent of the district, the development standards for each district, and references to other sections of the Ordinance for additional design standards. Development standards, like minimum lot width, lot size, and building setbacks vary from one zoning district to another.

A table of uses allowed in each district can be found in **3.2 Use Matrix**. This table lists uses in the rows and zoning districts in the columns. Each cell in the table identifies if a use is permitted and the type of approval needed:

P - "Permitted" Uses. If you meet the standards, the use is allowed.

S - "Special Exception" uses are reviewed by the Board of Zoning Appeals using the standards outlined in **8.7 Special Exceptions**.

Blank Cell – If a cell is blank, the use is not permitted in that zoning district. If a use is not listed on the table, it is not permitted in any zoning district.

Click the use name for a description of the use and any conditions or limitations associated with the use.

The last column of the table gives the minimum number of parking spaces required for that use.

3.2 Use Matrix

P = Permitted Use S = Special Exception Use	A1	A1 R	A2	A3	A4	R1	R2	R3	R4	MH	B	C	I1	I2	DT	IS	Minimum Parking Requirements
AGRICULTURE PRIMARY USES																	
Agricultural Processing													S				No requirement
Agriculture Use, Less than 10 Acres (other than confinement feeding)	P	P	P	S									S	S			No requirement
Agritourism												P	P				0.3 spaces/1000 SF GFA
Animal Husbandry Services				P								P	P				No requirement
Confinement Feeding				P													No requirement
Farm Equipment Sales & Service			P		P							S		P			0.3 spaces/1000 SF GFA
Farms & Ranches (Livestock other than Dairy)				P									P				No requirement
Farms (Field Crops other than fiber or cash grain crops)	P	P	P	P	P	S	S						P				No requirement
Farms	P	P	P	P	P								P				No requirement

What are my options if my intended use is not listed as a permitted or special exception land use?

If your proposed use is not listed as an allowed use on your property, you have several options, including:

- Find an alternative use for your property that is permitted or find a site that is properly zoned for your intended use.
- If your use is not listed anywhere in the Ordinance, you could request that the Administrator consider your intended use based on the "determination of similar uses" as explained in [8.10 Administrative Determination](#). In some cases, the Administrator may take the request to the Planning Commission for input. The Board of Zoning Appeals has final authority if you disagree with the Administrator's interpretation.
- Request to rezone the property. This requires a public hearing before both the Plan Commission and approval by the County Commissioners or Town Council (depending on where the property is located). [8.2 Rezones](#) lists the criteria applied in reviewing your rezoning request.
- Request to amend the UDO to add your proposed use, either as a Permitted Use or Special Exception Use, in your zoning district.

What is the next step when the proper zoning is in place?

Once proper zoning is in place there are several factors to consider during the early stages of project planning. The list below highlights some of the more distinct options and procedures.

- Natural Features:** The Comprehensive Plan strives to maximize preservation of existing natural features. The UDO contains specific natural resource regulations for trees and the protection of watershed resources. In some cases, a tree inventory is required. If your site contains wetlands or is along a creek or stream, these areas need protection. There may be floodplain that impact development on the site.
- Site Plan (for a site) or Subdivisions Plats (for a series of lots):** Most projects, other than construction of a single-family home, require a site plan. Approval of lots and related infrastructure requires submission and approval of a subdivision plat. Most of the design standards are found in Chapters 5, 6, and 7, though other regulations, like the Building Code, also apply. Submittal requirements for those procedures are described in [CHAPTER 8: PROCESS AND PERMITS](#). If your project is expected to generate a significant amount of traffic or is located on a congested corridor, you may be required to submit a transportation impact analysis must be prepared by a certified traffic engineer or transportation planner.

What is the approval process for my project?

The level of impact matters.

- Simple projects with minor impacts can often be approved at the staff level.
- Projects with bigger impacts require public hearings and board approval.

Approvals may be combined:

- Primary plat, site plan, and modifications may be addressed simultaneously.
- Construction drawing and secondary plat approval may be addressed together.

ORDER OF PROJECT APPROVALS

#1 USE

Is the use approved for the site?

- Rezone (APC & legislative body)
- Special Exception (BZA)
- PUD (APC & legislative body)

CHAPTER 8



#2 PROPERTY LINES

Do property lines need adjusting?

- Administrative or Minor Subdivision (staff)
- Major Subdivision (APC)

CHAPTER 7



#3 SITE DESIGN

Do any development standards need adjusting?

- Development Standards Variance (BZA)
- Modification or waiver
(as part of the subdivision or plan site approval)

Is site plan approval required? (APC or staff)

Prepare construction drawings (staff)

Prepare secondary plat - if subdividing (staff)

CHAPTER 8

Improvement Location Permit issued when plans are approved.

How to Determine the Necessary Approvals

1. **Check the Zoning Map and related District text to confirm your use is allowed.**
2. **Determine which approvals are needed:** This may include rezoning, site plan, subdivision plat, Variance, etc.
3. **Obtain the applicable application form:**

Copies of the application forms are on the County's web site and available at the County Planning Department. The package includes the application form, a schedule of the steps in the review and approval process, and a checklist of information you must provide. In most cases, Staff will schedule a pre-application conference to review the procedures and requirements with you.

Once you complete the application package, submit it to the County Planning Department. Staff then begins the review process. Typically, the first step is an administrative review by the Committee (representatives of different departments). In most cases, a report is prepared to alert you of any changes your application materials need. Depending upon the type of review, when the application is considered complete, the Administrator will forward your request to the Plan Commission or Board of Zoning Appeals, as appropriate.



Chapter 1

ORDINANCE FOUNDATION

The legal framework for this UDO

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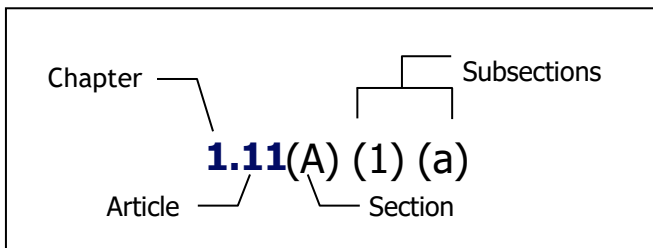


1.1 Title

This Ordinance is known as the “Unified Development Ordinance of Rush County, Indiana,” and may be cited and referred to as the “Zoning Ordinance,” “Subdivision Control Ordinance,” or “Unified Development Ordinance” (referred to here as this “Ordinance”).

1.2 Ordinance Format and Navigation

Format. This Ordinance follows this structure:



How to Use This Document

- Certain aspects of the electronic format of this document allow the user to quickly navigate the document by clicking on hyperlinks.
- Article headings in the chapter’s table of contents will direct the user to that article within the chapter.
- In-line text cross-references to other articles within this document which are colored and emphasized will direct the user to the cross-referenced article.
- On the Permitted Use Table, [**3.2 Use Matrix**](#), click the uses for a description of the use and any conditions or limitations associated with the use.
- When using a digital version of the document, opening the bookmarks icon on the left side of the screen will allow navigation throughout the document.
- Use the “Find” tool in Adobe to search for specific words. This can be accessed through the Edit dropdown menu or ctrl+F on the keyboard.
- Cross-references to documents and websites outside of this document are provided for convenience only. The accuracy of these links is not guaranteed.



Adobe Reader
Bookmark Icon

1.3 Authority and Purpose

- A. **Authority.** This Ordinance is adopted according to the authority of [**IC 36-7-4**](#) et seq. If sections of Indiana Code or Indiana Administrative Code referenced in this Ordinance are amended or replaced, this Ordinance is amended to refer to the updated section of code.
- B. **Scope.** This Ordinance applies to all real property located within the unincorporated areas of Rush County, Indiana, and the incorporated areas of the Town of Carthage, Indiana, the Town of Glenwood, Indiana, and the Rural Centers in the County. A Rural Center is defined as the portions of the county located within an incorporated town, an unincorporated community, and land within ¼ mile of the



boundary of the City of Rushville. This includes the Town of Carthage, the Town of Glenwood, and the unincorporated communities of Arlington, Boyd, Charlottesville, Fairview, Falmouth, Farmers, Gings, Gowdy, Henderson, Homer, Manilla, Mauzy, Mays, Milroy, Moscow, New Salem, Occident, Raleigh, Richland, Sexton, and Williamstown. The boundaries of the Rural Centers are shown on the Official Zoning Map.

- C. The use of land and structures must comply with all provisions of this Ordinance, including obtaining all required permits and certificates.

An Improvement Location Permit issued prior to the effective date of this Ordinance may be completed and occupied according to the approved plans, provided construction begins within one year of the effective date and is diligently pursued to completion. After completion the structure is subject to the provisions of **1.12 - 1.16 Nonconforming** if it does not meet the requirements of this Ordinance.

- C. **Purpose.** This Ordinance is intended to guide the growth and development of the community according to the Comprehensive Plan (consistent with **IC 36-7-4-601(c)** et seq.) to:

1. Promote the public health, safety, and general welfare;
2. Secure adequate light, air, convenience of access, and safety from fire, flood, and other danger;
3. Protect the historic and architectural heritage of the community;
4. Conserve property values and minimize the conflicts between land uses;
5. Assure adequate and efficient transportation, water, sewerage, schools, parks, drainage, and other public requirements and facilities; and
6. Promote the efficient and economical use of public funds while being sensitive to the surrounding environment and neighboring development.

1.4 Interpretation and Application

- A. **Severability.** It is the declared intention of the Legislative Body that the provisions of this Ordinance are severable. If any provision or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, that decision does not affect the validity of any portion of the Ordinance except the portion declared invalid.
- B. **Minimum Requirements.** The provisions of this Ordinance are the minimum requirements for the promotion of public health, safety, and general welfare.
1. If two or more provisions within this Ordinance conflict or are inconsistent with one another, then the most restrictive provision controls. Where graphics or illustrations within this Ordinance conflict with the text of the Ordinance, the text provision controls.
 2. Where the provisions of this Ordinance conflict or are inconsistent with applicable State or Federal regulations, the more restrictive provision controls.
 3. This Ordinance is not intended to invalidate any easement, covenant, or any other private agreement. Where the regulations of this Ordinance are more restrictive (or impose higher standards or requirements), the provisions of this Ordinance control.



- C. **Defined Words.** Words used in a special sense in this Ordinance are defined. All other words have the meaning inferred from their context in this Ordinance or their generally accepted definitions (**CHAPTER 10: DEFINITIONS**)

1.5 Exclusion

This Ordinance does not restrict any unit of government from exercising the power of eminent domain or the use of property owned or occupied by the State of Indiana or its agencies.

1.6 Saving Provision

Except stated otherwise in this Ordinance, the adoption of this Ordinance does not:

- A. Nullify or reduce a complete application or permit filed prior to the effective date of this Ordinance;
- B. Modify any penalty accruing or about to accrue under any prior zoning ordinance;
- C. Affect the liability of any person, firm, or corporation under any prior zoning ordinance;
- D. Waive any right of the County or Town under any prior zoning ordinance; or
- E. Annul any rights obtained by lawful action of the County or Town under any prior zoning ordinance.

1.7 Incorporation of Other Documents

- A. Improvement Location Permits, site plans, and subdivision plats must conform to the principles and standards established by this Ordinance.
- B. The following documents for each participating jurisdiction are incorporated, as amended, by cross-reference into this Ordinance:
 - The Comprehensive Plan
 - County or Town Construction Standards, as applicable

1.8 Repeal of Prior Ordinance and Effective Date

- A. This Ordinance comprises a replacement ordinance for the jurisdictions of Rush County, Indiana, the Town of Carthage, Indiana and the Town of Glenwood, Indiana, as described in **IC 36-7-4-602(a)**. Accordingly, the prior Zoning Ordinances and Subdivision Control Ordinances are repealed on the Effective Date of this Ordinance.
- B. The Effective Date of this Ordinance is the latest of:
 - The final day notice of the adoption of the penalty provisions of this Ordinance is published under **IC 36-7-4-610(a)**.
 - The day this Ordinance is filed with the County Clerk or Clerk-Treasurer's office, as applicable, under **IC 36-7-4-610(f)**.
 - April 1, 2026.



- C. This section applies to any complete application filed before the Effective Date of this Ordinance. The Applicant may request the Administrator treat the application as an application filed according to this Ordinance instead of the prior Zoning Ordinance or Subdivision Control Ordinance. If the Administrator grants the request, the application is then approved or denied by the Planning Department, the Board of Zoning Appeals "BZA", the Plan Commission, or the Legislative Body according to the provisions of this Ordinance.

1.9 Administrative Bodies

The decision-making bodies and officials identified in this article have the responsibility for implementing and administering this Ordinance.

A. Administrator

1. The Executive Director of the Planning Department and/or designated staff of the Department, is designated as the Zoning Administrator (the "Administrator").
2. Authority. The Administrator is authorized and directed to enforce and implement the provisions of this Ordinance, receive applications required by this Ordinance, issue permits, and furnish the prescribed certificates.
3. Duties. The Administer will:
 - a. Maintain an approved Comprehensive Plan and the Unified Development Ordinance, as authorized under Indiana law.
 - b. Maintain rules of procedure for holding meetings and holding public hearings of the Plan Commission and BZA.
 - c. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission and BZA.
 - d. Make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission and BZA.
 - e. Maintain a permitting process and seal used to certify official or approved documents. Keep careful and comprehensive records of applications, permits issued, certificates issued, inspections made, reports rendered, and of notices or orders issued. Retain copies of all documents connected to building work if any part of the related structure remains.
 - f. Examine premises and enforce laws relating to the construction, alteration, use, occupancy, location, and maintenance of structures and land.
 - g. Render interpretations of the provisions of this Ordinance.
 - h. Review and approve or deny applications for permits required by this Ordinance.
 - i. Other duties set forth here or that may be delegated by the Plan Commission, BZA, or County Commissioners.



- B. **Board of Zoning Appeals.** The Board of Zoning Appeals (the "BZA"), per IC 36-7-4-900 et seq. has the powers and duties to:
1. Approve, approve with conditions, or deny any application for a development standards variance or special exception.
 2. Hear and decide an appeal from any order, requirement, decision, or determination made by the Administrator, Administrator's designee, or any administrative board, other than the Plan Commission, in the administration or enforcement of this Ordinance.
 3. Enforce the provisions of this Ordinance.
 4. Adopt rules of procedure for the administration of the BZA's duties.
- C. **County Commissioners.** The County Commissioners have the following powers and duties to:
1. Approve, reject, or amend all or part of the comprehensive plan as certified by the Plan Commission.
 2. Initiate amendments to this Ordinance and to adopt, reject, or amend proposals to amend or partially repeal the text of this Ordinance.
 3. Adopt, reject, or amend proposals to amend the zoning map according to the procedures and standards for rezones.
 4. Adopt, reject, or amend a Planned Unit Development Ordinance according to the procedures and standards for Planned Unit Developments.
 5. Take other actions not exclusively delegated to other bodies, necessary to implement the provisions of this Ordinance.
- D. **Floodplain Administrator**
1. The Zoning Administrator and/or designated staff of the Department, is designated as the Floodplain Administrator.
 2. Authority. The Floodplain Administrator has the duties outlined in 2.8(E)(3).
- E. **Plan Commission.** The Plan Commission, established per IC 36-7-4-200 et seq. has the powers and duties to:
1. Initiate amendments to the text of this Ordinance and to the Zoning Map according to the procedures and standards for amendments.
 2. Review all proposed amendments to this Ordinance and make recommendations to the Legislative Body according to the procedures and standards for amendments.
 3. Review all Planned Unit Development petitions and make recommendations to the Legislative Body for the adoption of the petitions according to the procedures and standards for Planned Unit Developments.
 4. Render a final decision regarding secondary review of all Planned Unit Development petitions according to the procedures and standards for a Planned Unit Development.



5. Review, approve, approve with conditions, or deny all subdivision applications according to the procedures and standards for subdivision approval.
6. Approve, approve with conditions, or deny all waiver applications for the subdivision regulations, according to the procedures and standards for plat waivers.
7. Approve, approve with conditions, or deny all site plans according to the procedures and standards for site plans.
8. Adopt rules of procedure for the administration of the affairs of the Plan Commission's duties.
9. Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission.
10. Prepare, publish, and distribute reports, ordinances, and other material related to the Plan Commission's activities as authorized by law or this Ordinance.
11. Exercise all powers conferred on it by law, local ordinance or rule including to invoke any legal, equitable, or special remedy for the enforcement of state planning and zoning laws or this Ordinance.

F. **Technical Advisory Committee.** The Technical Advisory Committee is created and vested with the review authority set forth below in connection with the implementation of this Ordinance:

1. Membership. The Technical Advisory Committee is comprised of County and Town departments and outside agencies per the Plan Commission Rules of Procedure.
2. Review Authority. The Technical Advisory Committee has the powers and duties to:
 - a. Review and evaluate applications for waivers and make recommendations to the Plan Commission, according to the procedures and standards for waivers set forth in the subdivision regulations.
 - b. Review and evaluate site plans, and make recommendations to the Plan Commission, according to the procedures and standards for site plan review.
 - c. Take other actions as delegated by the Plan Commission that may be desirable and necessary to implement the provisions of this Ordinance.

G. **Town Council.** The Town Council has the following powers and duties to:

1. Approve, reject, or amend all or part of the Comprehensive Plan as certified by the Plan Commission.
2. Initiate amendments to this Ordinance and to adopt, reject, or amend proposals to amend or partially repeal the text of this Ordinance.
3. Adopt, reject, or amend proposals to amend the zoning map according to the procedures and standards for rezones.
4. Adopt, reject, or amend a Planned Unit Development Ordinance according to the procedures and standards for Planned Unit Developments.
5. Take other actions not exclusively delegated to other bodies, necessary to implement the provisions of this Ordinance.



1.10 Public Utility Installations

Structures and land used for public utility installations are subject to the provisions of this Ordinance to the extent permitted under Indiana law. All structures for a public utility installation, including substations, require approval of a site plan ([*8.6 Site Plan Review*](#)) and improvement location permit ([*8.11 Improvement Location Permit*](#)).

1.11 Zoning Map

- A. **Official Zoning Map.** The zoning map for the jurisdiction of the Plan Commission is included as part of this Ordinance. The map may be known and referred to as the “Official Zoning Map” and as the “Zoning Map”. The Official Zoning Map is in the office of the Planning Department and may be maintained as an [*electronic zoning map*](#). Copies of the Official Zoning Map must be labeled as copies and contain the last date of modification. The Official Zoning Map should be revised annually or as the Plan Commission determines necessary.
- B. **Determination and Interpretation of District Boundaries.** The following rules apply where uncertainty exists about the exact boundaries of any zoning district as shown on the Zoning Map:
1. Zoning district boundaries shown within or parallel to the lines of streets, easements, railroad lines and rights-of-way follow the centerline of the affected street, easement, or right-of-way. At the boundaries of the jurisdiction of the Plan Commission, district boundaries include the full width of such streets, easements, and rights-of-way.
 2. Zoning district boundaries indicated as following, or being parallel to section or fractional sectional lines, lot lines, or corporate boundaries are interpreted as following or paralleling such lines.
 3. Zoning district boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water are interpreted to follow such centerlines.
 4. Zoning district boundaries indicated as approximately following the boundaries of a parcel are interpreted to follow such parcel lines.
 5. If the boundary line of a district divides a lot in a manner essentially perpendicular to a street, the district which applies to the larger part of the lot applies to the entire lot.
 6. In the case of uncertainty, the Administrator interprets the intent of the Zoning Map and determines the location of the boundary in question. If the Administrator cannot definitively determine the location of a zoning district boundary, the BZA may determine the location of the zoning district boundary.
- C. **Procedure Relating to Annexed or Vacated Areas.** Land annexed into a Town retains its current zoning district, unless changed in the annexation ordinance or by an amendment to this Ordinance. Whenever any right-of-way or other similar area is vacated, the zoning districts adjoining each side of the right-of-way or the area automatically extend to the center of such vacation. All areas included in the vacation are subject to all appropriate provisions of the extended zoning district. In the event of a partial vacation, the adjoining zoning district, or zoning district nearest the portion vacated, extends automatically to include all the vacated area.



1.12 Nonconforming Regulations

- A. Upon the adoption of this Ordinance, the Zoning Map, and potentially upon other government action (e.g., acquisition of right-of-way), some buildings, structures, lots and uses may no longer conform to the regulations of their zoning district. The nonconforming regulations in this chapter provide the rules, policies, and regulations that apply to these buildings, structures, lots and uses.
- B. These regulations do not prevent restoring to a safe condition all or part of a structure declared unsafe by an official charged with protecting the public safety. This restoration cannot be used to enlarge the nonconforming structure nor be used as grounds for adding other structures or uses prohibited by this Ordinance.
- C. Any nonconforming use or structure previously granted variance or special exception approval remains subject to the conditions imposed when the variance or special exception was granted.

1.13 Exemption for Nonconformity Created by Public Acquisition

Any property, lot or structure rendered nonconforming solely by the action of a governmental agency modifying any street, is exempt from these nonconformance provisions.

1.14 Legal Nonconforming and Illegal Nonconforming

- A. **Legal Nonconforming.** Legal nonconformance occurs when the adoption or amendment of this Ordinance results in the property no longer conforming to the standards of the applicable zoning district. When this situation occurs, the property is considered legal nonconforming and is subject to the terms of this Ordinance.
- B. **Illegal Nonconforming.** A building, structure, sign, or lot constructed or used without an approved building permit, Improvement Location Permit, or approval from the BZA or Plan Commission is considered illegal nonconforming when it does not conform to this Ordinance. An illegal nonconforming property is subject to enforcement and penalties as set forth in **CHAPTER 9: ENFORCEMENT**, and all other applicable state or municipal law. The illegal nonconforming property must be altered to conform with all applicable standards and regulations of this Ordinance.

1.15 Nonconforming Lots of Record

- A. **Single Nonconforming Lots of Record.** In any district, a permitted use and its customary accessory uses may be erected on any single lot of record after the effective date of this Ordinance, despite limitation imposed by this Ordinance. This lot must be in separate ownership and not contain continuous frontage with other lots of the same ownership. This provision applies even though the lots fail to meet the requirements for area and/or width generally applicable in the district. The lots are required to meet all other lot development standards for their district.
- B. **Lots in Combination.** If 2 or more lots with continuous frontage and single ownership are of record on the effective date of this Ordinance, and if all or part of the unimproved lots do not meet the requirements established for lot width and area, the land involved is considered an undivided parcel to meet the minimum requirements of this Ordinance. The Administrator may require the combination of



the lots into a single parcel using the Administrative Subdivision process (**7.2(A)(2)**). No portion of the parcel can be used or sold, nor can the parcel be divided to create a lot, in a manner which diminishes compliance with lot width and area Ordinance requirements.

1.16 Nonconforming Uses and Structures

The lawful use of a building or premise, existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform to all the provisions of this Ordinance, subject to the following conditions:

- A. Whenever a nonconforming use has been changed to a conforming use, it cannot be changed back to a nonconforming use.
- B. A building used by a nonconforming use may be expanded in area and height if the nonconformity is not increased, and the expansion conforms to all applicable standards of this Ordinance.
- C. A nonconforming use may be extended throughout a building.
- D. Buildings cannot be erected upon any premises devoted to a nonconforming use, unless conforming to the provisions of this Ordinance.
- E. If a nonconforming use is discontinued for 12 months, the use cannot be reestablished or resumed. Subsequent use or occupancy of the land or structure must comply with the regulations of the zoning district where the land or structure is located. When a period of discontinuance is caused by government action, strikes, material shortages, or acts of God, and without any contributing fault of the owner or occupant, the period will not be considered in calculating the length of the discontinuance.
- F. Except for single family dwellings, any legal nonconforming structure damaged or destroyed by more than 50% of the replacement cost cannot be restored unless the replacement structure conforms to the regulations of the zoning district where it is located. This regulation does not authorize the creation of a new nonconformity or increase the degree of any nonconformity existing prior to such damage or destruction. Restoration or repair of the building or other structure must be started within 6 months from the date of damage or destruction, and diligently prosecuted to completion.
- G. Normal maintenance and repair, including replacement, installation, or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure devoted fully or partially to a legal nonconforming use.





Chapter 2
DISTRICTS

Land use districts and their development requirements

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2.1 Establishment of Zoning Districts

Rush County is divided into the following zoning districts:

A. Agricultural Districts

A1	Rural Residential
A1R	Transitional Agriculture
A2	Agri-Business
A3	Regulated Livestock
A4	Agricultural Park

B. Residential Districts

R1	R1 Residential
R2	R2 Residential
R3	R3 Residential
R4	R4 Residential
MH	Mobile Home

C. Commercial Districts

B	Business
C	Commercial

D. Industrial Districts

I1	Light Industrial
I2	Heavy Industrial

E. Special Districts

DT	Downtown
IS	Institutional
PUD	Planned Unit Development

F. Overlay Districts

HCO	Highway Corridor Overlay
FPO	Floodplain Overlay



2.2 Agriculture District Standards

Purpose

The Agriculture Districts are intended to retain the County's rural character, protecting farms and woodlands while allowing limited residential development.

A1 – Rural Residential. The **Rural Residential District** has been created to provide single household housing for those not engaged in farming activities but nonetheless seek housing outside the incorporated city limits in a transitional area between traditional agricultural uses and urban areas.

A1R – Transitional Agriculture. The **Transitional Agriculture District** provides single household housing as well as areas for livestock and agricultural activity. An existing CFO located here is not eligible to receive an Improvement Location Permit without application to the Board of Zoning Appeals (BZA) for a special exception.

A2 – Agri-Business. The **Agri-Business District** allows agricultural-based businesses to locate near related agricultural activity.

A3 – Regulated Livestock. The **Regulated Livestock District** is established to encourage the continuation of agricultural uses of land while discouraging the addition of single household housing by property owners not engaged in those agricultural activities. Larger livestock operations, including CFOs and other Indiana Department of Environmental Management (IDEM) regulated activities may be permitted in this district, as well as crop production and other traditional agricultural operations.

A4 – Agricultural Park. The **Agricultural Park District** allows industrial type uses that are related to or service agricultural activity.

Uses permitted in the Agricultural Districts are found on the [***3.2 Use Matrix***](#).

In the Agricultural Districts, new development is also subject to the provisions in:

[***CHAPTER 4: GENERAL STANDARDS***](#)

[***CHAPTER 5: DESIGN STANDARDS***](#)

[***CHAPTER 6: IMPROVEMENT STANDARDS FOR RURAL CENTERS***](#) (if within the boundary of a Rural Center)



	A1	A1R	A2	A3	A4
LOT REQUIREMENTS					
Maximum Density (units/acre)	1	0.5	-	0.5	-
Minimum Lot Size (acres) (on sewer)	0.5	2	10	2	20
Minimum Lot Size (acres) (on septic)	1 ^(A)	2	10	2	20
Minimum Lot Width (feet)	200'	225'	250'	250'	600'
Minimum Lot Frontage (feet)	100'	150'	200'	200'	550'
^(A) The maximum lot size is 2 acres. If additional acreage is needed to comply with setback or health requirements, the maximum lot size may be increased up to 4 acres.					
BUILDING PLACEMENT REQUIREMENTS					
Residential Uses					
Minimum Front Setback	50'	100'	-	100'	-
Minimum Street Side Setback	35'	60'	-	60'	-
Minimum Side Setback	20'	40'	-	40'	-
Minimum Rear Setback	20'	40'	-	40'	-
Nonresidential Uses					
Minimum Front Setback	50'	100'	60'	100'	200'
Minimum Street Side Setback	35'	60'	45'	60'	200'
Minimum Side Setback	20'	40'	30'	40'	200'
Minimum Rear Setback	20'	40'	30'	40'	200'
BUILDING REQUIREMENTS					
Maximum Building Height – Residential Uses	2 stories	2 stories	-	-	-
Maximum Building Height – Non-Residential Uses ^(B)	55'	55'	55'	55'	55'

^(B) Agriculture structures are exempt from height requirements

ADDITIONAL STANDARDS FOR AGRICULTURE DISTRICTS

1. A cul-de-sac or T-shaped turnaround must be provided on the premises to prevent vehicles from backing out onto a street or roadway.
2. Private water wells must be located at least 50 feet from all property lines.



2.3 Residential District Standards

Purpose

The Residential Districts provide a range of living options from low density subdivisions to the higher density development encouraged around the towns throughout the county.

R1 Residential. The **R1 Residential District** is intended for low density residential uses (up to 1 dwelling unit per acre) developed in a large lot neighborhoods as a transition between rural areas and higher density residential neighborhoods. Single-family detached homes are the primary building type, but duplexes that retain the single-family character of the district may be approved.

R2 Residential. The **R2 Residential District** is established to accommodate suburban-style subdivisions at densities up to 2.5 units per acre, along with related uses. To encourage diversity in residential lifestyle options and meet the County's housing goals, single-family homes and duplexes are permitted in this district. Triplexes may be approved if done in a manner that retains the single-family character of the district.

R3 Residential. The **R3 Residential District** is intended to encompass some of the existing single family residential neighborhoods and accommodate new development of single-unit homes, duplexes, and triplexes at densities up to 6 units per acre. Townhouses or small apartment buildings may be approved if compatible with the character of the surrounding neighborhood.

R4 Residential. The **R4 Residential District** is established to provide the widest range of housing options at densities of up to 12 units per acre. The R4 District reflects the development patterns found within the towns and census designated places within Rush County. Single-family dwellings, small-scale multifamily dwellings, and townhomes are permitted, along with compatible public, quasi-public, and institutional uses.

MH Mobile Home. The **Mobile Home District** is established to provide appropriate locations and regulatory standards for the establishment and operation of mobile home parks. This district is designed to facilitate a diverse range of housing options and encourage quality living environments for residents. This district does not permit the sale of unoccupied mobile home dwellings parked for inspection or sale.

Uses permitted in the Residential Districts are found on the [3.2 Use Matrix](#).

In the Residential Districts, new development is also subject to the provisions in:

[CHAPTER 4: GENERAL STANDARDS](#)

[CHAPTER 5: DESIGN STANDARDS](#)

[CHAPTER 6: IMPROVEMENT STANDARDS FOR RURAL CENTERS](#) (if within the boundary of a Rural Center)



	R1	R2	R3	R4	MH
LOT REQUIREMENTS					
Maximum Density (units/acre)	1	2.5	6	12	9
Single-Family Detached Dwelling					
Minimum Lot Size (square feet) (on sewer)	43,560	20,000	8,000	5,000	5,000
Minimum Lot Size (square feet) (on septic)	43,560	-	-	-	-
Minimum Lot Width	200'	100'	70'	45'	45'
Minimum Lot Frontage/Street Frontage	100'	80'	60'	40'	-
Duplex Dwelling	SE				
Minimum Lot Size (square feet per dwelling unit)	20,000	10,000	4,000	2,500	-
Minimum Lot Width	100'	50'	35'	25'	-
Minimum Lot Frontage/Street Frontage	50'	40'	30'	20'	-
Triplex Dwelling		SE			
Minimum Lot Size (square feet per dwelling unit)	-	7,000	2,100	1,600	-
Minimum Lot Width	-	25'	25'	20'	-
Minimum Lot Frontage/Street Frontage	-	20'	20'	15'	-
Townhouse Dwelling			SE		
Minimum Lot Size (square feet per dwelling unit)	-	-	2,000	1,400	-
Minimum Lot Width	-	-	20'	18'	-
Minimum Lot Frontage/Street Frontage	-	-	18'	16'	-
Multifamily Dwelling	SE	SE	SE		
Minimum Lot Size (square feet per dwelling unit)	1,500	1,500	1,500	1,500	-
Minimum Lot Width	40'	40'	40'	40'	-
Minimum Lot Frontage/Street Frontage	30'	30'	30'	30'	-
BUILDING PLACEMENT REQUIREMENTS					
Minimum Front Setback	30'	20'	20'	15'	-
Minimum Street Side Setback	20'	15'	15'	10'	-
Minimum Side Setback (1)	15'	8'	8'	5'	-
Minimum Rear Setback	20'	20'	15'	10'	-
Garage Along Street Setback	35'	25'	25'	20'	-
SE = Only permitted through the conditional use process. See 3.2 Use Matrix and 8.7 Special Exception (1) The side yard setback between attached units within the same building is 0'.					
BUILDING REQUIREMENTS					
Maximum Building Height	2 stories	2 stories	2 stories	3 stories	2 stories



2.4 Commercial District Standards

Purpose

The Commercial Districts seek to accommodate various types and intensities of retail and commercial uses from small-scale neighborhood commercial uses to large-scale regional retail uses.

B – Business. The **Business District** is established to provide areas for services generally found in city and town centers. It is designed for business uses geared to meeting the daily needs of residents living in adjacent residential neighborhoods. This district should be strategically located with access to collector and arterial streets.

C –Commercial. The **Commercial District** is established to accommodate retail and commercial uses that are auto-dependent, have a regional draw, or medium- to high-intensity commercial uses.

Uses permitted in the Commercial Districts are found on the [3.2 Use Matrix](#).

In the Commercial Districts, new development is also subject to the provisions in:

[CHAPTER 4: GENERAL STANDARDS](#)

[CHAPTER 5: DESIGN STANDARDS](#)

[CHAPTER 6: IMPROVEMENT STANDARDS FOR RURAL CENTERS](#) (if within the boundary of a Rural Center)

	B	C
LOT REQUIREMENTS		
Minimum Lot Size (square feet)	8,000	8,000
Minimum Lot Width	50'	50'
Minimum Parent Tract Street Frontage	50'	50'
BUILDING PLACEMENT REQUIREMENTS		
Minimum Front Setback		
Where abutting a Residential District	30'	50'
All others	15'	30'
Minimum Street Side Setback		
Where abutting a Residential District	30'	50'
All others (1)	15'	30'
Minimum Side Setback		
Where abutting a Residential District	20'	40'
All others (1)	15'	30'
Minimum Rear Setback		
Where abutting a Residential District	20'	40'
All others	15'	30'
(1) The side yard setback may be reduced to 0' where commercial buildings abut		
BUILDING REQUIREMENTS		
Maximum Height	40'	40'



2.5 Industrial District Standards

Purpose

The Industrial Districts are intended to accommodate a range of uses from low-impact enclosed uses to higher-impact outdoor operations.

I1 – Light Industrial. The **Light Industrial District** is intended to be an employment area containing offices, businesses, and light industrial uses that are generally compatible with adjacent residential or commercial uses. No new residential uses are permitted in this district to promote a stable employment base for the county. This district serves as a land use buffer between residential areas and more intensive industrial areas. All uses conducted in this district must be enclosed within a structure unless specifically allowed to operate out of doors.

I2 – Heavy Industrial. The **Heavy Industrial District** is intended to be an employment area containing industrial uses that are generally more intensive than uses permitted in the Light Industrial District. The purpose of this district is to promote industrial development and economic activity. No new residential uses may be established in this district to promote and continue a stable employment base for the county.

Uses permitted in the Industrial Districts are found on the [3.2 Use Matrix](#).

In the Industrial Districts, new development is also subject to the provisions in:

[CHAPTER 4: GENERAL STANDARDS](#)

[CHAPTER 5: DESIGN STANDARDS](#)

[CHAPTER 6: IMPROVEMENT STANDARDS FOR RURAL CENTERS](#) (if within the boundary of a Rural Center)

	I1	I2
LOT REQUIREMENTS		
Minimum Lot Size (acres)	1	3
Minimum Lot Width	100'	250'
Minimum Parent Tract Street Frontage	80'	60'
BUILDING PLACEMENT REQUIREMENTS		
Minimum Front Setback	35'	45'
Minimum Street Side Setback	28'	33'
Minimum Side Setback	20'	20'
Minimum Rear Setback	20'	20'
BUILDING REQUIREMENTS		
Maximum Height	50'	75'



2.6 Special District Standards

Purpose

The Special Districts are intended to accommodate and enhance distinctive development patterns such as traditional downtowns and community-oriented uses.

DT – Downtown. The **DT Downtown Business District** covers the central business districts of the Rural Centers participating in this UDO. It protects the unique historic character of the downtown areas while establishing the district as a specialty business, residential, and shopping district. This district also permits the development of mixed-use buildings. Storefront first-floor uses should engage passing pedestrians with office and residential uses on the upper floors of the building. This district prohibits large-scale uses not aligned with the form of downtown such as big-box retailers and similar uses.

IS – Institutional. The **Institutional District** is established for community-oriented institutional uses including government offices, hospitals, universities, schools, community centers, and religious institutions. Sites may contain a single use or a mix of uses.

PUD – Planned Unit Development. The **PUD Planned Unit Development District** provides more development flexibility than is possible through customary zoning regulations. This district is intended to encourage large-scale, identity-building developments that mix uses, building types, and building arrangements; provide greater flexibility for sites with natural constraints to conserve natural resources; and allow a review process for creative building types that do not fit well into other zoning districts. The approval of Planned Unit Developments follows the process in [8.3 Planned Unit Developments](#).

Uses permitted in the Special Districts are found on the [3.2 Use Matrix](#).

In the Special Districts, new development is also subject to the provisions in:

[CHAPTER 4: GENERAL STANDARDS](#)

[CHAPTER 5: DESIGN STANDARDS](#)

[CHAPTER 6: IMPROVEMENT STANDARDS FOR RURAL CENTERS](#) (if within the boundary of a Rural Center)

	DT	IS
LOT REQUIREMENTS		
Maximum Density (units/acre)	25	25
Minimum Lot Size (square feet)	-	43,560
Minimum Lot Width	-	100'
Minimum Parent Tract Street Frontage	50'	50'
BUILDING PLACEMENT REQUIREMENTS		
Minimum Front Setback	0'	35'
Minimum Street Side Setback	0'	25'
Minimum Side Setback	0'	15'
Minimum Rear Setback	0'	20'
BUILDING REQUIREMENTS		
Maximum Height	40'	50'



2.7 Highway Corridor Overlay

A. **Purpose and Intent.** Certain arterial roadways serve a vital traffic carrying function and are important community gateways and areas of economic opportunity. The intent of the Highway Corridor Overlay District is to establish specific requirements to preserve roadway capacity and safety; ensure that development does not inhibit future improvements to these roadways; minimize individual driveway access; protect property values along the corridors; promote economic development; minimize distractions and establish a high quality and inviting image at the entrances to the community.

B. **Applicability**

1. Boundaries. The Highway Corridor Overlay District applies to all property along, and within, 500 feet of the centerline on either side of the US 52, IN 3, and IN 44 corridors. If any parcel, building, structure, or improvement is only partially located within the Overlay district, then the provisions of this Overlay apply to the entire parcel, building, structure, or improvement, unless otherwise waived in writing by the Administrator. When making such a determination, the Administrator considers:
 - a. The extent and location of the proposed improvements (e.g., buildings, parking, drainage, etc.) on the parcel.
 - b. The extent of conflicts in applying the standards of this Overlay with existing and/or planned improvements.
2. Relation to the Underlying District. The requirements of this district amend and supersede those imposed on the same lands by the underlying districts.
3. Regulated Development. The regulations of this Overlay district apply in the circumstances cited below.
 - c. Construction of any new building or structure;
 - d. Enlargement or expansion of any existing non-residential building or structure by more than 20% of its gross floor area;
 - e. Proposed subdivision of land for non-residential uses; or
 - f. Proposed construction or expansion of a parking lot by more than five spaces.

Farms and single-family homes are exempt from these regulations unless there is a change in use to a non-farm or non-single-family use.

C. **Uses.** All uses permitted in the underlying zoning district are permitted within the Overlay except for the following prohibited uses:

1. Adult businesses
2. Bulk storage of petroleum items not used for on-site manufacturing
3. Manufacture, use, or storage of explosives



4. Manufactured home park
5. Manufactured home sales
6. Advertising signs (billboards)
7. Penal or correctional institution
8. Retail Sales, Service & Repair, Special Handling uses are prohibited.
9. Salvage and wrecking
10. Sanitary landfill
11. Self-storage facility
12. Slaughterhouse or rendering plants
13. Other uses similar to those above as determined by the Administrator, Plan Commission, BZA, or Legislative Body.

D. **Site Design Standards**

1. Signs.
 - a. In addition to the signage requirements of **4.8 Signage**, within the Overlay detached signs are limited to ground signs with a maximum height of 8 feet.
 - b. Pole signs are prohibited within the Overlay.
 - c. Electronic reader board signs, or Electronic Message Centers (EMCs), are prohibited within the Overlay.
2. Outdoor Storage. Outdoor storage may be permitted if the outdoor storage area is in the rear yard and must be screened on all sides with a solid fence, wall, or landscaping (**6.7 Outdoor Storage**).
3. Loading Areas. Loading and unloading areas are prohibited in any yard abutting a street. Loading docks cannot face a street and must be screened to block views from any adjacent street or residential district.



2.8 Floodplain Overlay

The flood hazard areas of the County are subject to periodic inundation resulting in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, that adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage contribute to the flood loss. To minimize the threat of such damages and to achieve the purposes of this article, these regulations are adopted.

A. **Intent.** The intent of this article is to promote the public health, safety, and welfare and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health.
2. Minimize expenditure of public money for costly flood control projects.
3. Minimize the need for rescue and relief efforts associated with flooding undertaken at public expense.
4. Minimize prolonged business interruptions.
5. Minimize damage to public facilities and utilities (such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges) located in floodplains.
6. Maintain a stable tax base by providing uses of flood prone areas that minimize flood blight.
7. Ensure that occupants of special flood hazard assume responsibility for their actions.
8. Minimize the impact of development on adjacent properties in and around flood prone areas.
9. Ensure the flood storage and conveyance functions of the floodplain are maintained.
10. Minimize the impact of development on the natural, beneficial values of the floodplain.
11. Prevent floodplain uses that are either hazardous or environmentally incompatible.
12. Meet community participation requirements of the National Flood Insurance Program.

B. **Methods of Reducing Flood Loss.** To accomplish its purposes, these regulations include provisions for:

1. Restricting or prohibiting uses that are dangerous to health, safety, and property due to water hazards, or that result in damaging increases in flood heights or velocities.
2. Requiring uses vulnerable to floods be protected against flood damage at the time of initial construction.
3. Controlling the alteration of natural floodplains, stream channels, and protective barriers, that accommodate or channel flood waters.
4. Controlling filling, grading, dredging, excavating, and other development activities that may increase flood damage.



5. Preventing or regulating the construction of flood barriers that unnaturally divert flood waters or increase flood hazards in other areas.

C. **Definitions.** Unless specifically defined below, words or phrases used in this article are interpreted with the meanings they have in common usage and to give these regulations the most reasonable application.

Accessory Structure means a structure with a floor area of 400 square feet or less on the same parcel as a principal structure the use of which is incidental to the use of the principal structure. An accessory structure excludes structures used for human habitation.

1. Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
2. Examples of accessory structures include detached garages, carports, storage and tool sheds, and small boathouses.
3. The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
 - Structures in which any portion is used for permanent or temporary human habitation, either as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;
 - Structures used by the public, such as a place of employment or entertainment; and,
 - Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

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

Alteration of a Watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard or change the direction and/or velocity of the flow of water during conditions of the base flood.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Area of special flood hazard is the land within a community subject to a 1% percent or greater chance of being flooded in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or 100 year flood.



Base Flood Elevation (BFE) means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

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

Best Available Flood Layer (BAFL) means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

Building – See "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

Development means, for floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

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

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



Elevation Certificate means a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

Enclosed area (enclosure) is an area of a structure enclosed by walls on all sides.

Enclosure below the lowest floor – See “Lowest Floor” and “Enclosed Area.”

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

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

FEMA means the Federal Emergency Management Agency.

Fill means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water because of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

Flood hazard area means areas subject to the one percent annual chance flood. (See “Special Flood Hazard Area”)

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).



Flood Insurance Study (FIS) means the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

Flood prone area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Floodplain")

Flood Protection Grade (FPG) is the BFE plus 2 feet at any given location in the SFHA.

Floodplain means any land area susceptible to being inundated by water from any source. (See "Flood")

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

Floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulative increasing the water surface elevation more than a designated height. In no case shall the designated height be more than 0.14 foot at any point within the community.

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe or **Flood Fringe** is the portion of the floodplain lying outside the floodway.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out near water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.



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

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

Historic structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

Hydrologic and hydraulic engineering analysis means analyses performed by a professional engineer licensed by the State of Indiana, according to standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

International Code Council-Evaluation Service (ICC-ES) Report means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified and installed.

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



Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments issued by FEMA to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

1. **Conditional Letter of Map Revision (CLOMR)** means a formal review and comment by FEMA as to whether a proposed project, if built as proposed, or proposed hydrology changes would meet minimum National Flood Insurance Program floodplain management standards. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
2. **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed.
3. **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or parcel of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
4. **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
5. **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
6. **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

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

Lowest floor means, for floodplain management purposes, the lowest elevation described among the following:

1. The lowest floor of a building.
2. The basement floor.
3. The garage floor if the garage is connected to the building.
4. The first floor of a structure elevated on pilings or pillars.



5. The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
 - The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
 - At least 2 openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one square inch for every one square foot of enclosed area. The bottom of all such openings must be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.
6. The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

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

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

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

Natural grade for floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

New construction for floodplain management purposes means any structure for which the "start of construction" commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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

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

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence,



rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See "Regulatory Flood".

Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur because of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Prefabricated Building is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is:

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

Regulatory flood means the flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is defined in the **General Provisions** section. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Solid waste disposal facility means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain



complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Special Flood Hazard Area (SFHA), synonymous with “areas of special flood hazard” and floodplain, means those lands within the jurisdiction of the Rush County subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies as Zones A, AE, A99. The SFHA includes areas that are flood prone and designated from other federal, state, or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

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

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred “repetitive loss” or “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

Variance is a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.



Violation means the failure of a structure or other development to be fully compliant with this ordinance.

Walled and roofed means a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

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

D. General Provisions

1. Applicability: This article applies to all SFHAs and known flood prone areas within the jurisdiction of Rush County.
2. Basis for Establishing Regulatory Flood Data: This section's protection standard is the regulatory flood. The best available regulatory flood data is listed below.
 - a. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within Rush County, delineated as an "AE Zone" on the current Flood Insurance Rate Maps, are determined from the one-percent annual chance flood profiles in the Flood Insurance Study of Rush County, Indiana, and the corresponding Flood Insurance Rate Maps (FIRM) as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone", the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.
 - b. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Rush County, delineated as an "A Zone" on the current Flood Insurance Rate Map, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, must be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
 - c. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas is according to the best data available as provided by IDNR, provided the upstream drainage area from the subject site is greater than one square mile.
 - d. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study is utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.



3. Establishment of Floodplain Development Permit. A Floodplain Development Permit is required in conformance with the provisions of this article prior to the commencement of any development activities in areas of special flood hazard.
4. Compliance. No structure can be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this article and other applicable regulations. No land or stream within the SFHA can be altered without full compliance with the terms of this article and other applicable regulations.

Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

5. Abrogation and Greater Restrictions. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, the more stringent restrictions apply.
6. Discrepancy between Mapped Floodplain and Actual Ground Elevations
 - e. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles governs.
 - f. If the elevation of the site in question is below the base flood elevation, that portion of the site is included in the SFHA and regulated accordingly.
 - g. If the elevation (natural grade) of the site in question is at or above the base flood elevation, and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied, provided the LOMA or LOMR-FW is not subsequently superseded or invalidated
7. Interpretation. In the interpretation and application of this article all provisions are considered as minimum requirements; construed in favor of the governing body; and, deemed neither to limit nor repeal any other powers granted under state statutes.
8. Warning and Disclaimer of Liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this article does not create any liability on the part of the County, the Town, the IDNR, or the State of Indiana, for any flood damage that results from reliance on this article or any administrative decision lawfully made.
9. Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance is deemed a violation of this Ordinance and subject to enforcement.
 - a. A separate offense occurs each day the violation continues to exist.



- b. The Administrator informs the owner that such a violation is considered a willful act to increase flood damages and therefore may cause suspension of a Standard Flood Insurance Policy.
- c. The County or Town is not prevented from taking other lawful action to prevent or remedy violations. All enforcement costs, including attorney's fees, accrue to the persons responsible.

E. Administration

1. Designation of Administrator. The Director of the Planning Department or designated staff of the Department is appointed to administer and implement the provisions of this article and is referred to as the Floodplain Administrator.
2. Permit Procedures. Application for a Floodplain Development Permit is made to the Floodplain Administrator on forms furnished by the Department prior to any development activities and may include plans describing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, and drainage facilities.
 - a. At the application stage the following information is required:
 - A description of the proposed development;
 - Location of the proposed development sufficient to accurately locate property and structures in relation to existing roads and streams;
 - A legal description of the property;
 - For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;
 - A site plan showing existing and proposed improvements and existing and proposed land grades;
 - A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met;
 - Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures with a restroom, kitchen, or other facilities requiring disposal of wastewater;
 - Elevation of the top of the lowest floor (including basement) of all proposed structures in Zones A and AE. Elevation should be in NAVD 88;
 - Elevation in NAVD 88 to which any non-residential structure will be floodproofed;
 - Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;
 - Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;
 - Plans showing how any proposed structure will be anchored to resist flotation or collapse;
 - Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88;



- Description of the extent to which any watercourse will be altered or relocated because of proposed development. A hydrologic and hydraulic engineering study is required, and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (Additional information can be found below under **Provisions for Flood Hazard Reduction.**)
 - Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
- b. Construction Stage. At the construction stage the following information is required: Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it is the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator reviews the elevation certificate. Any deficiencies detected during the review must be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required is cause to issue a stop-work order for the project. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same.
- c. Finished Construction. At the completion of construction, the following information is required:
- Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the “as-built” lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate is prepared by or under the direct supervision of a registered land surveyor. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. and certified by the same.
 - Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
 - Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate is prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.
3. Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator is authorized to enforce the provisions of this article. The Floodplain Administrator is authorized to render interpretations of this article consistent with its intent and purpose. Duties and responsibilities of the Floodplain Administrator include:
- a. Enforce the provisions of this ordinance.
 - b. Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.



- c. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- d. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- e. Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- f. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- g. For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator:
 - Verifies and documents the market value of the pre-damaged or pre-improved structure;
 - Compares the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost must be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;
 - Determines and documents whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage;" and
 - Notifies the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards of this ordinance are required.
- h. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
- i. Ensure that construction authorization has been granted by IDNR for all development projects subject to the **Provisions for Flood Hazard Reduction** section and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- j. Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if the above subsection is applicable.



- k. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.
 - l. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, according to the **Permit Procedures** subsection.
 - m. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed according to the **Permit Procedures** subsection.
 - n. Make on-site inspections of projects according to the **Administrative Procedures** subsection.
 - o. Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
 - p. Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen, or other facilities requiring disposal of wastewater.
 - q. Provide information, testimony, or other evidence as needed during variance hearings.
 - r. Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions according to the **Administrative Procedures** subsection.
 - s. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this article.
 - t. Coordinate map maintenance activities and associated FEMA follow-up according to the **Map Maintenance Activities** subsection.
 - u. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
 - v. Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
4. **Administrative Procedures**
- a. **Inspections of Work in Progress.** As the work pursuant to a permit progresses, the Floodplain Administrator makes as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.



b. Stop Work Orders

- Upon notice from the Floodplain Administrator, work on any building, structure or premises done contrary to the provisions of this article must immediately cease.
- The notice is in writing and given to the owner of the property, or to his agent, or to the person doing the work, and states the conditions under which work may be resumed.

c. Revocation of Permits

- The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the Ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Ordinance.

d. Floodplain Management Records

- Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance must be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
- These records are available for public inspection at the Rush County Planning Department, 101 East Second Street, Room 211, Rushville, Indiana 46173.

e. Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.



5. Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the Rush County flood maps, studies, and other data identified in the **Basis for Establishing Regulatory Flood Data** subsection to accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

a. Requirement to Submit New Technical Data

- i. For all development proposals that impact floodway delineations or base flood elevations, the community ensures that technical data reflecting such changes be submitted to FEMA within 6 months of the date such information becomes available. These development proposals include:
 - Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- ii. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions are the responsibility of the applicant.
- iii. The Floodplain Administrator requires a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
- iv. Floodplain development permits issued by the Floodplain Administrator are conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

- b. Right to Submit New Technical Data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission includes appropriate supporting documentation made in writing by the Legislative Body and may be submitted to FEMA at any time.
- c. Annexation/Detachment. Upon occurrence, the Floodplain Administrator notifies FEMA in writing whenever the boundaries of a Town have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Flood



Insurance Rate Map accurately represent the Town boundaries, include within such notification a map of the Town suitable for reproduction, clearly showing the new corporate limits or the new area for which the Town has assumed or relinquished floodplain management regulatory authority.

6. Variance Procedures.

- a. The BZA hears and decides appeals and requests for variances from requirements of this article.
- b. The BZA hears and decides appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the administration of this article. Any person aggrieved by the decision of the BZA may appeal the decision to the Rush County Circuit Court.
- c. In acting upon applications, the BZA considers all technical evaluations, relevant factors, standards specified in other sections of this Ordinance, and;
 - The danger of life and property due to flooding or erosion damage.
 - The danger that materials may be swept onto other lands to the injury of others.
 - The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - The importance of the services provided by the proposed facility to the community.
 - The necessity of the facility to a waterfront location, where applicable.
 - The compatibility of the proposed use with existing and anticipated development.
 - The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
 - The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- d. A written report addressing each of the above factors is submitted with the application for a variance.
- e. Variances from the provisions of this ordinance are only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
 - A showing of good and sufficient cause.
 - A determination that failure to grant the variance results in exceptional hardship.
 - A determination that granting the variance does not increase flood heights, increase threats to public safety, add extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- f. No variance for a residential use within a floodway subject to the **Provisions for Flood Hazard Reduction** section may be granted.



- g. Any variance granted in a floodway subject to the **Provisions for Flood Hazard Reduction** section requires a permit from IDNR. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- h. Variances to the **Provisions for Flood Hazard Reduction** section, are granted only when a new structure is located on a lot 0.5 acres or less in size, contiguous to and surrounded by lots with existing structures constructed below the FPG.
- i. Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
- j. Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- k. Variances are only issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- l. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- m. Any applicant to whom a variance is granted is given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- n. The Floodplain Administrator maintains the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

F. **Provisions for Flood Hazard Reduction**

1. Floodplain Status Standards

- a. Floodways (Riverine). Located within SFHAs, established in the **Basis for Establishing Regulatory Flood Data** subsection, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (**IC 14-28-1**) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (**IC 14-28-1** and **312 IAC 10**) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam



removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

- If the site is in a regulatory floodway as established in the **Basis for Establishing Regulatory Flood Data** subsection, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (**IC 14-28-1** or **312 IAC 10**).
 - No action can be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit must meet the provisions contained in this article.
 - The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project.
 - In floodway areas identified on the FIRM, development cannot cause an increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of the **General Provisions** section. A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
 - In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, cannot adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
 - For all projects involving channel modifications or fill (including levees) the County or Town submits the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at **44 CFR § 65.12**.
- b. **Fringe (Riverine)**. If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.
- c. **SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)**
- i. Drainage area upstream of the site is greater than one square mile:



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

No action can be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

ii. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator requires the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.

d. SFHAs not Identified on a Map

- If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator verifies the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- No action can be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.



- Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.
2. General Standards. In all areas of special flood hazard, the following provisions are required:
- a. All new construction, reconstruction, or repairs made to a repetitive loss structure, and substantial improvements must be anchored to prevent flotation, collapse or lateral movement of the structure.
 - b. New construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage below the FPG.
 - c. New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
 - d. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be located at/above the FPG or designed to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
 - e. New and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
 - f. New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
 - g. On-site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during flooding.
 - h. Any alteration, repair, reconstruction, or improvements to a structure that complies with the provisions of this ordinance must meet the requirements of "new construction" as contained in this ordinance.
 - i. Base flood elevation data must be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or 5 acres.
 - j. Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest



base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

- k. Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3 feet horizontal to 1 foot vertical.
- l. Non-conversion agreements are required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, agricultural structures, and open-sided shelters.
- m. Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities are not permitted in areas of special flood hazard.

3. Specific Standards - Building Protection Requirement

In addition to the general standards described in the **Provisions for Flood Hazard Reduction** section, structures located in the SFHA must be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

- a. Construction or placement of a residential structure.
- b. Construction or placement of a non-residential structure.
- c. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.
- d. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
- e. Installing a manufactured home on a new site or a new manufactured home on an existing site.
- f. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- g. Reconstruction or repairs made to a repetitive loss structure.
- h. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

4. Specific Standards - Residential Construction

- a. New construction or substantial improvement of any residential structures must meet provisions described in the **Floodplain Status Standards** and **General Standards** subsections of this section.



- b. In Zone A and Zone AE, new construction or substantial improvement of any residential structure must have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters must be provided according to the standards of **(c)** below. Should fill be used to elevate a structure, the standards of **(d)** below must be met.
- c. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade must meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);
 - The bottom of all openings must be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
 - If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG;
 - Doors and windows do not qualify as openings;
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
 - Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
 - ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A residential structure may be constructed on fill according to the following:
 - i. Fill must be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance must be retained in the permit file.
 - ii. Fill must extend 10 feet beyond the foundation of the structure before sloping below the BFE.



- iii. Fill must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3 feet horizontal to 1 foot vertical.
- iv. Fill must not adversely affect the flow of surface drainage from or onto neighboring properties.
- v. Fill must be composed of clean granular or earthen material.
- e. A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

5. Specific Standards – Non-Residential Construction

- a. New construction or substantial improvement of any non-residential structures (excludes accessory structures) must meet provisions described in the **Floodplain Status Standards** and **General Standards** subsections of this section.
- b. In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory and agricultural structures) must either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters must be provided according to the standards of **(c)** below. Should fill be used to elevate a structure, the standards of **(d)** below must be met.
- c. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade must meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - The bottom of all openings must be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.



- If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
 - Doors and windows do not qualify as openings.
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A nonresidential structure may be constructed on fill according to the following:
- i. Must be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method.
 - ii. Must extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - iii. Must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3 feet horizontal to 1 foot vertical.
 - iv. Cannot adversely affect the flow of surface drainage from or onto neighboring properties.
 - v. Must be composed of clean granular or earthen material.
- e. A nonresidential, agricultural, or accessory structure may be floodproofed according to the following:
- i. A Registered Professional Engineer or Architect certifies the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design considers flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. The certification is provided to the Floodplain Administrator.
 - ii. Floodproofing measures must be operable without human intervention and without an outside source of electricity.
- f. A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.
6. Specific Standards – Manufactured Homes and Recreational Vehicles
- a. These requirements apply to all manufactured homes to be placed on a site in the SFHA:



- i. The manufactured home must be elevated on a permanent foundation such that the lowest floor must be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG must be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in the **Provisions for Flood Hazard Reduction** section.
 - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- b. Recreational vehicles placed on a site in the SFHA must either:
- i. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
 - ii. Meet the requirements for “manufactured homes” as stated earlier in this section.

7. Specific Standards – Accessory Structures

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- a. Must have a floor area of 400 square feet or less.
- b. Use is limited to parking of vehicles and limited storage.
- c. Cannot be used for human habitation.
- d. Must be constructed of flood resistant materials.
- e. Must be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- f. Must be firmly anchored to prevent flotation.
- g. Service facilities such as electrical and heating equipment must be elevated or floodproofed to or above the FPG.
- h. Must be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in the **Provisions for Flood Hazard Reduction** section.
- i. Cannot have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.



8. Specific Standards – Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- a. Must have open sides (having not more than one rigid wall).
- b. Must be anchored to prevent flotation or lateral movement.
- c. Must be constructed of flood resistant materials below the FPG.
- d. Any electrical, heating, plumbing and other service facilities must be located at/above the FPG.
- e. Cannot have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

9. Specific Standards – Above Ground Gas or Liquid Storage Tanks

Within SFHAs, all newly placed aboveground gas or liquid storage tanks must meet the requirements for a non-residential structure as required in the **Provisions for Flood Hazard Reduction** section.

10. Standards for Subdivision and Other New Developments

- a. All subdivision proposals and all other proposed new development must be consistent with the need to minimize flood damage.
- b. All subdivision proposals and all other proposed new development must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals and all other proposed new development must have adequate drainage provided to reduce exposure to flood hazards.
- d. In all areas of special flood hazard where base flood elevation data area not available, the applicant provides a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or 5 acres, whichever is less.
- e. All subdivision proposals must minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- f. All subdivision proposals must ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).



- g. Streets, blocks lots, parks and other public grounds must be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains must be included within parks or other public grounds.

11. Standards for Critical Facilities

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



Chapter 3

PERMITTED USES

The allowed uses and their standards

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Permitted Uses





3.1 Permitted Uses

A. **Applicability**

Land can only be used, and structures can only be used, erected, or structurally altered, for allowable uses in the zoning district where they are located.

B. **Land Use Specified**

Each land use is either a permitted, not permitted, or a Special Exception Use in each zoning district as set forth in [3.2 Use Matrix](#) (the "Use Table") or elsewhere in this Ordinance.

C. **Special Exception Uses**

A Special Exception Use designation does not imply the use will be disallowed but it requires a greater degree of scrutiny because of the potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a Special Exception Use for its characteristics and impacts to determine suitability in a zoning district. The approval of the Special Exception Use is subject to a public hearing by the Board of Zoning Appeals according to [8.7 Special Exceptions](#).

D. **Unlisted or Questionable Land Uses**

Any use not listed in the use table or otherwise permitted by this Ordinance is prohibited. The Administrator determines land use placement if it is not specifically listed. This determination may be appealed to the Board of Zoning Appeals consistent with [8.9 Appeals of Administrative Decisions](#).

E. **Primary Use Classifications.** All primary land uses in the Use Table are organized into one of the following five general land use classifications:

- Agricultural Primary Uses
- Residential Primary Uses
- Commercial Sales, Service and Repair Primary Uses
- Industrial, Manufacturing and Wholesale Primary Uses
- Civic, Public and Institutional Primary Uses

F. **Explanation of Table Cell Entries.** Each of the cells on the Permitted Use Table indicates whether a use is permitted or not and what limitations apply to the specific use. Items listed in the Use Standards column refer to conditions for a specific use ([3.3 Use Standards](#)).

- Permitted Use ("P"). A "P" in a table cell indicates the use is permitted in the respective zone district and subject to compliance with the use conditions associated with the use.
- Use Not Permitted (blank cell). A blank table cell indicates the use is **not** permitted in the zone district.



- Use Subject to Special Exception Use Review ("S"). An "S" in a table cell indicates the use is generally appropriate in the zoning district and goes through Special Exception Use review. Special Exception Uses may have the potential for limited impacts on adjacent properties or on the established character of the neighborhood context or zone district. "S" uses are subject to BZA public hearing according to Special Exception Use Review, which grants the Board the authority to impose conditions on the specified use to mitigate any potential impacts. Such uses must comply with any applicable use limitations as well as the review criteria stated in **8.7 Special Exceptions**.



3.2 Use Matrix

P = Permitted Use S = Special Exception Use	A1	A1 R	A2	A3	A4	R1	R2	R3	R4	MH	B	C	I1	I2	DT	IS	Minimum Parking Requirements
AGRICULTURE PRIMARY USES																	
Agricultural Processing			S	S	S								S				No requirement
Agriculture Use, Less than 10 Acres (other than confined feeding)	P	P	P	S									S	S			No requirement
Agritourism	P	P	P	P	P							P	P				0.3 spaces/1000 SF GFA
Anerobic Digesters	S		S	S	P												No requirement
Animal Husbandry Services				P								P	P				No requirement
Confinement Feeding				P										S			No requirement
C&C Welding and Fabrication Facility			S	S	S												0.3 spaces/1000 SF GFA
Farm Equipment Sales & Service			P	P	P							S		P			0.3 spaces/1000 SF GFA
Farms & Ranches (Livestock)				P									P				No requirement
Farms (Field Crops other than fiber or cash grain crops)	P	P	P	P	P	S	S						P				No requirement
Farms (General – no predominance)	P	P	P	P	P								P				No requirement
Farms (predominately crop – Cash Grain)	P	P	P	P	P	S	S						P				No requirement
Farms (predominately crop – Fibers)	P	P	P	P	P	S	S						P				No requirement
Farms (predominately crop – Fruits, Tree Nuts, or Vegetables)	P	P	P	P	P								P				No requirement
Farms (predominately Poultry)				P									P				No requirement
Fertilizer Storage & Distribution			P	P	P								S	P			0.3 spaces/1000 SF GFA
Fisheries & Marine Products			P	P	P								S	P			0.3 spaces/1000 SF GFA
Food Processing Plants			S	P									S	P			0.3 spaces/1000 SF GFA
Forestry	P	P	P	P	P								S				No requirement
Grain and Feed Mills			P	P	P								S	P			0.5 spaces/1000 SF GFA
Greenhouses			P	P	P	S					P	P	S				0.5 spaces/1000 SF GFA
Riding Stables and Academies		S	P		P											S	0.5 spaces/1000 SF GFA
Roadside Produce Stand	P	P	P	P	P	S										S	2 spaces/1000 SF GFA
Sale Barn for Livestock				S													0.3 spaces/1000 SF GFA
Slaughterhouse				S										S			0.3 spaces/1000 SF GFA



P = Permitted Use S = Special Exception Use	A1	A1 R	A2	A3	A4	R1	R2	R3	R4	MH	B	C	I1	I2	DT	IS	Minimum Parking Requirements
RESIDENTIAL PRIMARY USES																	
Dwelling - Single-Household Detached	P	P		P		P	P	P	P	P					P		2 spaces/unit
Dwelling - Duplex	S	S				S	P	P	P						P		2 spaces/unit
Dwelling - Triplex							S	P	P						P		2 spaces/unit
Dwelling - Townhouse								S	P						P		2 spaces/unit
Dwelling - Multihousehold Building (less than 6 units)						S	S	S	P						P		1.25 spaces/unit
Dwelling - Multihousehold Building (6 or more units)						S	S	S	P						P		1.25 spaces/unit
Dwelling – Mobile Home (individual)	S	S				P	P			P							1.25 spaces/unit
Accessory Dwelling Unit	S	S				P	P	P	P						P	S	1 space/unit
Assisted Living Facilities									S		P	P			S	S	0.5 spaces/unit
Childcare Home						S	S	S	S		S				S		2 additional spaces
Fraternity, Sorority, or Student Housing	S	S				S	S				S	S					0.5 spaces/sleeping rm
Group Residential Facility						S	S	S	S								1 space/4 residents
Home Business	P	P	P	P	P	P	P	P	P	P					P		1.25 spaces/unit
Mobile Home Park or Court										P							2 spaces/unit
Nursing Home, Hospice								S	P		S	P				P	0.3 spaces/bed
Retirement Homes & Orphanages	P	P				S	S	S	P		S	S			S		1 space/6 residents
Rooming or Boarding House	S	S						S	P		S	S			S		0.75 spaces/sleeping rm
Upper Story Residential															P		1 space/unit
COMMERCIAL SALES, SERVICE, AND REPAIR PRIMARY USES																	
Adult Business – All Types														S			8 spaces/1000 SF GFA
Animal Sales and Services, All Others	S	S		S							P	S	P	S			2.5 spaces/1000 SF GFA
Animal Sales and Services, Household Pets Only											P	P			S		2.5 spaces/1000 SF GFA
Arts, Recreation, Entertainment, Indoor	S										P	P	S	S	P	P	2.5 spaces/1000 SF GFA
Arts, Recreation, Entertainment, Outdoor	S										P	S	S	S	S	S	2.5 spaces/1000 SF GFA
Auction Houses											P	P			S		2.5 spaces/1000 SF GFA
Auto/Motorcycle/Boat/Light Truck Sales or Rentals			P								P	P	S				0.5 spaces/1000 SF GFA
Dairy Processing				P										P			No requirement



P = Permitted Use S = Special Exception Use	A1	A1 R	A2	A3	A4	R1	R2	R3	R4	MH	B	C	I1	I2	DT	IS	Minimum Parking Requirements
Heavy Automotive, Marine Craft, Aircraft Sales or Rentals			P								S	S	S				0.5 spaces/1000 SF GFA
Automotive Repair & Services - Light			S								S	P	S				0.5 spaces/1000 SF GFA
Automotive Repair & Services - Heavy			S								S	P	S				0.5 spaces/1000 SF GFA
Automotive Sales – Tires, Batteries, and Accessories			P								P	P	S				0.5 spaces/1000 SF GFA
Banks and Financial Institutions											P	P	P		P	P	2.5 spaces/1000 SF GFA
Bed and Breakfast Establishments	S	S	S	S		S					S				S	S	2 spaces + 1 space/room
Food Catering Service											P	P	P		S	P	1.8 spaces/1000 SF GFA
Funeral Home and Crematorium											S	S	S				2.5 spaces/1000 SF GFA
Gas Station/Charging Station			P								P	P	S				2.5 spaces/1000 SF GFA
Grocery or Market			P								P	P	S				2.5 spaces/1000 SF GFA
Gymnastics Facility											S	P	P		S	P	2.5 spaces/1000 SF GFA
Health Spa/Fitness Center											P	P	S		P	P	2.5 spaces/1000 SF GFA
Hotel or Motel	S	S									P	P			S	P	1 space/room
Kennel	S	S									S	S	S	S		S	2 spaces/1000 SF GFA
Laundromat				P							P	P	S				2.5 spaces/1000 SF GFA
Medical & Other Health Services											P	P	S		P	P	2 spaces/1000 SF GFA
Office, All Others											P	P	P		P	P	2 spaces/1000 SF GFA
Pawn Shop											S	S		S			2.5 spaces/1000 SF GFA
Playhouse /Theatre											P	P			P	P	2.5 spaces/1000 SF GFA
Restaurants – Table Service			S								P	P	S		P	P	5 spaces/1000 SF GFA
Restaurants - Counter Service, No Drive-thru			S								P	P	S		P	P	5 spaces/1000 SF GFA
Restaurants - Counter Service, With Drive-thru											S	P	S		S	S	5 spaces/1000 SF GFA
Retail Sales, Service & Repair, All Others			P								P	P	S		P	S	2.5 spaces/1000 SF GFA
Retail Sales, Service & Repair, Outdoor											P	P	S		S		2.5 spaces/1000 SF GFA
Retail Sales, Service & Repair, Special Handling											S	S			S		2.5 spaces/1000 SF GFA
Sports and/or Entertainment Arena or Stadium											S	P	S		S	P	1 space/4 seats or 1 space/40 SF GFA
Taverns			P								P	P	S		P	S	4 spaces/1000 SF GFA
Truck Stop/Travel Center												S	S				2.5 spaces/1000 SF GFA



P = Permitted Use S = Special Exception Use	A1	A1 R	A2	A3	A4	R1	R2	R3	R4	MH	B	C	I1	I2	DT	IS	Minimum Parking Requirements
Winery or Microbrewery	S		S			S					S	P	S		P	S	2.5 spaces/1000 SF GFA
INDUSTRIAL MANUFACTURING AND WHOLESALE PRIMARY USES																	
Airport or Heliport			S		S									S		S	0.1 spaces/1000 SF GFA
Automobile Parts Recycling Business													S	P			0.3 spaces/1000 SF GFA
Automobile Towing Service Storage Yard												S	P	P			0.3 spaces/1000 SF GFA
Bottled Gas Storage and Distribution														S			0.3 spaces/1000 SF GFA
Bus Transit Facility											P	S			S	S	0.5 spaces/1000 SF GFA
Chemical Manufacturing and Storage														S			0.3 spaces/1000 SF GFA
Communication Services		S	P		P						P	P	P	P	S	S	0.5 spaces/1000 SF GFA
Composting Facility			S	S													No requirement
Contractors– General			S		S								P	P			0.3 spaces/1000 SF GFA
Contractors– Heavy/Contractor Yard													S	P			0.3 spaces/1000 SF GFA
Data Center – Tier 1					S								P	P			0.2 spaces/1000 SF GFA
Data Center – Tier 2					S								S	P			0.2 spaces/1000 SF GFA
Food Preparation and Sales, Commercial												S	P	P			0.3 spaces/1000 SF GFA
Laboratory, Research, and Development Services													P	P			0.3 spaces/1000 SF GFA
Manufacturing or Refinement of Asphalt, Cement, Gypsum, Lime, or Wood Preservatives														S			No requirement
Manufacturing, Fabricating, & Assembly – General			S		P								P	P			0.3 spaces/1000 SF GFA
Manufacturing, Fabricating, & Assembly – Heavy			S		S								S	P			0.3 spaces/1000 SF GFA
Mineral Extraction				S									S	P			No requirement
Rail Distribution Yards					S									P		S	No requirement
Recycling Center			S		S								S	P			0.3 spaces/1000 SF GFA
Recycling Drop-Off Facilities	S	S	S	S	S	S	S	S	S	S	P	P	P	P	S	S	0.1 spaces/1000 SF GFA
Recycling Plant, Scrap Processor			S		S								S	P			0.1 spaces/1000 SF GFA
Salvage or Junk Yards													S	S			0.3 spaces/1000 SF GFA
Sanitary Landfill or Incineration				S													No requirement
Self-Storage Facilities			S		P						S	S	P	P			0.1 spaces/1000 SF GFA
Small Cell Facility						S	S	S	S	S	S	S	S	S	S	S	No requirement
Small Modular Reactor														S			0.1 spaces/1000 SF GFA



P = Permitted Use S = Special Exception Use	A1	A1 R	A2	A3	A4	R1	R2	R3	R4	MH	B	C	I1	I2	DT	IS	Minimum Parking Requirements
Solar Energy Conservation System			S	S	S								S	S		S	No requirement
Solid Waste Disposal	S	S	S	S	S							S	S				0.1 spaces/1000 SF GFA
Telecommunication Facilities	S	S	S	S	S	S	S				S	S	S	S		S	No requirement
Transportation Services	S	S		S	S							S	P				0.3 spaces/1000 SF GFA
Truck Freight Terminal/Distribution Center													S	P			0.3 spaces/1000 SF GFA
Vehicle Storage, Commercial												S	S	P			0.3 spaces/1000 SF GFA
Wholesale Trade or Storage, General					S							S	S	P		S	0.1 spaces/1000 SF GFA
Wholesale Trade or Storage, Light					P							S	P	P		S	0.1 spaces/1000 SF GFA
Wind Energy Conservation System			S	S	S								S	S		S	No requirement
Warehousing and Storage Services			P		P							S	P	P			0.1 spaces/1000 SF GFA
Ethanol Production				P	P									P			0.1 spaces/1000 SF GFA
Bio-diesel Production				P	P									P			0.1 spaces/1000 SF GFA
Waste-to-Energy Converters				P	P									P			0.1 spaces/1000 SF GFA
CIVIC, PUBLIC, AND INSTITUTIONAL PRIMARY USES																	
Animal Shelter		S										S	S	P		S	2 spaces/1000 SF GFA
Banquet Facilities and Reception Halls		P									P	P	S		S	P	2.5 spaces/1000 SF GFA
Campground/RV Park	S	S				S	S										2 spaces/lot or campsite
Cemetery	S	S	P			S	S					S					1 space/25 plots
Childcare Facilities						S					P	P	S		S	P	1 space/1000 SF GFA
Club or Lodge		S									P	P	S		P	P	0.5 spaces/1000 SF GFA
Community Center		S	S			S	S	S	S		P	P			P	P	0.5 spaces/1000 SF GFA
Conference Center											S	P	P		PP	P	2.5 spaces/1000 SF GFA
Correctional Institution																S	0.3 spaces/1000 SF GFA
Fairgrounds & Amusement Parks	S	S	S	S								S					2.5 spaces/1000 SF GFA
Golf Course, Country Club	S	P	S			S						S	S			S	2.5 spaces/1000 SF GFA
Driving Range			S								S	P	S			P	2.5 spaces/1000 SF GFA
Hospital			S								S	P	S		S	P	1 space/2 beds
Libraries and Museums	S	S	S			S	S	S	S	S	P	P	S		P	P	1 space/1000 SF GFA
Municipal & Government Buildings	P	P	P		P	S	S	S	S	S	P	P	P	P	P	P	8 spaces/1000 SF GFA
Parks and Playgrounds	S	S				P	P	P	P	P	S	P	S		P	P	1 space/50 SF GFA
Sports Assembly											P	S			S	P	0.5 spaces/1000 SF GFA
Places of Worship	S	S		S		S	S				P	S					0.5 spaces/1000 SF GFA
Public and Religious Assembly, All Others		S				S	S				P	S	S				0.5 spaces/1000 SF GFA



P = Permitted Use S = Special Exception Use	A1	A1 R	A2	A3	A4	R1	R2	R3	R4	MH	B	C	I1	I2	DT	IS	Minimum Parking Requirements
Schools – K - 12	S	S		S		S	S					S			S	P	2 spaces/1000 SF GFA
Schools - Vocational	S	S									S	S	S		S	P	1 space/1000 SF GFA
University, College, Professional School	S	S									S	S	S		S	P	1 space per 4 students at maximum capacity
Utility, Major Impact	S	S	S	S	S							S	S	P		S	0.5 spaces/1000 SF GFA
Utility, Minor Impact	S	S	S	S	S	S	S			S	S	S	S	S		P	0.5 spaces/1000 SF GFA
Wedding Barn/Venue	S	S	S	S	S	S										S	2 spaces/1000 SF GFA



3.3 Use Standards

A. AGRICULTURE PRIMARY USES

Agricultural Processing: An establishment primarily engaged in the transformation of raw agricultural products into a different form, state, or product. This includes, but is not limited to, cleaning, grading, sorting, packaging, canning, preserving, milling, extracting, or otherwise preparing agricultural commodities (such as crops, livestock, and dairy) for distribution, further manufacturing, or consumption. This use typically involves machinery and may include ancillary activities such as storage, loading, and administrative offices directly related to the processing operation. This use excludes slaughterhouses.

Agricultural Use, Less than 10 Acres (other than confined feeding): The growing of vegetation including crops, horticulture, floriculture, and viticulture and the necessary buildings and structures for packing and storing said products.

1. If there is a dwelling unit on the lot, one acre must be allocated to the dwelling unit.
2. Limit of one quadruped per acre of land.
3. Limit of 5 domesticated pets per acre of land.

Agritourism: Any activity incidental to the operation of a farm that brings members of the public to the farm for educational, recreational, or retail purposes. These activities are typically secondary to the primary agricultural operation and are designed to showcase agricultural processes, products, or rural lifestyle.

Anaerobic Digesters: A facility used to convert livestock and poultry manure into biogas via anaerobic respiration. Anaerobic digesters may use “co-digestion” in which livestock and poultry manure (primary catalyst) is mixed with other organic materials (secondary catalysts).

Animal Husbandry Services: The practice of breeding, raising, and caring for farm animals, including but not limited to cattle, horses, sheep, goats, swine, and poultry, for the production of food, fiber, or other animal products, or for draft, sport, or companionship. This use typically involves the provision of shelter, feed, and veterinary care, and may include associated activities such as pasturing, manure management, and the storage of related equipment and supplies.

C&C Welding and Fabrication Facility: A specialized facility designed for the education, training, and development of programming, automation, and digital technology applications specifically related to agricultural equipment manufacturing, farm automation systems, and precision agriculture technologies.

4. Manufacturing to be performed by a maximum of 10 full-time employees.
5. Manufacturing to be performed within an enclosed building.
6. Raw materials and manufactured inventory to be stored within an enclosed building; or within an area enclosed on all sides with a solid wall, compact evergreen screen, or uniformly painted fence at least 7 feet high.



7. Signs intended to be viewed from the premises must be non-illuminated business signs, no larger than 4 square feet per side. Real estate signs not exceeding 7½ square feet per side are permitted on a temporary basis.

Confined Feeding Operation (CFO): An animal feeding operation that confines a specific number of animals—at least 300 cattle, 600 swine or sheep, 30,000 fowl, or 500 horses—for 45 or more days a year. See [3.4 Confined Feeding Operation](#) for further information.

Farm Equipment Sales and Service: An establishment primarily engaged in the retail sale, rental and/or service of farm tools and implements, and/ or the sale of feeds, grain, tack, animal care products, and farm supplies. This use does not include the sale or distribution of agricultural chemicals, including fertilizer.

Farms & Ranches (Livestock): An establishment primarily dedicated to the raising and breeding of animals for commercial purposes.

Farms (Field crops other than fiber or cash grain crops): An agricultural use primarily engaged in the cultivation of a variety of field crops, excluding those primarily grown for their fiber (such as cotton or flax) or as major cash grain crops (like corn, wheat, or soybeans, when grown as a primary monoculture for commodity markets). Example crops include: vegetables grown in open fields, forage crops intended for livestock feed, or specialty crops such as herbs or berries.

Farms (General, no predominance): An establishment or tract of land primarily used for agricultural purposes, encompassing a broad range of activities related to the cultivation of crops, the raising of livestock, and/or the production of agricultural commodities. This designation applies when no single agricultural activity constitutes a predominant use of the land or operational focus. The farm exhibits a diverse mix of agricultural pursuits, none of which individually account for more than 60% gross revenue of the farm.

Farms (Predominate Crop—Cash Grain): An establishment or tract of land primarily dedicated to the cultivation of field crops intended for direct sale as commodities, rather than for on-site animal consumption or further processing into value-added products. The predominant crops on such farms are typically grains like corn, soybeans, wheat, barley, or oats, which are grown for their market value and sold to elevators, processors, or other buyers.

Farms (Predominate Crop—Fruit, Tree Nuts, or Vegetables): An establishment primarily dedicated to the cultivation of fruit-bearing plants, nut trees, or various types of vegetables.

Farms (Predominantly Poultry): An establishment primarily dedicated to the raising and breeding of birds for commercial purposes. This definition encompasses operations where the majority of the agricultural activity, economic output, or animal population consists of poultry.

Fertilizer Storage and Distribution: An establishment primarily engaged in the storage, distribution, and sale of fertilizers for agricultural crop production use.

Fisheries and Maritime Products: An agricultural use in which food fish, shellfish, or other marine foods, aquatic plants, or aquatic animals are cultured or grown to sell them or the products they produce. This use includes fish hatcheries, growing tanks, or raceways; the processing, storage, packaging and distribution of fish and shellfish; and accessory uses such as feed storage and water treatment facilities.



Food Processing Plants: An establishment primarily engaged in the transformation of raw agricultural products or ingredients into food products suitable for human or animal consumption, typically for wholesale distribution or retail sale off-site. This includes activities such as preparation, manufacturing, packaging, and storage. It excludes on-farm processing incidental to agricultural production, retail food establishments, slaughterhouses, breweries, wineries, and distilleries.

Forestry: The cultivation, management, and harvesting of trees for the production of timber, wood products, or other forest resources. This includes silvicultural practices, logging operations, reforestation, and the maintenance of forestland for commercial purposes. Associated activities may include the construction and maintenance of temporary access roads, staging areas for equipment, and limited on-site processing directly related to the harvesting of forest products. This use excludes sawmills or other large-scale processing facilities not directly and immediately ancillary to a harvesting operation on the parcel.

Grain and Feed Mills: An establishment primarily involved in the processing, storage, and distribution of raw grains and/or the manufacturing of animal feed. This encompasses facilities that perform grain processing, feed manufacturing, or large-scale storage and handling.

Greenhouses: An establishment primarily engaged in the cultivation, propagation, and protection of plants in a controlled or semi-controlled environment in a structure constructed with transparent or translucent materials over a framework. This use is characterized by the manipulation of internal conditions, including temperature, humidity, light, and ventilation, to optimize plant growth, typically for commercial purposes or research.

Riding Stables and Academies: An establishment offering horses for hire or instruction in horsemanship.

Roadside Produce Stand: A structure for the display and sale of agricultural products grown on the site, with no space for customers within the structure itself. Roadside sales stands can only prepare and sell food products according to [IC 16-45-5.3](#).

Sale Barn for Livestock: Establishments where the public may consign livestock for sale by auction open to public bidding or sold on a commission basis. It does not include breed or livestock associations operating subject to and in compliance with the provisions of the Future Farmer and 4-H groups, auction sales conducted in conjunction with county, state or private fairs, or auction sales conducted for a person whose livestock are sold on premises of the person.

Slaughterhouse: An establishment primarily engaged in the slaughtering and processing of livestock (e.g. cattle, hogs, sheep, poultry, goats, etc.) and the refining of their byproducts. This use encompasses the entire process from the arrival of live animals to the chilling and initial packaging of meat products.



B. RESIDENTIAL PRIMARY USES

Dwelling—Single Household: A Single Household Dwelling is a detached structure on a lot containing one dwelling unit not including an Accessory Dwelling Unit. It is typically located within a primarily single-family neighborhood.



Dwelling—Duplex: A Duplex dwelling is a small- to medium-sized structure that consists of two side-by-side or stacked dwelling units within a single building massing. This type has the appearance of a medium to large single-family home and is appropriately scaled to it within primarily single-family residential neighborhoods or medium-density residential neighborhoods. It enables appropriately scaled, well-designed higher densities, provides a broad choice of

housing types, and promotes walkability. When in a side-by-side configuration, each dwelling unit may be on its own individual lot. This type of dwelling may be called a duplex, two-family home, a paired patio home, or a condominium.

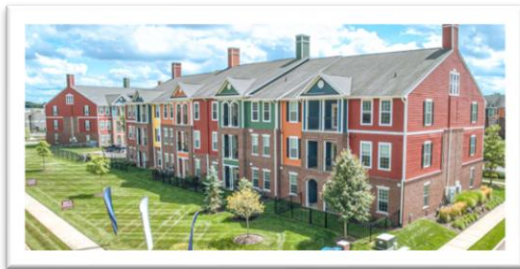
Dwelling—Triplex: A Triplex dwelling is a small- to medium-sized structure that consists of three side-by-side or stacked dwelling units within a single building massing. This type has the appearance of a medium to large single-family home and is appropriately scaled to it within primarily single-family residential neighborhoods or medium-density residential neighborhoods. It enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability. When in a side-by-side configuration, each dwelling unit may be on its own individual lot.

Dwelling—Townhouse: A Townhouse is a small- to medium-sized typically attached structure that consists of 3–5 dwelling units placed side-by-side with each dwelling unit on its own lot. This type may also occasionally be detached with minimal separations between the buildings. This type is typically located within medium-density residential neighborhoods or in a location that transitions from a primarily single-family residential neighborhood into a neighborhood main street. This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.





Dwelling—Multifamily Building (<6 units): A Multifamily Building (<6 units) is a structure that consists of 3–5 side-by-side and/or stacked dwelling units on a common lot, typically with one shared entry or individual entries along the front. This type has the appearance of a large-sized family home and is appropriately scaled to fit within traditional residential or mixed density residential. This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability. Parking is typically located in the rear of the lot behind the building.



Dwelling—Multifamily Building (6 or more units): A Multifamily Building (6 or more units) is a medium-to-large-sized structure that consists of 7-30 side-by-side and/or stacked dwelling units on a common lot, typically with one shared entry. Used in an infill development context, this type is appropriately scaled to fit within mixed density residential neighborhoods or sparingly within large lot predominantly single-family residential

neighborhoods. This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.

Dwelling—Mobile Home (individual): A dwelling that is factory assembled, designed for transportation on its own chassis, and intended for year-round occupancy with or without a permanent foundation.

Accessory Dwelling Unit: A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

Assisted Living Facility: A facility for adults in need of some protective oversight or assistance due to functional limitation that provides a living arrangement integrating shelter, food, and other supportive services to maintain a functional residential status.

Childcare Home: A family home that receives more than three and up to a maximum of eight children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12.

Fraternity, Sorority, or Student Housing: A building containing living quarters for students, staff, or members of an accredited college, university, boarding school, theological school, hospital, religious order, or comparable organization; provided that the building is owned or managed by the organization and contains no more than one cooking and eating area.

Group Residential Facility: A facility licensed by the State of Indiana to provide a homelike setting to the developmentally disabled and/or the mentally ill. This provides the benefits of a group living situation as an alternative to hospitalization or institutionalization. A minimum separation of 1,500 feet is required between locations.

Home Business: A Home Business is a small- to medium-sized attached or detached structure that consists of one dwelling unit above and/or behind a flexible ground floor space that can be used for



service or retail uses. Both the ground-floor flex space and the unit above are owned by one entity. This type is typically located within medium-density neighborhoods or in a location that transitions from a neighborhood into a neighborhood main street. It is especially appropriate for incubating neighborhood-serving retail and service uses and allowing neighborhood main streets to expand as the market demands. Parking is typically located in the rear of the lot behind the building, often in an attached or detached garage.

A Home Business's commercial activity may be any nonresidential primary use permitted in the same zoning districts where the Home Business is established, subject to the limitations below. The following commercial activities, when not otherwise specifically listed as permitted in the applicable zoning districts, are permitted in a Home Business use: art gallery, artist studio, professional studio, office (excluding dental/medical office and clinic) and other similar activities determined by the Administrator.

1. A Home Business use is not a "residential use" or "residential district" or "protected use," nor in any other way accorded residential protection (e.g., separation) against the effects of surrounding industrial uses as may otherwise be required by this Ordinance.
2. Any repair, assembly, or fabrication of goods is limited to the use of hand tools or domestic mechanical equipment.
3. The commercial activity must not exceed 50% of the gross floor area of the principal building.
4. The commercial activity cannot have more than 2 employees or assistants on the premises at one time. The employees or assistants may be in addition to residents of the Home Business.
5. Signs are limited to no more than 2 non-animated, non-illuminated wall or window signs with a maximum total area of 20 square feet.
6. Outside storage of any flammable and combustible liquids and flammable gases is prohibited.
7. Nonresidential storage in the Home Business is limited to no more than 10% of the space dedicated to the commercial activity.

Mobile Home Parks or Courts: A parcel of land containing two or more dwelling sites, with required improvements and utilities, that are leased for long-term placement of mobile home dwellings. A Mobile Home Park or Court does not involve sales of Mobile Home Dwellings in which unoccupied units are parked for inspection or sale.

1. Mobile Home Parks or Courts must:
 - Be a minimum of 5 acres;
 - Be approved as a Planned Unit Development;
 - Require site plan approval; and
 - Be developed in accordance with the requirements of this Article.
2. The PUD ordinance must incorporate the following provisions unless otherwise approved by the Legislative Body:
 - a. An Improvement Location Permit is required for the placement of any mobile home.
 - b. A mobile home must not be located under overhead electric lines.



- c. Mobile homes must be skirted before occupancy.
- d. Accessory structures for storage on individual sites must meet setback requirements.
- e. Driveways must be located for convenient access to service entrances and collection points of buildings.
- f. Parking for residents and visitors must be provided on the mobile home site or in common parking facilities. Parking areas must not interfere with pedestrian walkways.
- g. Sidewalks at least 5 feet wide must be provided along at least one side of the street to provide for continuous, safe pedestrian circulation. Sidewalks on both sides of the street are encouraged. Walkways are encouraged in common areas to connect frequently used public facilities and improve circulation throughout the site.
- h. Covenants applying to the entire site must be submitted with the PUD and must be recorded prior to issuing an Improvement Location Permit for the site. The covenants must contain the following:
 - Each occupant of a mobile home site must be provided a copy of the recorded covenants.
 - The placement or replacement of a mobile home must comply with the requirements of the PUD and this Ordinance.
 - Accessory structures must meet the required setbacks and require an Improvement Location Permit.
 - The mobile home park owner is responsible for ensuring on-going maintenance of all sites and common areas to ensure neat and orderly condition.
 - On-street parking of boats, trailers, semi-trucks, etc. is prohibited.

Nursing Home, Hospice: A Nursing Home is any institution, whether operated for profit or not, that seeks to provide for a period exceeding 24 hours, nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but, in contradistinction to a hospital, does not include any place providing care or treatment primarily for the acutely ill. A **Hospice** is a facility that provides inpatient care and attends to the emotional, spiritual, social, and financial needs of terminally ill patients and their families.

Retirement Homes & Orphanages: An establishment primarily engaged in the housing and care of unrelated individuals of a certain age group. A Retirement Home is a residential facility providing dwelling units primarily for older adults who are generally active and able to live independently, but who desire a community environment, convenience services, and access to social activities. An Orphanage is a licensed residential facility established for the temporary or long-term care, housing, and supervision of children who are without parental care, neglected, abused, or whose parents are unable to care for them.

Rooming and Boarding Houses: A residential building containing one or more guest rooms used, rented, or hired out, with or without meals, for permanent occupancy. A Rooming and Boarding House makes no provision for cooking in any of the guest rooms occupied by paying guests. A Rooming and Boarding House use is not considered a Residential Care use. A Rooming and Boarding House use is not considered a Student Housing use.



Upper Story Residential: Dwelling units on upper floors of buildings with predominantly non-residential uses at street level.

C. COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES

Adult Business—All Types: Adult Business are characterized by commercial establishments where the primary use is the sale, rental, display or other offering of live entertainment, dancing, or material characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. All adult businesses must comply with these regulations that are intended to preserve the integrity and character of residential neighborhoods, to deter the spread of urban blight, and to protect minors from the objectionable operational characteristics of adult business uses by restricting their proximity to the following protected uses:

- A place of worship such as a church, synagogue, or mosque.
- A public or private nursery school or any school serving one or more of grades K through 12.
- A childcare center licensed by the Indiana Family and Social Services Administration.
- A public or private park, playground, playing field, sports facility, or fairground.
- A public or private cemetery.
- A public housing facility.
- Gymnasiums, dance studios, theater companies, and other facilities used by children.
- An Agricultural District.
- A Residential District.

An adult business must be separated at least 1,500 feet from another adult business. This distance is measured in a straight line from the closest exterior wall of each business disregarding intervening structures.

An adult business must be separated at least 1,000 feet from any existing protected use listed above. This distance is measured in a straight line from the closest exterior wall of the adult business to the nearest lot line of the protected use.

Any material depicting, describing, or relating to specified sexual activities or specified anatomical areas must not be visible from any public right-of-way.

An adult business lawfully operating under these regulations will not be deemed to be in violation of the location restrictions solely because:

- A protected use subsequently locates within the minimum required distance of the adult business,
- A business that sells alcoholic beverage subsequently locates within the same building as the adult business, or



- Property within the minimum required distance of an adult business subsequently becomes residential property.

Animal Sales and Services, All Others: An establishment engaged in the retail sale, grooming, care, breeding, or boarding of animals, not restricted to domestic or household pets, and which may include overnight accommodations. Includes provision of veterinary medicine, dentistry, or surgery services by licensed veterinary practitioners and animal kennels or other animal boarding facilities not limited to domestic or household pets. An Animal Sales and Services - All Others use must comply with the following:

1. Wild or dangerous animal boarding and breeding services are prohibited.
2. No more than 25 non-neutered or non-spayed dogs older than 6 months may be kept on the premises at any time.
3. Overnight accommodations are allowed.
4. Where located abutting a residential district, a minimum 50-foot-wide landscaped buffer must be provided. The buffer is intended to substantially mitigate potential adverse effects from the animal service use.

Animal Sales and Services, Household Pets Only: An establishment engaged in any of the following:

- The retail sale, grooming, care, or boarding of domestic or household animals only, and which may include overnight accommodations. The retail sale of domestic animals (e.g., pet store) is permitted.
- The maintaining, raising, harboring and/or boarding of 4 or more dogs, or 6 or more cats, or 6 or more dogs and cats is considered a primary "animal services and sales - household pets only" use.
- Provision of veterinary medicine, dentistry, or surgery services by licensed veterinary practitioners for household or domestic pets only.

An Animal Sales and Services - Household Pets use must comply with the following:

1. All sales and services must be for household pets only. Wild or dangerous animal services and sales are prohibited.
2. Overnight boarding is permitted within a completely enclosed building. For uses over 20,000 square feet in ground floor area ("GFA") dedicated primarily to retail sales, no more than 15% of the GFA can be devoted to overnight boarding.
3. The use must be completely enclosed except outdoor animal runs or other areas in which dogs are allowed outside of an enclosed structure off leash (an "outdoor run"). An outdoor run must comply with the following conditions:
 - Outdoor runs are not permitted within 20 feet of a residential structure in a residential district.
 - The outdoor run may operate only between 6:30 a.m. and 9:00 p.m.



- No more than 25 non-neutered or non-spayed dogs older than 6 months may be kept on the premises at any time.
- 4. Facilities must be constructed, maintained, and operated so animal sounds and smells cannot be discerned on adjacent lots when the outdoor run is not in use.

Art, Recreation, and Entertainment, Indoor: A public or private facility that provides indoor entertainment including, video arcades, virtual reality games, and mechanical rides. In all residential districts, seating capacity in a permitted Arts, Recreation, and Entertainment, Indoor use is limited to no more than 100 people. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen. A minimum separation of 1,500 feet is required between locations.

Arts, Recreation, and Entertainment, Outdoor: A public or private facility that provides outdoor entertainment including waterslides, water parks, go-cart tracks, miniature golf, batting cages and mechanical rides and games.

Auction Houses: An establishment involving a sale barn or sale pavilion and its contiguous surroundings where two or more auctions are held within any twelve-month period. Each day goods or real estate are being offered for sale at auction constitutes one auction. For facilities used exclusively for the auctioning of livestock see Sale Barn for Livestock.

Auto/Motorcycle/Boat/Light Truck Sales or Rentals: Establishments primarily engaged in the sales, leasing, rental, and related servicing of new and used automobiles, motorcycles, boats, light trucks, and similar items; excluding dismantling or junk yard. an Auto, Motorcycle, Boat, and Light Truck Sales or Rentals use must comply with the following:

1. Outdoor public address or loudspeaker systems are prohibited.
2. Accessory uses and activities may include the retail sale of vehicle accessories, oil, grease, antifreeze, tires and batteries, and other similar products; and providing services of installing the above items, making minor mechanical adjustment, washing and polishing vehicles.
3. The facility must not include heavy automobile service uses as an accessory or primary use unless permitted as a primary use in the subject zoning district.
4. Adjoining residential districts must be protected from the external effects of permitted outdoor vehicle or equipment display or storage areas by landscape buffers or an opaque fence or wall at least 5 feet high, by landscaped employee or public parking areas, or by other means to achieve the same protection purpose.
5. Vehicles being displayed, serviced, or stored cannot be parked on streets, alleys, public sidewalks, or public landscaped parkways.
6. As permitted, vehicles displayed outside a completely enclosed structure may have individual signs and, when provided, the signs must be located inside the vehicles.
7. For facilities engaged only in the rental of automobiles, the land area assigned for storage of rental automobiles must not be included when computing required off-street parking spaces.
8. Sales display areas are not considered parking lots for the purposes of this Ordinance (e.g., parking space size requirements, landscaping requirements, etc.).



Dairy Processing: A use primarily focused on the raising of livestock, specifically cattle (dairy cows), for the production and collection of milk and milk-derived products. This classification signifies an operation where the majority of the land, facilities, and economic output are dedicated to dairy activities.

Heavy Automotive, Marine Craft, Aircraft Sales or Rentals: Commercial establishments primarily engaged in the retail sale, wholesale sale, or rental of large-scale or specialized vehicles and vessels typically not used for general personal transportation on public roads, or designed for air or water travel. These operations often require significant land area for display, storage, and associated service activities, and may generate unique operational characteristics and impacts compared to standard vehicle sales.

Automobile Repair & Services, Heavy: Establishments providing major repairs and servicing of automobiles, including engine overhaul or replacement, body work, upholstery work, glass replacement, transmission overhaul, brake repair with drum and disc grinding, replacement of electrical accessories such as starters and alternators, frame alignment, and rebuilding of wrecked automobiles, excluding commercial wrecking, dismantling, junk yard, truck and tractor repair. An Automobile Services, Heavy use must comply with the following:

1. The lot must be enclosed with a solid fence or wall except for:
 - No more than 40% of the street frontage containing the entrance to the use is required to have a fence;
 - The street frontage of an automobile retail display area; or
 - Any portion of a lot line containing a building wall.
2. The fence or wall must be constructed high enough to conceal vehicles, equipment, or parts located on the lot; provided the wall or fence does not interfere with vision clearance at the intersections ([*4.9 Vision Clearance*](#)).
3. Permitted fence or wall materials consist of wood, brick, masonry, or other similar durable materials as approved by the Administrator. Salvaged doors, corrugated or sheet metal, and chain link are prohibited fence or wall materials.
4. An Automobile Services, Heavy use must be located at least 500 feet from the nearest boundary of any residential district existing at the time of application. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district. No dead storage, repair work, or dismantling is permitted on the premises.

Automobile Repair & Services, Light: Establishments providing routine maintenance and minor repair servicing of automobiles, which may include washing, cleaning, waxing, greasing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair and servicing. An Automobile Services-Light use, automobile wash, laundry, detail, or polishing shop must comply with the following:

1. The structure housing the primary use must be setback at least 10 feet from a residential district.



2. Adequate landscaping and solid fencing must be installed to control the effects of noise when a bay is located adjacent to a residential use or a residential district.
3. If the use abuts a residential district, the hours of operation are limited to 7:00 a.m. to 10:00 p.m.
4. In addition to any other required off-street parking, the use must provide for each washing stall, enough hard-surfaced and dust-free space on the lot to accommodate at least 3 vehicles waiting to be washed.

Automobile Sales—Tires, Batteries, and Accessories: An establishment primarily engaged in the retail sale of new and/or used tires, batteries, and a range of automotive accessories. These establishments typically focus on components and enhancements that are installed on, or directly relate to the function and appearance of, passenger vehicles, light trucks, and similar motorized equipment.

Banks and Financial Institutions: An establishment including a chartered bank, saving association, credit union, or industrial loan company, primarily engaged in the business of providing banking and related financial services to customers, but excluding any establishment whose primary purpose is to provide cash advances, pay day loans, pay day advances, and similar services.

Bed and Breakfast Establishment: A transient lodging establishment, generally in a single-family dwelling or detached guesthouse, primarily engaged in providing overnight or otherwise temporary lodging for the public and may provide meals for compensation.

1. A bed and breakfast must be operated according to applicable County Health Department requirements.
2. A bed and breakfast cannot contain more than 5 guest rooms plus a common area for use by all guests.
3. A bed and breakfast establishment is only permitted in a detached single-family dwelling, designed, and constructed for single family use, which contains at least 1,500 square feet of useable floor area. For each guest room more than two, an additional 100 square feet of floor area is required.
4. The bed and breakfast must be the principal residence of the owner, who resides there when the bed and breakfast is in operation.
5. Meals for guests must not be available to members of the public other than the owner's family.
6. Cooking facilities are prohibited in bed and breakfast guest rooms.
7. Exterior refuse storage facilities must be screened from view on all sides per [6.5\(H\) Screening of Trash Receptacles](#).
8. Site plan approval is required. A floor plan noting the use of each room must be submitted with the site plan application.

Medical & Other Health Services: An establishment where human patients are admitted for examination and treatment by a group of physicians, health care professionals, or similar



professionals. Up to 20 patients or clients may stay overnight at any one time in a Medical Office or Other Health Service use. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.

Food Catering Service: An establishment where food and/or beverages, intended for sale or distribution, are prepared in bulk or individual portions, for service in bulk or individual portions, at another location.

Funeral and Crematory Services: A funeral home is a business that provides services related to the death of a person. A crematorium is a facility where human remains are burned to ashes.

Gas Station/Charging Station: A building and premises wherein a primary use is the charging of electronic vehicle or the supply and dispensation of retail gasoline, diesel fuel, oil, grease, batteries, tires and motor vehicle accessories, and where minor repair services may be provided. This use does not include major vehicle repair.

Grocery or Market: Establishments primarily engaged in the direct retail sale of food items such as meats, cereals, grains, produce, baked goods, dairy products, canned and frozen prepared food products, beverages, cleaning supplies, pet food and supplies, pharmaceuticals, over-the-counter medicines, personal products, household goods, books and magazines, plants, and other sundry and similar items are available to be purchased by the consumer. Grocery Retail includes grocery stores, supermarkets, meat or fish markets, fruit and vegetable markets, and other uses similar in nature and impact. A grocery use must comply with the following:

1. Accessory outdoor sales and displays, including outdoor sales of fruits or vegetables, must occupy no greater than 25% of the gross floor area of the structure containing the food sales or market primary use.
2. Outdoor storage is prohibited unless enclosed by a fence or wall adequate to conceal such storage from adjacent residential property or public right-of-way.

Gymnastics Facility: A building or other structure that is used for the practice and competition of gymnastics or cheerleading.

Health Spa/Fitness Center: A facility that uses equipment or other techniques to assist members to improve their physical condition or appearance.

Hotel or Motel: A hotel is a building in which lodging is offered with or without meals principally to transient guests and that provides a common entrance, lobby, halls and stairways. A motel is an establishment consisting of a group of attached or detached living or sleeping accommodations for transient guests with bathrooms and closet space, located on a single lot and where access to the sleeping accommodations is directly from the outside. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture.

Kennel: An establishment housing 4 or more dogs, cats, or other small animals, and where boarding, grooming, breeding, training, or selling of animals is conducted either for commercial or non-commercial purposes.



Laundromat: A building or structure where coin-operated laundry machines, using only water, detergents, and additives, are made available to the public for the purpose of washing and drying laundry.

Office, All Others: A use or structure where business or professional activities are conducted and/or business or professional services are made available to the public, including tax preparation, accounting, architecture, legal services, psychological counseling, real estate and securities brokering, and professional consulting services, but not including drive-through service windows, the cutting and styling of hair, or recreational facilities or amusements.

Pawn Shop: An establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the sale of the property. A Pawn Shop cannot be established, operated, or maintained within 1,000 feet of another pawn shop.

Playhouse/Theatre: A building or part of a building devoted to showing dramatic, musical, or live performances.

Restaurant–Table Service: An establishment whose principal business is the sale of edible, prepared food items and/or beverages for consumption on or off the premises. A Table Service Restaurant's principal method of operation includes any two of the following characteristics:

- Customers are provided with an individual menu, are served their food or beverages by wait staff, in non-disposable containers, at the same table items are consumed.
- Cafeteria-type operations where foods or beverages are generally consumed within the restaurant building.
- Carryout service is not the predominant type of service available.

Restaurant–Counter Service, No Drive-thru: An establishment whose principal business is the sale of edible, prepared food items and/or beverages for consumption on or off the premises. A Counter Service, No Drive-thru Restaurant is a restaurant not falling within the classification of Table Service Restaurant and having characteristics of offering food service over a counter, having a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a microwave oven.

Restaurant–Counter Service, With Drive-thru: An establishment whose principal business is the same as Counter Service, No Drive-thru Restaurant, except it offers food service over a counter or through a drive-through facility. A Counter Service, With Drive-thru Restaurant has a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a microwave oven.

Retail Sales, Service & Repair, All Others: A commercial enterprise that provides goods and/or services directly to the consumer, where the goods are available for immediate purchase and removal from the premises.

Retail Sales, Service & Repair, Outdoor: The display and sale of products and services outside of a building or structure, including vehicles, garden supplies, gas, motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and similar materials or items.



Retail Sales, Service & Repair, Special Handling: Retail businesses that primarily sell products that require special handling due to risks to public safety. Example businesses include massage parlors, tattoo shops, and vapor smoke shops.

Sports and/or Entertainment Arena or Stadium: A large structure with tiers of seats for spectators at sporting or other recreational events. A Sports and/or Entertainment Arena or Stadium use must be at least 500 feet from a residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Taverns: An establishment whose principal business is the sale and service of alcoholic beverages at retail for consumption on the premises. Food and snacks may also be made available for consumption on the premises.

Truck Stop/Travel Center: A facility designed and used to provide services to the trucking industry including, but not limited to, fuel stations, repair shops, truck washes, restaurants, convenience stores, weight scales, and shower facilities, all as part of a unified facility.

Winery or Microbrewery: A facility where wine or beer is sold for consumption onsite or off the premises and may include a restaurant, beverage room, or retail store as accessory uses.

D. INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES

Airport or Heliport: A facility operated by an airport authority or governmental entity that provides infrastructure and services for air travel, together with all activities commonly associated with the operation of a major air carrier facility. Such services, infrastructure, and activities may include but are not limited to: landing fields; facilities for the parking, storage, fueling, repair, and rental of aircraft; passenger and baggage terminals; air cargo operations and associated facilities; public transportation infrastructure, including terminals and stations; safety facilities such as fire and police stations; open space uses such as agriculture, parks, golf courses, and recreation; energy production; retail, concessions, and other uses designed primarily to serve airline passengers, other airport users, and space; and other accessory uses as determined by the Administrator. An Airport must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district. A Heliport is a facility for landing or take-off area for rotor craft that may include a passenger terminal and/or routine servicing of rotor craft. A Heliport must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Automobile Parts Recycling Center: An establishment where motor vehicles are dismantled for selling usable parts and which does not include a junk yard.

Automobile Towing Service Storage Yard: The assembling or standing of damaged or impounded vehicles for indeterminate periods of time, excluding the wrecking, dismantling or repairing of vehicles. An automobile towing service storage yard must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Bottled Gas Storage and Distribution: A facility where compressed gas is stored in pressurized portable tanks and is the origin or destination point of tanks being transported.



Chemical Manufacturing and Storage: An establishment used for the manufacture or storage of any chemical or chemically reactive products.

Communication Services: Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished using electronic and telephonic mechanisms. This use excludes telecommunication facilities. Typical uses include television studios, radio studios, or film and sound recording facilities.

Composting Facility: A commercial or public solid waste processing facility where yard or garden waste is transformed into soil or fertilizer by biological decomposition. A composting facility must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Contractors—General: An establishment providing general contracting and/or building construction services for residential, farm, industrial, or commercial uses, and which typically does not involve outdoor storage of machinery or equipment. This definition includes: general building contractors; plumbing, heating, air-conditioning; painting and paper hanging; electrical work; masonry, stonework, and plastering; carpentry and floor works; roofing, siding, and sheet metal work; glass and glazing work; installing building equipment; and special trade contractors. Building materials and company vehicles must be screened or located so not visible from a perimeter street or adjacent residential use.

Contractors—Heavy/Contractor Yard: Establishments providing general contracting and/or construction services other than for buildings, such as for highways and streets, bridges, sewers, and flood control projects, and which may involve outdoor storage of machinery or equipment, or a contractor yard for vehicles, equipment, materials and/or supplies. A Contractors, Heavy/Contractor Yard must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Data Center. A facility designed or primarily used to house computer servers, data storage systems, and associated equipment for the primary purpose of data processing, storage, and distribution. Accessory uses include on-site administrative offices, equipment maintenance areas, power supply and distribution equipment (including electrical substations, transformers, and backup generators), cooling systems and equipment, fire suppression systems, and security facilities. For the purposes of this ordinance, data centers are classified into the tiers noted below based on scale of operations. All Data Centers must comply with the following:

1. Letters from the appropriate utilities that sufficient water, electric, and fiber optic capacity exists and the utilities are willing to provide service.
2. All utility costs are the sole responsibility of the data center developer.
3. maximum noise level measured at the property line cannot exceed 60 dBA during the day (7:00 AM – 10:00 PM) and 45 dBA at night.
4. Back-up generator testing can only occur on weekdays between 9:00 AM – 5:00 PM with 48 hour advance notice to adjacent property owners.



Tier 1 Data Center. A data center facility with a gross floor area of less than 50,000 square feet and/or an aggregate electrical power capacity of less than 5 megawatts (MW). A Tier 1 Data Center must comply with the following:

1. At least 200-foot setback where abutting a residential use or residential zoning district.
2. A 100-foot landscape buffer is required where the use abuts a residential use or residential zoning district. The buffer must be planted with 4 shade trees and 6 evergreen trees per 100 linear feet.

Tier 2 Data Center. A data center facility with a gross floor area of 50,000 square feet or greater and/or an aggregate electrical power capacity of 5 megawatts (MW) or greater. A Tier 2 Data Center must comply with the following:

1. At least 300-foot setback where abutting a residential use or residential zoning district.
2. A 150-foot landscape buffer is required where the use abuts a residential use or residential zoning district. The buffer must be planted with 4 shade trees and 6 evergreen trees per 100 linear feet.

Food Preparation and Sales, Commercial: Establishments primarily engaged in the preparation and production of prepared food items in individual servings for off-premises consumption and/or sale by others. Typical uses include wholesale bakeries, commissary kitchens, specialty food packaging and/or processing shops, and flight kitchens.

Laboratory, Research and Development Services: A building or group of buildings containing one or more of the following types of facilities:

- A research and development facility, training facility, production studio, laboratory, display/showroom/sales facility, or other similar use which typically has a high ratio of square feet of floor area per employee.
- A building or part of a building devoted to the testing and analysis of any product. No manufacturing is conducted on the premises except for experimental or testing purposes.
- A business primarily engaged in the development or engineering of computer software or computer hardware, but excluding retail sales, computer hardware manufacturers, and computer repair services.
- A facility for the servicing of technological equipment and/or office machinery, such as computers, copying machines and word processing equipment.
- A facility for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.
- A facility devoted to the testing and analysis of any product, including medical laboratories, biological product manufacturing, and blood and organ banks.
- A laboratory that provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures or similar dental appliances. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services.



A Laboratory, Research and Development Services use may include sales facilities limited to non-retail sales and sales activities occupying no more than 20% of the gross floor area of the structure. Such use may include indoor storage space for parts and supplies.

Manufacturing or Refinement of Asphalt, Cement, Gypsum, Lime, or Wood Preservatives:

Establishments primarily engaged in manufacturing asphalt and tar paving mixtures or various compositions of asphalt or tar with other materials; manufacturing plaster, plasterboard, and other products composed wholly or chiefly of gypsum; manufacturing quicklime, hydrated lime, and "dead-burned" dolomite from limestone, dolomite shells, or other substances; or treating wood, sawed or planed in other establishments, with creosote or other preservatives to prevent decay and to protect against fire and insects. A Manufacturing or Refinement of Asphalt, Cement, Gypsum, Lime, or Wood Preservatives use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Manufacturing, Fabricating, and Assembly—General: A manufacturing establishment primarily engaged in the fabrication or assembly of products from prestructured materials or components; or a manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products, and does not produce or utilize in large quantities as an integral part of the manufacturing process, toxic, hazardous, or explosive materials. Because of the nature of its operations and products, little or no noise, odor, vibration, glare, and/or air and water pollution is produced, and, therefore, there is minimal impact on surrounding properties. A Manufacturing, Fabricating, and Assembly – General use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Manufacturing, Fabricating, and Assembly—Heavy: A manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products. Toxic, hazardous, or explosive materials may be produced or used in large quantities as an integral part(s) of the manufacturing process. Noise, odor, dust, vibration, or visual impacts, as well as potential public health problems in the event of an accident, could impact adjacent properties. A Manufacturing, Fabricating, and Assembly – Heavy use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Bus Transit Facility: A facility for bus transportation service available to the public that moves relatively large numbers of people at one time. A Bus Transit Facility use is limited to a stop or station for the mass passenger transit system; and parking for the use of passengers or employees of the passenger transit provider.

Mineral Extraction or Sand and Gravel Sales: Establishments primarily engaged in the process of removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth's crust, including the preliminary treatment of such ore or building stone. Mineral Extraction is prohibited within urban areas as defined in [IC 36-7-4-1103](#). This use also includes establishments primarily engaged in the extraction of sand and gravel from an open pit to be processed and sold for commercial purposes. Uses in this



category must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Within Agricultural Districts and approval of the BZA, the excavation and sale of sand, gravel, clay, shale, or other natural mineral deposit (excluding top soil - it is permitted to remove top soil), or the quarrying of any kind of rock formation is permitted, subject to the following conditions:

1. In the case of any open excavation, there must be substantial fence (woven wire, minimum height of 47 inches) with suitable gates completely enclosing the portion of the property in which the excavation is located, and such fence shall be located at all points 40 feet or more distant from the edge of the excavation.
2. The slope of the material in such sand, gravel, or other pit must not exceed the normal angle of repose of the material, and the plane of the angle or repose must not come closer than 40 feet or more distant from the face of any quarry walls.
3. In the case of a quarry or other excavation in rock there must be a substantial fence enclosure (woven wire, minimum height of 47 inches) with suitable gates located at all point 40 feet or more distant from the face of any quarry walls.
4. No such quarry wall can be nearer than 40 feet to any property boundary line or right-of-way.

Rail Distribution Yards: A facility for the operation of a line-haul or short-line freight railroad. A Rail Distribution Yard must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Recycling Center: A facility where recoverable resources, such as newspapers, magazines, glass, metal cans, plastic materials, tires, grass and leaves, and similar items, except mixed, unsorted municipal waste or medical waste are collected, stored, flattened, crushed, bundled or separated by grade or type, compacted, baled or packaged for shipment to others for the manufacture of new products. This use does not include SIC group 5015 (motor vehicle parts, used), which is listed as a separate use.

Recycling Drop-off Facilities: A facility for the drop-off and temporary holding of materials such as paper, cardboard, glass, metal, plastic, batteries, and motor oil. The processing of materials is limited to glass breaking and separation.

Recycling Plant, Scrap Processor: A facility at which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal and aluminum cans; waste oil; iron and steel scrap; rubber; organic materials; and/or other products are recycled and treated to return such products to a condition in which they may again be used for production or for retail or wholesale trade. This definition includes, but is not limited to, all uses in the following SIC group: 5093 Scrap and Waste Materials.

Salvage or Junk Yards: A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking



yards, house wrecking and structural steel materials and equipment, but excluding the purchase or storage of used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations. A Salvage or Junk Yard must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Sanitary Landfill or Incineration: A Sanitary Landfill is an area of land or an excavation where waste is placed for permanent disposal. Incineration is an engineered process involving burning or combustion of solid waste to thermally degrade waste materials at high temperatures.

Self-Storage Facility: All or part of a building used for the storage of personal goods and/or materials. In Commercial Districts, Self-Storage Facilities cannot have individual entrances to storage units from the exterior of the structure.

Small Cell Facility: A personal wireless service facility (defined by the Federal Telecommunications Act of 1996, as amended) or a wireless facility satisfying the following requirements:

- Each antenna, including exposed elements, has a volume of 6 cubic feet or less; and
 - The primary equipment enclosure located with the facility has a volume of 28 cubic feet or less. The volume of the primary equipment enclosure excludes: electric meters, concealment equipment, telecommunications demarcation boxes, ground-based enclosures, backup power systems, grounding equipment, power transfer switches, and cutoff switches.
1. Small Cell Facilities must be operated and maintained in a manner that does not interfere with public safety (police, traffic control, fire, and emergency services) equipment.
 2. If the Administrator determines a wireless provider's activity in the right-of-way creates an imminent risk to public safety, the Administrator may provide written notice to the wireless provider demanding correction of the risk. If the wireless provider fails to address the risk within 24 hours of the notice, the County may act to reasonably address the risk and charge the wireless provider the documented cost of such actions.
 3. Permitted Use. A wireless provider has the right as a permitted use (subject to review and conditions) to collocate Small Cell Facilities and install, maintain, modify, operate, and replace poles in the right-of-way. Structures and facilities must be installed and maintained to not create a safety hazard, obstruct, or hinder the public's safe use of the right-of-way, or obstruct the legal use of the right-of-way by utilities.
 4. Permit Requirements
 - a. A permit is required prior to collocating a Small Cell Facility or installing a new, modified, or replacement pole or support structure associated with a Small Cell Facility. The County may require an applicant to obtain additional permits provided the additional permits do not apply exclusively to Small Cell Facilities. If a wireless provider fails to comply with the permit requirements, the County, in its sole discretion, may restore the right-of-way to its prior condition and charge the wireless provider the documented cost of restoration, plus a penalty not to exceed \$1,000.



- b. Within rights-of-way under the control of the Indiana Department of Transportation ("INDOT"), the County must provide written consent to the wireless provider's application for an INDOT permit, if required.
- c. Applications required by this Article are filed with the Administrator on forms provided by the Administrator in the number and manner designated. The applicant may designate portions of the application containing proprietary or confidential information by clearly marking each such page as "proprietary" or "confidential." The County endeavors to protect the designated materials from public disclosure to the fullest extent permitted by State law.

Small Modular Reactor: An advanced nuclear reactor with an electrical power generation capacity not exceeding 300 megawatts electric (MWe) per unit, featuring factory fabrication, reduced construction time, and enhanced safety features. SMRs may be deployed individually or in multiple-unit configurations. See [*3.5 Small Modular Reactor*](#) for more information.

Solar Energy Conversion System: The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, buffer yard, and landscaping. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. See [*3.6 Solar Energy Conversion Systems*](#) for further information.

Solid Waste Disposal: An establishment in which municipal solid waste is collected, separated by material, compacted, baled, or packaged for shipment to others for the manufacture of new products or for disposal. No manufacturing, remanufacturing, fabrication, or processing of new products occurs in this facility. This use may include a waste transfer station. A Solid Waste Facility must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Telecommunications Facilities: The plant, equipment, and property, including cables, wires, conduits, ducts, pedestals, antennas, towers, electronics, and other appurtenances used to transmit, receive, distribute, provide, or offer telecommunications services.

1. All cell towers and wireless communications facilities must comply with the provisions of this article. Approvals granted are not effective until the applicant and the County or Town have a written agreement setting the terms and conditions to occupy and use any public rights-of-way or facilities. Approvals do not confer any exclusive right, privilege, license, or franchise to public rights-of-way or facilities unless specifically established in the written agreement.
2. All Telecommunication Towers exceeding 35 feet require conditional use approval in all districts.
3. The facilities listed below are exempt from the provisions of this article unless they are located within a recognized Historic District. In Historic Districts, all Telecommunication Facilities require conditional use approval.
 - A single ground- or building-mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying a residential parcel where the radio or television antenna is located; with an antenna height not exceeding 25 feet;



- A ground- or building-mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed 35 feet;
 - 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 35 feet;
 - A ground- or building-mounted receive-only radio or television satellite dish antenna, which does not exceed 24 inches in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of the dish does not exceed the height of the ridgeline of the principal building on the parcel;
 - All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of the adoption of this Ordinance;
 - Mobile services providing public information coverage of news events of a temporary nature;
 - Handheld devices such as cell phones, business band mobile radios, walkie talkies, cordless telephones, garage door openers and similar devices as determined by the Administrator or designated agent; and
 - 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, with heights not exceeding 35 feet.
4. For purposes of IC 8-1-32-3 and Section 332(c)(7)(B) of the Federal Telecommunications Act of 1996 as in effect on July 1, 2015, the BZA will exercise the authority to conduct hearings, to make decisions, and to approve the issuance or denial of Improvement Location Permits (except for co-location) under this chapter. The Administrator will exercise the authority to review applications for completeness, within the meaning of IC 36-7-4-1109, and to issue Improvement Location Permit's under this chapter.
5. The Administrator reviews the completeness of applications to construct or modify wireless facilities. Within 10 business days of filing, the Administrator will notify the applicant if the application is complete and if a public hearing will be required. If no public hearing is required, the Administrator acts on the request. When a public hearing is required, the BZA conducts the hearing and acts on the request.
6. To be considered complete, the application must contain the information listed below. Applications requesting co-location only are required to provide the information in a, b, c, and d:
- a. A statement that the applicant either provides wireless communications service or owns/provides infrastructure required for such service.
 - b. The name, business address, and point of contact of the applicant.
 - c. The location of the proposed or affected wireless support structure or wireless facility.
 - d. A construction plan conforming with all applicable Building Code requirements.



- e. Evidence showing the application complies with the criteria for a special exception.
 - f. For applications requesting approval for the construction of a new wireless support structure: (i) a construction plan describing the proposed wireless support structure and all equipment and network components, (ii) evidence supporting the proposed location, and (iii) a sworn statement from the individual responsible for the proposed location demonstrating co-location of wireless facilities on an existing wireless support structure is not a viable option because co-location:
 - Would not result in the same wireless service functionality, coverage, and capacity;
 - Is technically infeasible; or
 - Is an economic burden to the applicant.
 - g. For applications requesting modification of a wireless support structure, a construction plan describing the proposed modifications to the affected wireless support structure and all equipment and network components.
7. Failure by the Administrator to timely notify an applicant of an application's completeness is a nonfinal zoning decision, and the applicant is entitled to expedited judicial review of the nonfinal zoning decision.
8. Deadlines for Final Action
- a. For applications for co-location only, final action must occur within 45 days of the date the applicant is notified the application is complete. This type of application does not require a public hearing, but the Administrator reviews the application for compliance with applicable code requirements before issuing the Improvement Location Permit.
 - b. For applications to construct a new wireless support structure or substantially modify a wireless support structure, final action must occur within 90 days of the date the applicant is notified the application is complete, or within 120 days if special exception or variance approval is necessary.
 - c. If an applicant requesting additional time to amend its application agrees to a continuance, the time periods prescribed above are extended for a corresponding amount of time. Failure by the Administrator or BZA to take final action within the required period is a nonfinal zoning decision, and the applicant is entitled to expedited judicial review of the nonfinal zoning decision.
9. The following provisions apply to all applications submitted under this chapter:
- a. The Administrator and BZA must comply with all applicable provisions of Section 332(c)(7)(B) of the ***Federal Telecommunications Act of 1996*** as in effect on July 1, 2015, and Section 6409(a) of the ***Middle Class Tax Relief and Job Creation Act of 2012*** as in effect on July 1, 2015.
 - b. Neither the Administrator nor BZA may require an applicant to submit information about or evaluate an applicant's business decisions regarding the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.



- c. Neither the Administrator nor BZA may release to the public any records required to be kept confidential under federal or state law, including the trade secrets of applicants, as provided in the [Access to Public Records Act \(IC 5-14-3\)](#) and other applicable laws.
 - d. The BZA must not impose a fall zone requirement larger than the area where the wireless support structure is designed to collapse per the applicant's engineering certification for the structure, unless evidence submitted by a professional engineer demonstrates the applicant's engineering certification is flawed.
 - e. The Administrator or BZA must not require or impose conditions regarding the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.
 - f. Application fees must be the same or similar to fees for applications for similar types of commercial or industrial development. Fees imposed by a third-party providing review assistance to the Administrator or BZA must be based on actual, direct, and reasonable costs incurred for the review, processing, and hearing of the application, and may not include travel expenses incurred by the third-party in its review of an application or direct payment or reimbursement of third-party fees charged on a contingency basis.
10. All Communication Facilities must meet the following requirements:
- a. The height of the antenna support structure cannot exceed 200 feet.
 - b. The antenna support structure must be set back a minimum of 40 feet from the property line unless the adjoining parcel is zoned or used for a residential use, in which case the minimum setback equals the height of the support structure.
 - c. Except as required by the Federal Aviation Administration or Federal Communications Commission, the antenna support structure cannot be artificially illuminated and cannot display strobe lights.
 - d. Signs or advertising is prohibited upon an antenna support structure and associated equipment structures.
 - e. The support structure and any antenna located on the support structure must be designed to blend into the surrounding environment using color and camouflaging architectural treatment.
 - f. All utility buildings and structures accessory to the antenna support structure must be architecturally designed to blend into the surrounding area.
 - g. A landscape plan for the communication facility must be submitted with the application and must be substantially similar to landscaping required for other uses in business or industrial districts.
 - h. All communication facilities must be designed to accommodate the user's equipment and the equipment of at least 2 additional service providers.
 - i. A qualified and licensed engineer must approve the design of the antenna support structure and certify its construction complies with the requirements of this Article.



- j. All applications must include a notarized letter of intent committing the antenna support structure owner or lessee on behalf of themselves and their successors in interest that the antenna support structure must be shared with additional users if the additional user agrees to meet reasonable terms and conditions of shared use.
 - k. Transmissions from a communication facility cannot interfere with any existing public safety communications.
 - l. Communication facilities or their related improvements cannot be sited to:
 - Create a significant threat to the health or survival of rare, threatened, or endangered plant or animal species;
 - In a manner that would damage an archaeological site or have an adverse effect on the historic character of a historic or cultural resource; or
 - So that its presence threatens the health or safety of migratory birds.
 - m. Potential adverse impacts to nearby public use areas such as parks or trails must be minimized.
11. If a wireless communication facility structure is abandoned or remains unused for a period of 6 months, the owner must remove the structure and all associated facilities from the site. Such removal must be completed within 12 months of the cessation of site operations. If a structure is not removed within the required time, the Administrator may remove the structure and associated facilities. The cost of the removal is the responsibility of the owner of the parcel.

Transportation Services: Passenger services provided by public, private, or non-profit entities using modes such as express buses, minibuses, or vans. A Transportation Services use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Truck Freight Terminal/Distribution Center: Any premises used by a motor freight company as a carrier of goods, that is the origin or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading goods, but excluding loading and unloading of freight accessory to an otherwise permitted use on the site. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Vehicle Storage, Commercial: Establishments primarily engaged in the assembling or standing of operable vehicles for periods of more than one day. Such use does not include the storage of damaged, dismantled, or impounded vehicles. This land use need not be enclosed. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Wholesale Trade or Storage, General: Establishments primarily engaged in one or more of the following activities: Selling durable and nondurable goods to retailers, to industrial, commercial, institutional, farm, or building trade contractors; to professional businesses; or to other wholesalers.



Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots; the sale at wholesale and/or storage or warehousing of toxic and/or hazardous materials; providing support services primarily to other businesses. Operations with more than 25% of sales to retail customers are categorized as “retail sales” rather than as “wholesale trade” uses. This use excludes self-storage facilities. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Wholesale Trade or Storage, Light: Establishments primarily engaged in selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, building trade contractors; to professional business uses; or to other wholesalers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots in such a way as to have a minimal impact on surrounding properties, excluding the sale at wholesale and/or storage or warehousing of toxic and/or hazardous materials.

Wind Energy Conversion System: Any mechanism including blades, rotors and other moving surfaces designed for the purpose of converting wind into mechanical or electrical power. See [3.7 Wind Energy Conversion Systems](#) for further information.

Warehousing and Storage Services: An establishment primarily engaged in operating storage facilities for merchandise, goods, and materials. These facilities typically involve the receipt, storage, and dispatch of goods, often on a temporary basis, for a fee. The defining characteristic is the static storage of tangible items, rather than their processing, manufacturing, or extensive retail display.

Within Agricultural Districts, all activities must be carried out within a totally enclosed building, except off-street loading facilities, which must be visually screened from public thoroughfares and pedestrian sidewalks.

Ethanol Production: An establishment primarily engaged in the large-scale manufacturing of ethanol, typically through the fermentation of biomass feedstocks, most commonly corn, but also other grains, cellulosic materials, or sugar crops. The process involves several stages: milling the feedstock, converting starches/sugars to fermentable sugars, fermentation using yeast, distillation to separate ethanol from the mash, and dehydration to achieve fuel-grade ethanol.

Bio-diesel Production: An establishment primarily engaged in the manufacturing of biodiesel, a renewable alternative or additive to conventional diesel fuel. The process typically involves the chemical reaction of vegetable oils, animal fats, or recycled cooking greases (feedstocks) with an alcohol (usually methanol or ethanol) in the presence of a catalyst.

Waste-to-Energy Converters: An establishment primarily designed to process and convert various forms of municipal, commercial, and/or industrial solid waste that cannot be readily recycled or composted, into usable forms of energy. This conversion typically occurs through thermal or biological processes.

E. CIVIC, PUBLIC, AND INSTITUTIONAL PRIMARY USES

Animal Shelter: A facility used to care for and house lost, stray, homeless, abandoned, or unwanted animals; including those found running at-large or otherwise subject to impoundment consistent with applicable laws. Animal shelter includes facilities for adoption, medical treatment, and cremation.



Banquet Facilities and Reception Halls: A building or a portion of a building rented or reserved by individuals, businesses, or groups to accommodate private functions including banquets, weddings, anniversaries, and other similar celebrations. The facilities may include:

- Kitchen facilities for the preparation or catering of food;
- The sale of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the public; and
- Outdoor gardens or reception facilities.

Campground/RV Park: Any site, lot, field, or tract of land designed with facilities for short term and/or seasonal occupancy by campers using recreational vehicles, travel trailers, tents, cabins, or other temporary accommodations, but not including mobile homes.

Cemetery: Any land or structure dedicated to and used for the interment, entombment, or inurnment of human or animal remains. A cemetery may include a crematorium. A crematorium must be at least 500 feet from a residential district. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.

Childcare Facilities: Any place other than a family home in which people receive child care services during any part of a day not exceeding 13 hours in any 24-hour period and licensed pursuant to the County and State requirements.

1. These standards apply to childcare centers and do not apply to Child Care Homes. A childcare center is not considered a home occupation.
2. A childcare center cannot be located on a lot with a property line within:
 - 1,000 feet of any known business that has a permit for hazardous materials or regulated substances, excluding underground fuel storage tanks;
 - 1,000 feet of any known business handling compressed flammable gases more than 1,500 pounds;
 - 1,000 feet of any known business handling flammable liquids more than 10,000 gallons.
 - 500 feet of another childcare center.
3. Separation distance is measured from the property line of the proposed childcare facility to the use, storage, or handling areas for the regulated substances. For businesses containing a childcare center on site, the distance is measured from the exterior wall of the childcare center to the areas containing the regulated substances. The childcare center operator has the burden of proof of demonstrating compliance with the separation requirement.
4. Drop-off and pick-up of children from vehicles is permitted only in driveways, approved parking areas, or the street directly in front of the facility.
5. All outdoor play and activity areas must be enclosed with a fence at least 4½ feet high and separated from vehicular circulation and parking areas, equipment enclosures, storage areas, and refuse and recycling storage areas.



Club or Lodge: An association of persons organized for a common purpose to pursue common goals, interests or activities characterized by certain membership qualifications, payment of fees or dues, regular meetings and a constitution or bylaws.

Community Center: A place, structure, area, or other facility used for and providing programs, information, and services generally open to the public and designed to accommodate and serve significant segments of the community. A community center must comply with the following:

1. A community center cannot have an outdoor public address system or any type of amplified music or sound device.
2. Overnight accommodations are prohibited.
3. Where a community center includes accessory outdoor recreation or entertainment services facilities within or abutting a residential district, all outdoor lighting must be extinguished when the outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, and by 11:00 p.m. Friday and Saturday.

Conference Center: A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. The accommodations can include sleeping, eating, and recreation. A conference center is not designed to be utilized only by the general public for overnight purposes.

Correctional Institution: Publicly or privately operated facility housing people awaiting trial or people serving a sentence after being found guilty of a criminal offense.

Fairgrounds and Amusement Parks: A property mainly used for ongoing or periodic entertainment, recreation, and public shows that draw large crowds. Fairgrounds are sites set up for events like agricultural fairs, trade shows, circuses, concerts, and other big public gatherings. They usually include buildings for exhibits, animal barns, grandstands, outdoor display areas, spaces for temporary rides and food vendors, and large parking lots. An Amusement Park is a permanent recreation spot with many rides (like roller coasters), attractions, games, and entertainment for people to enjoy during its operating season. They also feature themed areas, live shows, arcades, gift shops, restaurants, and large parking lots.

Golf Course, Country Club: An establishment primarily dedicated to the sport of golf, typically featuring an 18-hole or 9-hole course, along with associated recreational and social facilities. This use is characterized by extensive open space, meticulously maintained landscapes, and specialized structures designed to support both the athletic activity and member amenities.

Driving Range: A commercial recreational facility primarily designed and operated for individuals to practice and improve their golf swing by hitting golf balls from designated teeing areas towards an open field or netted enclosure.

Hospital: An institution licensed by state law providing health services and medical or surgical care to patients and injured persons.

Libraries and Museums: A Library is a public facility for the use, but not sale, of literary, musical, artistic, or reference materials. A museum is an institution devoted to the procurement, care, study, and display of objects of lasting interest or value.



Municipal and Government Buildings: A building or facility utilized in the operation of local government. Municipal buildings and facilities include office space for the operation of administrative functions, police, fire, public works, emergency services, disaster relief, municipal parking lots, garages, and storage facilities, wastewater treatment facilities, municipal wells and enclosures and lift stations.

Parks and Playgrounds: An area of land designed or reserved for active or passive recreational use, including all natural and man-made open space and landscaping, facilities, playing fields, and buildings that are consistent with the general purposes of recreation, whether such recreational facilities are public operated or operated by other organizations pursuant to arrangements with the public authority owning the public park. Public parks include playgrounds, band shells, picnic grounds, pedestrian trails and paths, landscaped buffers, playgrounds, water features, baseball diamonds, football fields, soccer pitches, and similar outdoor sports fields. A publicly owned park or recreation facility must comply with the following:

1. Outdoor lighting must be extinguished when outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday.
2. Any recreation facility not completely enclosed (e.g., basketball or racquet sport courts) must be at least 50 feet from the boundary of a residential district.

Sports Assembly: An establishment primarily dedicated to facilities for athletic events, sports competitions, and related gatherings where spectators assemble to view such activities. This category encompasses a wide range of venues, from large-scale professional stadiums to smaller community-oriented sports complexes.

Places of Worship: A church, synagogue, temple, mosque, or other facility used for public worship where organized services are held by persons of similar beliefs.

Public and Religious Assembly, All Others: Public and Religious Assembly uses are permanent places where persons regularly assemble for religious worship or secular activities, and which are maintained and controlled by a body organized to sustain the religious or public assembly. In residential districts, a Public or Religious Assembly use must comply with the following:

1. The following operations must be terminated by 11:00 p.m.:
 - Daily operations of uses and activities accessory to a primary public or religious assembly use, such as accessory recreation uses or activities; and
 - Daily operations of other primary uses located on the same zone lot as the public or religious assembly use, such as child care centers or elementary or secondary schools, but not including a primary household living use located on the same zone lot.
2. Conference center, club, or lodge use is prohibited.

Schools–K-12: An institution for the teaching of children or adults including primary and secondary schools. This use also includes physical improvements and structures related to the activity of teaching, as well as associated accessory uses and structures, including maintenance areas, parking, athletic fields, outdoor study areas, etc.



Schools–Vocational: A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to private entities that do not offer a complete educational curriculum (e.g., professional schools, dance schools, business schools, trade schools, art schools, etc.)

University, College & Professional School Education: An institution for post-secondary education, public or private, offering courses in general, technical, or religious education and operated not-for-profit. It operates in buildings owned or leased by the institution for administrative and faculty offices, student and faculty housing, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, community rooms and facilities, athletic facilities, fraternities, and sororities. A university may include for-profit businesses and facilities that are incidental to the educational, cultural, and athletic functions, and which lease space from the institution. University must not include trade schools operated for profit.

Utility, Major Impact: A utility use that due to its nature or large scale could have an adverse impact on surrounding properties. Examples include sanitary sewer treatment plants and solid waste facilities. A Major Impact Utility must meet the following standards:

1. Sanitary sewage treatment plants must be at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.
2. Solid waste facilities must be in a completely enclosed structure and at least 500 feet from any residential district.
3. The expansion of transmission line capacity does not require a zoning permit provided such expansion may be accomplished within an existing right-of-way or with existing structures or poles.
4. Where permitted, the use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Utility, Minor Impact: A utility use that due to its nature or small scale is unlikely to have an adverse impact on surrounding properties. Examples include telephone switching stations and completely enclosed utilities. A Minor Impact Utility must meet the following standards:

1. Electric substations are prohibited in residential districts.
2. Exposed electric substation transformers must be enclosed by a fence or wall at least 6 feet high and adequate to obstruct view, noise, and passage of persons.
3. A minor impact utility use must be at least 50 feet from the nearest boundary of any lot containing a single- or two-unit dwelling use existing at the time of application for the utility use unless the utility has been sited and designed to assure its compatibility with adjacent dwelling units.
4. Building materials and company vehicles must be screened or located so not visible from a perimeter street or adjacent residential use.



Wedding Barn/Venue: An establishment, typically located in a rural or semi-rural area, that is specifically adapted or constructed to host private events, primarily weddings and related celebrations (e.g., receptions, ceremonies, rehearsal dinners). While often featuring restored or purpose-built barn-like structures, this definition encompasses any facility whose primary business operation is the rental and provision of space and associated services for such events.

3.4 Confined Feeding Operation

According to [IC 13-18-10](#), a Confined Feeding Operation (CFO) is defined as an animal feeding operation that confines a specific number of animals—at least 300 cattle, 600 swine or sheep, 30,000 fowl, or 500 horses—for 45 or more days a year. These operations are regulated by the Indiana Department of Environmental Management (IDEM) and require department approval for construction, expansion, and operation to manage potential environmental concerns.

A. Where Permitted

In the A1 and A1R Districts, an existing CFO located on or before August 29, 2022, is allowed to expand with Special Exception approval from the BZA.

B. Development Standards

Minimum Front Setback ⁽¹⁾	No Buffer	With Buffer ⁽²⁾
State Highway	750 feet	600 feet
Federal Highway	1,500 feet	1,000 feet
Minimum Side Yard Setback ⁽³⁾	200 feet	200 feet
Minimum Rear Yard Setback ⁽³⁾	200 feet	200 feet

(1) As measured from the public right-of-way

(2) With industry approved buffer designed according to Natural Resources Conservation Service (NRCS) guidelines

(3) As measured from the property line

C. Separation Requirements from an Existing CFO

Separation Distance from an existing CFO structure or an existing house is a minimum of 750 feet measured from the nearest CFO structure (including lagoons) to the nearest house. This standard applies reciprocally to residential and agricultural development. Separation distance from an existing CFO structure or school is a minimum of one mile measured from the nearest CFO structure to the school. This standard applies reciprocally to school and agricultural development.

D. A1R District - Additional Developmental Standards for an Existing CFO

In the A1R District, an existing CFO must meet the following standards:

1. Minimum Lot Size is 12 acres.
2. Minimum Lot Width is 250 feet, measured by using the front property line.
3. Separation Distance from an existing CFO structure or house is a minimum of 1,000 feet measured from the nearest CFO structure including lagoons to the nearest house. This



standard applies reciprocally to residential and agricultural development. Separation distance from an existing CFO structure or school is a minimum of one mile measured from the nearest CFO structure to the school. This standard applies reciprocally to school and agricultural development.

E. A1 and A1R Districts - Additional Requirements for an Existing CFO

1. An existing CFO located in this district on or before August 29, 2022, may apply for a Special Exception to expand that operation on the same parcel on which they are currently located up to the maximum total number of animals as set forth in [Table 3-1 Animal Unit Conversion Chart](#). This permitted expansion is limited to the species type housed at the CFO on August 29, 2022.

TABLE 3-1: ANIMAL UNIT CONVERSION CHART

Animal Species	Equivalent # of Heads <i>(More or Less)</i>
Dairy Cow	2,235
Cattle	3,200
Swine (over 55 lbs.)	8,000
Swine (under 55 lbs.)	32,000
Turkey	175,000
Pullets	320,000

2. The proposed CFO must be located at least one mile from all public schools.
3. The Site Plan must be submitted to the Administrator along with:
 - a. Clearly stated owner and operator interests.
 - b. Written permission from either the owner or operator of all existing CFOs located within one mile from the proposed site. (If the owner or operator withholds permission, they must obtain and submit a letter from their veterinarian setting forth industry-proven reasons for such objection along with supporting documentation and/or research.)
 - c. Fee of \$250.00 for review and site compliance visit.
 - d. Petition for Special Exception from the BZA.
4. The Administrator will score the site using [Table 3-2 CFO Site Scoring System](#) and provide that score to the BZA. This site score is used for reference only.
5. The applicant may not receive a CFO Improvement Location Permit unless granted a Special Exception by the BZA.

F. A3 District - Additional Requirements for CFO Without Special Exception

1. The proposed CFO must be located at least one mile from all public schools.
2. The total number of animals to be housed on the parcel is no more than the total animal units equivalent to 8000 head of swine ([Table 3-1 Animal Unit Conversion Chart](#) for all



livestock equivalent units) with a deviation of no more than the lesser of 10% or 600 head which may occur temporarily to compensate for mortality rates.

3. The applicant must score at least 445 points on **Table 3-2 CFO Site Scoring System**.
4. The Site Plan must be submitted to the Administrator along with:
 - a. Clearly stated owner and operator interests.
 - b. Written permission from either the owner or operator of all existing CFOs located within one mile from the proposed site. (If the owner or operator withholds permission, they must obtain and submit a letter from their veterinarian setting forth industry-proven reasons for such objection along with supporting documentation and/or research.)
 - c. Fee of \$250.00 for review and site compliance visit.
5. Upon receipt of all required information, documentation and fees, the Administrator renders a decision within 5 business days of submission.
 - a. If the application is approved, the Administrator provides appropriate permits.
 - b. If the application is denied, the applicant may apply for a Special Exception IF all requirements set forth below are met.

G. A3 District - Additional Requirements for CFO With Application for a Special Exception

1. Applicants who receive an unfavorable decision from the Administrator **3.4(G)** above, due to an inadequate score on the CFO Site Scoring System, or any other reason, may file an application for Special Exception if:
 - a. Applicant scored at least 345 points or,
 - b. Applicant scored less than 345 points, but such score was the result of a previous IDEM violation.
2. There is no set limit on the total number of animals to be housed on a parcel if the applicant applies for a special exception.

H. General Provisions for All Agricultural Zones

1. Livestock cannot be placed in a new facility until the Administrator determines there is adequate compliance with the approved site plan, which is attached to, and remain filed with, the permit application and site score
2. If at any time a CFO or residence is found to be in non-compliance with the approved site plan the following procedures are followed by the Administrator:
 - a. First Offense: Delivery of a written warning to the owner or operator of the CFO/CAFO by the Administrator and a Rush County Sheriff Department deputy.
 - b. Second Offense: Imposition of a fine of \$2500.00.
 - c. Third Offense: Imposition of a fine of \$5000.00.
 - d. Fourth Offense: Imposition of a fine of \$5000.00 per day until compliance is achieved.



3. Non-compliance must be rectified within 5 days from written notice is given or fine is imposed. Failure to timely rectify such noncompliance will be treated as a subsequent offense.

I. CFO Site Scoring System

TABLE 3-2: CFO SITE SCORING SYSTEM

	POINTS
Clean Record Award	10
Water Conservation	25
Existing Land Use	
Tilled	10
Wooded	20
Pasture	35
Section Density	
0-5	50
6-10	30
11-17	20
18-23	15
24-38	10
39-49	5
50+	0
Utilities	
Municipal Sewer	15
Private Septic	50
Separation From House/Public Use Facility/Church	
250' More Than Required by Developmental Standards	40
500' More Than Required by Developmental Standards	60
750' More Than Required by Developmental Standards	80
1000' More Than Required by Developmental Standards	120
1250' Or More Than Required by Developmental Standards	150
Non-Use Of Usable CRP Ground	-50
Truck Turnaround	30
Idem/EPA Violation	-150

Table continues on the next page



	POINTS
County Violation	-50
Homestead Award	100
Odor Abatement: Tier 1	
One Method	20
Two Methods	25
Three Methods	30
Four Methods	35
Five Methods	40
Odor Abatement: Tier 2	
One Method	20
Two Methods	25
Three Methods	30
Four Methods	35
Five Methods	40
Neighbor Notification	
Within 1/4 Mile (Mandatory)	5
Within 1/2 Mile	15
Within 1 Mile	30
Manure Application	
Injection	40
Use Of Attachment With Injection	5
Land Applied (Incorporated Within 24 Hours)	25
Closure Plan	50

TOTAL SCORE ____/655

J. Definitions

The following definitions and explanations apply to applications for Improvement Location Permits, the CFO Site Scoring System, and the Regulated Livestock (A3) Housing Scoring System.

Clean Record Award: Points are earned by an applicant who has operated a CFO in Indiana for at least 5 years without any IDEM violations during the previous 5-year period.

Closure Plan: A closure plan sets forth the steps that will be implemented to remove and apply remaining manure and clean pits and/or lagoons if at any time a CFO remains idle for 12



consecutive months. An applicant is awarded points for submitting a copy of this plan when applying for a permit.

County Violation: An applicant who has had a violation under this ordinance for which a fine was imposed within the previous 5 years receives a point deduction.

Existing Land Use: Points are awarded based on whether the land is currently being used for crops, pasture or woodland with greater points awarded for utilizing land that is not currently being used for agricultural activity.

Homestead Award: An applicant is rewarded for placing a CFO nearest to his or her own home (as compared to homes of adjoining property owners). The applicant must own the CFO and the real estate on which the home is located or hold an ownership interest in the CFO and real estate of at least 10% held as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other legally recognized equity interest holder. Ownership by the applicant's spouse and/or dependent child will also qualify applicant for points as if the ownership interest was applicant's own.

IDEM/EPA Violation: To protect environmental interests and penalize repeat offenders, an applicant who has had a violation of state or federal CFO regulations, including those regulated by the Indiana Department of Environmental Management (IDEM) and the Environmental Protection Agency (EPA), on record during the 5-year period preceding this application, receives a point deduction. A violation is defined as a finding or order, by a governmental agency, such as IDEM or the EPA, or a court of law, in which the applicant is determined to be in violation of state or federal CFO regulations. The applicant will be deemed to have such a violation if he or she holds an interest of at least 10% in any CFO or the real estate upon which it is located where the discharge occurred whether that interest is held as a joint tenant, tenant-in-common, shareholder, partner, member, beneficiary or any other legally recognized equity interest holder. Ownership by the applicant's spouse and/or dependent child will also result in a deduction of points as if the ownership interest was the applicant's own.

Manure Application: Manure may be applied by injection or land applied depending upon the type of manure as well as the topography and soil conditions of the application site. Injection is the preferred method, and more points are awarded to applicants who are able to utilize this method. Additional points are given if an attachment is used to cover the injection row in a single pass method.

Neighbor Notification: At a minimum, applicant must notify all neighbors located within 1/4 mile of the proposed CFO building sites. To encourage open communication and positive neighbor relations, more points are awarded for notifying neighbors within 1/2 mile or one mile of the proposed location. Additionally, applicants must obtain written confirmation that they have notified all existing CFO or IDEM-regulated operations located within one mile of the proposed CFO building sites. Personal notification is preferred for both aforementioned requirements, and affidavits are required. However, notice by certified mail is permitted when personal notification is not an available option.

Non-Use Of Usable CRP Ground: To encourage applicants to use Conservation Reserve Program (CRP) land for site locations rather than land that is actively used for agricultural production, a point penalty is assessed to applicants who choose not to use their available CRP



land. However, if the applicant's CRP land is used as part of their Best Management Practices (BMP), such as grassed waterways, no point penalty will be imposed.

Odor Abatement: An applicant may earn up to 40 points in each Tier for a total of 80 points.

Tier 1 Methods:

- Sprinkling of all gravel driveways
- Bio or biomass filters installed on appropriate exhaust fans
- Anaerobic Digester
- Permeable cover or impermeable cover for manure storage and lagoon
- Liquid manure storage structure is covered
- Composting
- Surface of lagoon is aerated
- Other industry approved technology as approved by the BZA

Tier 2 Methods:

- Installation of Shelterbelt (mandatory)
- Windbreak walls
- Diet formulation (use of feeds that reduce odor and nutrient excretion)
- Manure additives
- Solids separation
- Other industry approved technology as approved by the BZA

All CFOs must include a Shelterbelt regardless of which additional techniques are utilized. A shelterbelt must be installed according to NRCS standards.

Driveway sprinkling may be done with emulsion oil, water or dust stay material similar to the material used by the highway department and should be repeated as frequently as is necessary for absorption.

Parcel: Contiguous real estate that is identified by a given tax parcel number is considered a parcel.

Section Density: Seven levels are created based upon the number of non-farm homes located within a 1/2-mile radius from the proposed structure.

Separation From House, Public Use Facility, Church: Applicants earn points based upon the separation distance from the proposed location of the CFO facility to a house, public use facility or church. A "public use facility" includes any facility located upon land owned by any federal, state, or local governmental or political entity which is operated to attract the public and allow them to congregate for significant periods of time. Public use facility includes, but is not limited to, a park, picnic area, campground, lodge, shelter house, playground, lake, and swimming beach. A highway, road right-of-way, parking area, recreational trail and any other area used by the public for a passageway or temporary parking are specifically excluded from the definition of public use facility herein. The separation distance is measured between the CFO livestock structure with a pit or the open lagoon (whichever is closest) to the nearest house, public use facility or church.

Soil: Suitability of soil is determined by US Department of Agriculture (USDA) standards as set



forth in Table 4 of the USDA Soil Survey Report (1986).

Truck Turnaround: A truck turnaround is a driveway that is large enough for semi-trucks and all other vehicles to turnaround without backing onto the public roadway.

Utilities: An applicant who uses the municipal sewage system for a CFO is awarded fewer points than one who uses a private septic system.

Use of a private well as opposed to municipal water is optional, and no points are awarded for either choice. Maximum points should be awarded to CFOs not utilizing a septic system.

Water Conservation: Points are awarded to an applicant who utilizes wet/dry feeders or other feeding and watering systems that significantly reduce the amount of water used in the CFO.

3.5 Small Modular Reactor

A. Purpose and Intent

This article establishes regulations for the siting, development, and operation of Small Modular Reactor (SMR) facilities within the jurisdiction. The purpose of this article is to:

1. Provide for the safe and appropriate location of advanced nuclear energy facilities that support energy security and economic development.
2. Establish development standards that protect public health, safety, and welfare while accommodating innovative clean energy technology.
3. Ensure compatibility with surrounding land uses and community character.
4. Provide clear and predictable review procedures for SMR facility applications.
5. Coordinate local land use authority with state and federal nuclear regulatory oversight.

B. Definitions. The following definitions apply to this article:

Advanced Nuclear Reactor: A nuclear fission reactor with significant improvements compared to existing commercial reactors, including reactors that use coolants other than water and fuel types other than uranium oxide pellets.

Emergency Planning Zone (EPZ): The area surrounding an SMR facility for which special planning and preparedness efforts are undertaken to ensure that prompt and effective actions can be taken to protect the public in the event of an incident.

Exclusion Area: The area surrounding the reactor in which the facility operator has the authority to determine all activities, including exclusion or removal of personnel and property from the area. This area is typically within the facility property boundary.

Small Modular Reactor (SMR): An advanced nuclear reactor with an electrical power generation capacity not exceeding 300 megawatts electric (MWe) per unit, featuring factory fabrication, reduced construction time, and enhanced safety features. SMRs may be deployed individually or in multiple-unit configurations.



SMR Facility: The complete installation including one or more small modular reactors, associated equipment, structures, and infrastructure necessary for power generation, transmission, and site operations.

C. **Applicability**

These standards apply to all new SMR facilities and modifications or expansions to existing nuclear facilities. The standards in this article supersede the standards of the zoning district where the SMR facility is located. Nothing in this article should be construed to supersede or conflict with regulations of the United States Nuclear Regulatory Commission (NRC), the Indiana Department of Homeland Security, or other federal or state agencies with jurisdiction over nuclear facilities.

D. **Site Development Standards**

1. Minimum Site Size. 20 acres for a single-unit facility, with an additional 10 acres required for each additional reactor unit proposed.
2. Setback Requirements. Minimum setbacks for reactor structures and primary containment buildings:
 - a. 500 feet from any property line.
 - b. 300 feet from any public right-of-way.
 - c. 1,500 feet from any residential zoning district boundary.
 - d. 2,000 feet from any school, hospital, or place of public assembly.
3. Maximum Building Height. 200 feet for reactor containment structures and cooling towers, 75 feet for accessory buildings.
4. Site Access and Transportation
 - a. The site must have direct access to a state or federal highway capable of accommodating heavy equipment transport.
 - b. Site access roads must be designed to accommodate emergency vehicle access at all times.
 - c. Road improvement agreements may be required to address impacts to local infrastructure.
5. Water Supply and Cooling
 - a. The applicant must demonstrate adequate water supply for cooling and operational needs, including documentation of water rights or supply agreements.
 - b. Surface water intake or discharge facilities must comply with Indiana Department of Environmental Management (IDEM) requirements and Indiana Code 13-18.
 - c. Cooling systems must be designed to minimize environmental impacts and visual intrusion.

E. **Security and Safety Requirements**



1. Security Perimeter. The facility must be enclosed by security fencing meeting NRC security requirements. The security perimeter must be setback from public areas and screened with landscaping where visible from adjacent properties or public rights-of-way.
2. Emergency Planning
 - a. The applicant must coordinate with the Rush County Emergency Management Agency and Indiana Department of Homeland Security to develop an emergency response plan.
 - b. Documentation of the NRC-approved Emergency Planning Zone must be provided as part of the application.
 - c. The facility operator must participate in regular emergency planning exercises with local first responders.
3. Federal Oversight. No SMR facility can commence construction without documentation of NRC licensing proceedings and evidence that the design has received or is under active review for NRC design certification or approval. No facility can commence operations without valid NRC operating licenses.

F. Environmental Protection Standards

1. Stormwater Management. Stormwater management must comply with Indiana Code 13-18-10 and IDEM Rule 5 requirements. A comprehensive stormwater plan must address both construction and operational phases of the project.
2. Floodplain Restrictions. No reactor structure or critical safety system can be located within a 100-year floodplain as mapped by FEMA or as determined by detailed engineering study. Facilities must be designed to withstand probable maximum flood conditions.
3. Air Quality. The facility must obtain all required air permits from IDEM for construction and operation, including any auxiliary generators or heating equipment.
4. Waste Management. All radioactive waste storage and handling must comply with NRC regulations. The applicant must describe on-site waste management procedures and plans for ultimate disposal. Non-radioactive waste must be managed according to applicable local and state requirements.
5. Noise and Light
 - a. Noise levels at the property boundary cannot exceed 55 dBA during daytime hours (7:00 AM to 10:00 PM) and 45 dBA during nighttime hours
 - b. Exterior lighting must be shielded to minimize off-site impacts while meeting security requirements.

G. Operational Requirements

- a. The facility operator must submit annual compliance reports to the Planning Director documenting adherence to approved plans and conditions.
- b. The Planning Director has the authority to conduct site inspections to verify compliance.

H. Decommissioning and Site Restoration



1. Decommissioning Plan. Prior to approval, the applicant must submit a decommissioning plan consistent with NRC requirements, addressing the process for facility shutdown, radioactive material removal, structure demolition, and site restoration. The plan must be updated every 10 years or as required by the NRC.
 2. Financial Assurance. The facility operator must maintain financial assurance for decommissioning as required by the NRC and must provide annual documentation of such assurance to the county.
 3. Site Restoration. Upon cessation of operations, the site must be restored to a condition suitable for alternative development or retained in its industrial configuration as appropriate. All structures must be removed unless alternative uses are approved. The site must be graded, stabilized, and revegetated as necessary.
- I. **Application and Review Procedures.** An SMR requires Special Exception approval (8.7 Special Exceptions).
1. Pre-Application Conference. Prior to submitting a formal application, the applicant meets with the Planning Director, County Commissioners, and relevant county departments to discuss the project scope, regulatory requirements, and community engagement process.
 2. Application Requirements. In addition to the standard Special Exception application requirements, the following items are required as part of the application:
 - a. Site plan showing all proposed structures, setbacks, access points, utilities, and security features.
 - b. Detailed project description including reactor technology, electrical generation capacity, and number of units.
 - c. Evidence of site control (ownership or option agreements).
 - d. Documentation of NRC licensing status and design approval.
 - e. Environmental impact assessment addressing water, air, stormwater, traffic, and ecological impacts.
 - f. Economic impact study projecting tax revenue, employment, and infrastructure demands.
 - g. Emergency response plan developed in coordination with local emergency management.
 - h. A construction management plan must be submitted addressing traffic routing, dust control, noise mitigation, and work hours.
 - i. Decommissioning plan and financial assurance documentation.
 - j. Community benefit proposal addressing local workforce development, infrastructure improvements, and ongoing community engagement.



3.6 Solar Energy Conversion Systems (SES)

A. **Purpose.** This article establishes regulations for solar energy conversion systems for the following purposes:

1. To ensure any development and production of solar-generated electricity in Rush County is safe and effective;
2. Meet the goals of the community as expressed in the Rush County Comprehensive Plan, including: (a) protecting farmland to preserve its agricultural use; (b) maintain aesthetics for the preservation of the rural character in the unincorporated areas and protect the associated agricultural heritage; and (c) support the growth of agriculture as a vital element of economic development;
3. Encourage use of industrial rooftops and non-productive land including brownfields to protect prime farmland;
4. To facilitate economic opportunities for Rush County and its residents;
5. To assist in the reduction of carbon-based emissions; the dependence of petroleum and coal-based energy systems;
6. To develop standards for solar-generated energy, utilize natural resources and ecologically sound energy resources, support Indiana's renewable energy source potential and other economic development tools; and,
7. To provide a regulatory scheme for the construction and operation of Solar Energy Facilities in Rush County, subject to reasonable restrictions, to preserve the public health, safety, and general welfare.

B. **Intent**

1. It is the intent of this article to provide guidance for the development, construction, and operation of Solar Energy Systems (SES) in Rush County, Indiana, through reasonable guidelines and restrictions on the development, construction, operation, rehabilitation, decommissioning and restoration of SES, and to preserve the health, safety and general welfare of Rush County residents and public. This article embraces the spirit of the following statement from the American Planning Association:

"Solar facilities can be appropriately located in areas where they are difficult to detect, the prior use of the land has been marginal, and there is no designated future use specified (i.e., not in growth areas, not on prime farmland, and not near recreation- or historic areas). A solar facility located by itself in a rural area, close to major transmission lines, not prominently visible from public rights-of-way or adjacent properties, and not located in growth areas, on prime farmland, or near cultural, historic, or recreational sites may be an acceptable land use with a beneficial impact on the community."

2. As intended in this article, SES consists of the following: Solar Energy System (SES) - the components and subsystems required to convert solar energy into electric or thermal energy



suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, buffer, and landscaping. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

C. Definitions

Battery Back-Up: A battery system that stores electrical energy from a solar PV system, making the electricity available for future use. Battery Back-Up systems are common in Off-Grid Systems and Hybrid Systems.

Building Integrated Photovoltaic System: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semi-transparent skylight systems, roofing materials, and shading over windows.

Concentrated Solar Thermal Power (CST): Solar Energy Systems that use lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat source for either a conventional power plant, such as a steam power plant, or a power conversion unit.

Although several concentrating solar thermal technologies exist, the most developed types are the solar trough, parabolic dish, and solar power tower.

Electric and Magnetic Fields (EMF): According to the National Institute of Environmental Health Sciences, electric and magnetic fields (EMFs) are invisible areas of energy, often referred to as electromagnetic radiation, that are associated with the use of electrical power and various forms of natural and man-made lighting. EMFs are typically grouped into one of two categories by their frequency: (a) Non-ionizing: low-level radiation which is generally perceived as harmless to humans or (b) Ionizing: high-level radiation which has the potential for cellular and DNA damage.

Electricity Generation (also known as production, output): The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt- hours (MWh).

Electrical Equipment: Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

Engineer: A qualified individual who is licensed as a professional engineer in any state in the United States.

Financial Assurance/Commitment: The sources of private or public funds or combinations thereof that have been identified which will be sufficient to finance public facilities or private development necessary to support development and that there is reasonable assurance that such funds will be timely put to that end. Examples include cash bond only.

Ground-Mount System: A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to an



adjacent home, building or utility. Ground-mount systems may be applicable when insufficient space, structural and shading issues or other restrictions prohibit rooftop solar.

Hybrid Solar Photovoltaic Systems (aka grid-tied PV with battery back-up): Solar photovoltaic electricity generation systems designed to serve the electrical needs of the building to which it is connected, thus offsetting a home or business's electricity usage, while also utilizing a battery back-up in the event of a power outage. This is the only system that provides the ability to have power when the utility grid is down. Typical system components include PV panels, inverter(s) and required electrical safety gear, battery bank, and a charge controller.

International Residential Code (IRC): Part of the International Building Code (IBC), the IRC sets building standards for residential structures.

Inverter: A device that converts the direct current (DC) electricity produced by a solar photovoltaic system to usable alternating current (AC).

Megawatt (MW): Equal to 1000 Kilowatts; a measure of the use of electrical power.

Megawatt AC (MWac): One Megawatt alternating current (the capacity of the inverters and the max that can be output onto the grid).

Megawatt DC (MWdc): One Megawatt direct current (the total capacity of the panels)

Megawatt-hour (MWh): A unit of energy equivalent to one Megawatt (1 MW) of power expended for one hour of time.

National Electric Code (NEC): Sets standards and best practices for wiring and electrical systems.

Net Metering: A billing arrangement that allows customers with grid connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.

Off-Grid Solar Photovoltaic Systems with battery back-up: Solar photovoltaic electricity systems designed to operate independently from the local utility grid and provide electricity to a home, building, boat, RV (or remote agricultural pumps, gates, traffic signs, etc.). These systems typically require a battery bank to store the solar electricity for use during nighttime or cloudy weather (and/or other back-up generation). Typical system components include PV panels, battery bank, a charge controller, inverter(s), required disconnects, and associated electrical safety gear.

Operator: The entity responsible for the day-to-day operation and maintenance of the SES, including any third-party contractors.

Owner: The entity or entities with an equity interest in the SES(s), including their respective successors and assigns. Owner does not mean: (i) the property owner from whom land is leased for locating the SES (unless the property owner has an equity interest in the SES or (ii) any person holding a security interest in the SES solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the SES within one year of such event.

Passive Solar: Techniques, design, and materials designed to take advantage of the sun's position throughout the year (and the local climate) to heat, cool, and light a building with



the sun. Passive solar incorporates the following elements strategically to maximize the solar potential of any home or building (namely, maximizing solar heat gain in winter months and minimizing solar heat gain in summer months to reduce heating/cooling demand and maximizing the use of daylight to reduce demand for electricity for lighting): strategic design and architecture, building materials, east west and building lot orientation, windows, landscaping, awnings, and ventilation.

Photovoltaic (PV) System: A solar energy system that produces electricity using semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof mounted, ground-mounted, or pole-mounted.

Prime Farmland: Prime farmland, as defined by the U.S. Department of Agriculture, is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses. It could be cultivated land, pastureland, forestland, other land, but it is not urban or built-up land or water areas. The soil quality, growing season, and moisture supply are those needed for the soil to economically produce sustained high yields of crops when proper management, including water management and acceptable farming methods are applied. For Rush County, this includes all agriculture zones.

PV-Direct Systems: The simplest of solar photovoltaic electric systems with the fewest components (no battery back-up and not interconnected with the utility) designed to only provide electricity when the sun is shining. Typical system components include PV panels, required electrical safety gear, and wiring.

Racking: Solar energy systems are attached securely and anchored to structural sections of the roof-mounted or pole-mounted systems. Specially designed metal plates called flashings prevent leaks and are placed under shingles and over bolts to create a water-tight seal.

Roof-Mount System (aka roof-mounted, building-mounted): A solar energy system consisting of solar panels are installed directly on the roof of a home, commercial building, and/or an accessory structure, such as a garage, pergola, and/or shed. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage. Roof-mount systems can be mounted flush with the roof or tilted toward the sun at an angle.

Solar Access: The ability of one property to continue to receive sunlight across property lines without obstruction from another's property that contains buildings, foliage, or another impediment.

Solar Array: Multiple solar panels combined to create one system.

Solar Collector: A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation of electricity or for the transfer of stored heat.

Solar Easement: An easement recorded pursuant to IC 32-23-4, obtained for the purpose of ensuring exposure of a solar energy device or a passive solar energy system to the direct rays of the sun. Solar Easements are further described and regulated. Solar easements are to follow the State requirements of Recording (IC 32-23-2-5).



Solar Energy System (SES): The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, buffer yard, and landscaping. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

Solar Glare: The potential for solar panels to reflect sunlight, with intensity sufficient to cause annoyance, discomfort, or loss in a visual performance and visibility.

Solar photovoltaic (Solar PV) System: Solar systems consisting of photovoltaic cells, made with semiconducting materials, that produce electricity in the form of direct current (DC) when they are exposed to sunlight. A typical PV system consists of PV panels (or modules) that combine to form an array. Other system components may include racks and hardware, wiring for electrical connections, power conditioning equipment, such as an inverter and/or batteries.

Solar Panel (or module): A device for the direct conversion of sunlight into usable solar energy (including electricity or heat).

Solar Thermal System (aka Solar Hot Water or Solar Heating Systems): A solar energy system that directly heats water or other liquid using sunlight. Consists of a series of tubes that concentrate light to heat either water or a heat-transfer fluid (such as food-grade propylene glycol, a non-toxic substance) in one of two types of collectors (flat-plate collectors and evacuated tube collectors). The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

Substation: The apparatus that connects the electrical collection system of the SES and increases the voltage with connection with the utility's transmission lines.

Waiver Agreement: An agreement to modify a standard required in this article which is entered into by and between the landowner burdened by lessening the standard required by this article and the applicant requesting the modification of the standard required by this article. An agreement to modify a standard required by this article, or a "waiver agreement", is permissible only when a waiver of such standard is specifically authorized by this article. In order to be valid, a "waiver agreement" must: (1) Be in writing; (2) Specifically state that the document is a waiver agreement; (3) Briefly describe the standard or requirement which is being modified; (4) Briefly describe the standard agreed upon by the parties to the waiver; (5) Be executed in a manner free from coercion or duress; (6) Be executed by both parties to the waiver agreement; (7) Be subject to the approval of the BZA and APC; and (8) Filed with the Planning Department.

Watts (W): A measure of the use of electrical power; [power (Watts)= voltage (volts) x current (Amps) or by the formula $W=VA$].

- D. **Applicability.** No person can construct, operate, or locate a Solar Energy System (SES) without having fully complied with the provisions of this Ordinance. These regulations govern the siting, development, operation, rehabilitation, decommissioning, and restoration of SES, which generate electricity to be sold in the wholesale market or retail market, or which are used to generate electricity for private use, commercial use, and public use.



1. When any part of the development, construction, rehabilitation, operation, decommissioning, or restoration of a SES requires action, recommendations, hearing and/or decision pursuant to the provisions of this UDO, public notice is required.
2. Provisions of this Ordinance which are specifically made applicable to a specific type of SES (such as SES-1, SES-2, or SES-3) apply only to that type of SES. Provisions without reference to a specific type of SES apply to all SES unless determined otherwise by the APC and BZA.
3. Systems governed by this article fit into one of three system types. A SES larger than 300 acres is prohibited.
 - **SES-1.** A SES for property/homeowner/agriculture use and incidental sale of electricity to a local servicing utility. This type of SES is a maximum of 5 acres and produces less than 1 MW/acre.
 - **SES-2.** A commercial SES for business use or the sale of electricity to a local servicing utility. This type of SES is a maximum of 10 acres and produces more than 1 MW/acre and less than 15 MW/acre.
 - **SES-3.** A commercial SES ranging in size from 10 acres to 300 acres and not producing more than 16 MW/acre.
4. Each SES-2 or SES-3 project, either singly or as a combination of contiguous parcels, cannot exceed 10 acres or 300 acres, respectively. A 3-mile neutral zone is required between each SES-3 project.
5. The maximum duration of a special exception approval is 30 years at which time the special exception approval expires.

E. Exemptions

1. A roof-mounted SES-1 or any stand-alone systems (e.g., a flagpole, light, single solar lights, etc.) with an aggregate collection and/or focusing area of 8 square feet or less are exempt from this article.
2. SES constructed prior to the effective date of this article are not be required to meet the terms and conditions of this article. Any physical modification to an existing SES, whether it was built before the effective date must be approved by the Administrator. Routine maintenance or like-kind replacements do not require a permit.

- F. **Indemnification.** The applicant, owner and/or operator of the SES project must defend, indemnify, and hold harmless the County and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liability whatsoever, including attorney fees without limitation, arising out of acts or omissions of the applicant, owner and/or operator associated with the construction and/or operations and/or design of the SES project.

G. Petitions and Applications

1. An SES-1 is approved by the Administrator based on information provided in the Improvement Location Petition (ILP) application. An SES-1 requires a pre-project meeting with the Administrator. Specific filing requirements will be provided at that time.



2. SES-2 and SES-3 systems require special exception approval by the Board of Zoning Appeals prior to issuing a building permit.
3. Prior to the issuance of an ILP, applicants must acknowledge in writing that the SES will not and does not create in the property title or the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjacent or other property or the growth of any trees or vegetation on such property, or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
4. This disclaimer is subordinate to any solar easements entered into with adjacent landowners and subject to the terms agreed to therein.

H. **Requirements for All System Types: SES-1, SES-2, and SES-3.** Solar Energy Systems (SES) must meet the following safety, design, and installation standards:

1. Interference. When selecting a site for solar panels, all applicants must take into consideration the potential maximum allowable structure height and possible landscaping of the adjacent properties to avoid interference and potential loss of efficiency from the sun to the solar panel surface.
2. Roof-mounted and wall-mounted SES-1 and SES-2 are allowed as an accessory use in all zoning districts under the following requirements:
 - a. A roof-mounted or wall-mounted SES-1 may be located on a principal or accessory building.
 - b. Roof-mounted solar panels installed on a building or structure with a sloped roof cannot project vertically more than the height requirements for the district in which they are located. The panels cannot be located within 3 feet of any peak, eave, or valley of the roof to maintain pathways of accessibility.
 - c. Wall-mounted SES-1 and SES-2 must comply with the setbacks for principal and accessory structures in the underlying zoning districts.
 - d. Roof-mounted and wall-mounted SES-1 and SES-2 may be installed on legal non-conforming buildings if the installation of the SES does not increase the nonconformity.
 - e. Parcels with a residential use in a commercial or industrial zone district must conform to the developmental standards of the residential zone districts as determined by the Administrator to be the current use on the property.
 - f. For roof and wall-mounted systems, the applicant must provide evidence that the roof or wall can hold the load imposed on the structure.
 - g. Roof and wall-mounted SES-1 and SES-2 must be mounted in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, and provide for smoke ventilation opportunities. Roof and wall-mounted SES-1 and SES-2 must be in accordance with the Indiana Fire Code.
3. Ground-Mounted SES



- a. Minimum Setback Requirements. Setbacks are measured from any part of SES (including fencing for SES-2 and SES-3) to the property line.
 - i. SES-1: Must meet the minimum setbacks for a primary structure for the zoning district in which the SES is located.
 - ii. SES-2: 100' setback from a property line or ROW to the SES fencing.
 - iii. SES-3: 1,320' setback from property line or ROW to the SES fencing.
 - b. Ground-mounted SES cannot exceed 15 feet in height above the ground elevation surrounding the systems. In residential districts the maximum height of a ground-mounted SES is 10 feet.
 - c. Safety/warning signage as required by applicable law concerning voltage must be placed at ground-mounted electrical devices, equipment, and structures.
 - d. Ground-mounted SES cannot be placed within any easement or right-of-way. A SES cannot be placed within any storm water conveyance system in a manner that would alter or impede stormwater runoff from collecting except by permission granted in writing by the County Drainage Board.
 - e. Parcels with a residential use but located in a commercial or industrial zoning district must conform to the developmental standards of the residential zoning district determined by the Administrator to be the current use on the property.
4. Electrical Components
- a. Standards. Electrical components must conform to applicable local, state, and national safety codes for similar systems.
 - b. All on-site utility, transmission lines, and plumbing must be placed in compliance with all laws and applicable regulations.
 - c. When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure meeting the requirements of the Indiana Building Code and IDEM regulations when in use and when no longer used must be disposed of in accordance with all applicable laws and regulations.
5. Utility Interconnection. A SES, if interconnected to a utility system, must meet the requirements for interconnection and operate as prescribed by the interconnection agreement with the electrical utility, and any applicable federal and state regulations.



6. Color, Finish and Glare

- a. To the extent reasonably possible, solar energy panels, regardless of how they are mounted, must be oriented and/or screened year-round so that glare is directed away from adjacent properties and streets.
- b. To the extent reasonably possible, the SES must be designed using such features as colors, materials, textures, screening, and landscaping to blend into their settings and avoid visual blight. The SES must remain painted or finished in the color or finish that was originally applied by the manufacturer. The exterior surface of any visible components must be non-reflective, neutral color like black, white, gray or another non-obtrusive color. Finishes must be matte or non-reflective.
- c. The property owner has the burden of mitigating any glare produced so as not to have significant adverse impact on adjacent uses. Mitigation is accomplished by siting, panel orientation, landscaping and/or other means. The determination of the Administrator must be conclusive relative to the property owner's compliance with this standard.

7. Signage. No portion of the SES can contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership is allowed on any equipment of the SES. Appropriate warning signs are allowed.

8. Solar Easements

- a. Where a subdivision or land development proposes an SES, solar easements may be provided. Said easements must be in writing and are subject to the same conveyance and instrument recording requirements prescribed in **IC 32-23-2-5**, as amended.
- b. Any such solar easements must be appurtenant; run with the land benefited and burdened; and be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar easement must meet the requirements of **IC 32-23-4.4** and **4.5** and include the following:
 - i. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees at which the solar easement extends over the real property that is subject to the solar easement, and a description of the real property to which the solar easement is appurtenant.
 - ii. Restriction on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
 - iii. Terms and conditions, if any, under which the easement may be revised or terminated;
 - iv. An explanation of the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

9. Fees. Filing fees for applications and petitions are set in a fee schedule established by the County Commissioners.

I. **Additional Requirements for SES-2 and SES-3 System Types**

In addition to **3.4(H)** above, the following standards apply to SES-2 and SES-3:



1. Topsoil. Topsoil removal from the site is prohibited. Topsoil that is moved for grade adjustments must be stored in the buffer area of the SES site.
2. Safety, Design, and Installation Standards
 - a. A SES-2 or SES-3 requires special exception approval from the Board of Zoning Appeals (BZA) prior to the issuance of an Improvement Location Permit.
 - b. Setbacks. Minimum setbacks are identified and measured from the centerline of the road right-of-way (ROW) or the property line where there is no ROW present. Setbacks apply to the entire SES including solar panels, racking, underground cabling, fencing, access roads/lanes, and other power equipment. Setbacks are required as follows:
 - i. SES-2 - 100' from the property line of a non-participating homeowner.
 - ii. SES-3 – 1,320' from any adjoining road or from the property line of a non-participating homeowner.
 - c. Substation Setbacks. The substation setbacks are the same as those of the SES. An adjacent landowner may waive this setback requirement by execution of a waiver agreement.
 - d. Poles and Underground Wiring. For all poles carrying overhead wiring and for any underground wiring connecting the racks and components of a SES and/or to connect a SES to a substation for connection to or other direct connection to a utility's electric transmission line, there are no setback requirements from property lines of adjoining landowners so long as the poles and underground wiring are located within a recorded utility easement.
 - e. Easements. Ground-mounted SES cannot be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system, regulated drain easement, special flood hazard area, or in any other manner that would alter or impede storm water runoff from collecting in a constructed stormwater conveyance system except by written permissions granted by the Rush County Drainage Board, and owner of the land and/or right-of-way and/or easement. This would include but not be limited to state, county, and/or privately owned waterways, ditches, drainage tiles, retention areas and designated swales.
 - f. Inverters. Any inverter must be a minimum of 500 feet from any dwelling and encapsulated.
 - g. Roads and Drives. Driveway cuts for ingress/egress roads into a SES-2 or SES-3 cannot be closer than 100 feet from the property line of an adjoining landowner unless the adjoining owner waives this restriction.
 - h. Horizontal Extension of SES. The furthest horizontal extension of a SES-2 or SES-3, excepting the SES collection system, SES transmission lines, ingress/egress road and SES access roads/lanes, cannot extend into a setback which is otherwise required for the zoning district in which the SES is located or into a required buffer yard or into a setback required for an adjacent zoning district nor be less than 15 feet from any structure or



public right-of-way easement for any above ground telephone line, electrical transmission line, electrical distribution line or other above ground communication or transmission line.

- i. Enclosure Guarantee. A SES-2 or SES-3 can enclose no more than two sides of a non-participating residential property.
3. Equipment Type. All SES-2 and SES-3 must be constructed of commercially available equipment and conform to applicable industry standards, as well as all local state and federal regulations. All panel brands and models used must have a full Toxicity Characteristic Leaching Procedure (TCLP) test showing that the proposed model of panels will not be considered hazardous waste at the end of life of the panel. Panels may not include Gen-X chemicals, P-FAS compounds, or heavy metals that are exposed to precipitation.
4. Electrical Components
 - a. Cables and Lines. All cables and lines on site, except transmission cables and lines, must be buried at least 36 inches underground.
 - b. Transmission cables and lines must be buried at least 60 inches underground with a warning mesh located 36 inches deep.
 - c. No plow type installations are permitted, only open trenching or boring installations. All underground cabling will be marked at road crossings, creeks, riverbeds and property lines with a metal or fiberglass post at least 5 feet in height.
 - d. Battery Storage requires a separate permit from the Planning Department for proper Emergency Agency compliance and preparedness.
5. Foundations. A qualified engineer must certify, prior to application for building permits, that the foundation and design of the solar panel racking, and support is within accepted professional standards, given local soil and climate conditions.
6. Materials Handling, Storage, and Disposal
 - a. Solid Wastes. All solid wastes whether generated from supplies, equipment, parts, packaging, operation, maintenance, rehabilitation, decommissioning, restoration of the facility, or otherwise, including, but not limited to, old parts and equipment related to the maintenance, rehabilitation, decommissioning, or restoration of any, must be removed from the site promptly and disposed of in accordance with all federal, state, and local regulations, laws, and ordinances. The SES owner and SES operator must have the same responsibility for compliance with this requirement.
 - b. Hazardous Materials. All hazardous materials or hazardous waste related to the construction, operation, maintenance, rehabilitation, decommissioning, or restoration of any SES or otherwise generated by the facility must be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal regulations and laws. The SES owner and the SES operator must have the same responsibility for compliance with this requirement.
7. Sewer and Water. All SES facilities must comply with the septic system and well regulations of the Rush County Health Department and the State of Indiana Department of Public Health.



8. Signage. Signs must comply with the Sign Standards provided in this Ordinance.
- Development Signs. An identification sign relating to a SES may be located on each side of the fenced facility area provided that there must be no more than one sign located on any side of the SES fenced facility area unless additional identification signs are required to provide reasonable notice to the general public.
 - A sign must be securely posted on each gate entry point clearly displaying an emergency telephone number(s) and other contact information.
 - All ingress/egress roads to a SES must have posted in a conspicuous location a 911 address road sign indicating the assigned address for that location.
 - Warning signs must comply with applicable laws.
 - All signage required or permitted by this article must be made of materials and constructed in a manner that is durable and long-lasting. The same must be painted or made of material with a distinct, high contrast background and be weatherproof paint or other weatherproof material to promote safety and protect the public from hazards and/or potential hazards.
9. Collection Cable/Lines. Collection cables, collection lines, and communication lines installed as part of any SES are not considered essential services.
10. Other Appurtenances. No appurtenances other than those associated with the SES construction operations, maintenance, repair, replacement, rehabilitation, decommissioning, restoration, removal, and permit requirements can be connected to the SES area except after notice of hearing and the hearing before the BZA pursuant to the applicable Ordinance(s) of this article.
11. Height. Ground-mounted SES arrays cannot exceed 15 feet in height when oriented at maximum tilt.
12. Fence
- For security, all ground-mounted SES-2 and SES-3 must be completely enclosed by a minimum 6-foot-high chain link fence with a locking gate accessed by a keypad or Knox box with key.
 - The fence should be located at the setback distance. Any required landscaping or buffer may be outside the fence.
 - A fence in an agriculture zone located on the property lines is the sole responsibility of the SES owner/operator.
13. Noise. An operating SES cannot produce noise that exceeds any of the following limitations except during construction or maintenance. Adequate setbacks, barriers, enclosures, use of quieter equipment, or other effective means of reducing noise must be used to comply with these limitations:
- 50 dBA, as measured at the property line of any adjacent residentially zoned lot;



- b. 45 dBA, as measured at any existing adjacent residence between the hours of 9 pm and 7 am; and
 - c. 60 dBA, as measured at the property lines of the project boundary, unless the owner of the affected property agrees to a higher noise level, as follows: The owner of an adjacent property that would otherwise be protected by the 60 dBA noise limitations may voluntarily agree, by written waiver, to a higher noise level. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of a legally binding contract or easement between the landowner (including assignees in interest) and the solar energy system developer, effective for the life of the project. This waiver must be recorded and cross-referenced with the affected properties.
 - d. The Administrator may hire an appropriate company, at the SES's owner and/or SES's operator's expense, to determine if noise levels have been exceeded.
14. Ingress/Egress and Perimeter Access. At a minimum, a 20-foot-wide ingress/egress gravel or paved road must be provided from a public street/road, legally established access drive/road or another roadway into the site of an SES-2 or SES-3. The design must be accepted by the Administrator upon written approval of the local Fire Department with primary jurisdiction. Approvals must meet all state and federal regulations.
15. Lighting. The ground-mounted SES cannot be artificially lit except to the extent required for safety or applicable federal, state, or local authority. Such lighting must be shielded and downcast so as not to affect adjacent properties.
16. Power and Communication Lines. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings must be buried underground. Exemptions may be granted by the Administrator in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Administrator. Power and communication lines between the project and the point of interconnection with the transmission system may be overhead.
17. Electro-magnetic Frequency. Electro-magnetic Frequency has the potential to create health issues for people with pacemakers and similar devices. Signage should be placed on site alerting potential visitors to the possibility of harm. All property owners living adjacent to any commercial solar field must be notified of the possibility of health issues associated with the presence of the SES-2 or SES-3.

J. **Additional Requirements for SES-3 System Type**

In addition to **3.4(H)** and **3.4(I)** above, the following standards apply to SES-3:

- 1. A-Zoned Property. No more than 10% of a SES-3 may be located on A- Farmland as designated. A letter from the Rush County Natural Resources Conservation Service (NRCS) or another qualified source stating that no more than 10% of the proposed project is on A-Zoned Farmland must be included with the Improvement Location Permit (ILP) and project application. Rush County reserves the right to use its own Geographic Information System mapping to verify the stated percentage.
- 2. Property Value Guarantee Agreements



- a. Property Value Guarantee will be offered by the solar developer to all non-participating residents and landowners within three miles of a SES-3. Fair market value will be established by, at a minimum, two licensed appraisers acceptable to both the developer, property owner and the county: If the property value of a home decreases, relative to comparative property market fluctuations, and a home or landowner is unable to sell his property after the SES is erected, the developer will pay that landowner the difference or buy the property at the baseline fair market value determined prior to construction of the SES.
 - b. A permit for construction cannot be given by any department until all property value guarantee agreements have been filed with the Rush County Planning Department. A surety bond must be provided in the amount of 3% of the assessed value of all properties within 3 miles of any part of the solar facility for the life of the project. The surety bond must be used to pay for appraisals, cover decreases in value of affected homes, buyouts, and other uses to achieve the goals of this section.
 3. Wildlife and Environmental Impact Mitigation. The petitioner must provide an analysis, conducted by a qualified third-party professional, to identify and assess any potential impacts on wildlife and impacts on the natural environment and provide recommendations to be incorporated in the project design. The level of detail in the analysis will be determined prior to the application during the application meeting between the developer and the Administrator and will be based on the perceived level of potential impacts in the area being cited for the proposed SES-3.
 4. Buffer from Water Sources. A SES-3 facility cannot be located within 3 miles of any FEMA/DNR floodplain, major named creek, river, and any natural flowing spring well.
- K. **Application for special exception Approval of a SES.** In addition to the application requirements of 8.7 Special Exceptions, applications for SES must include the following information:
1. Contact information of SES Applicant. The name, address, telephone number and e-mail address (if available) of the applicants, together with a description of the applicant's business structure and overall role in the proposed project.
 2. Contact Information of SES Owner. The name, address, telephone number and e-mail address of the SES owners, together with a description of the owner's business structure and overall role in the proposed SES, and documentation of real estate ownership of any real property upon which any part of the proposed SES is to be located. The SES owner must inform the Administrator of any change of SES ownership, in whole or part, and must furnish the required information regarding such owner.
 3. Contact Information of SES Operator. The name, address, telephone number and e-mail address of the operators, as well as a description of the operator's business structure and overall role in the proposed project. The SES operator must inform the Administrator of any change of the SES operator and furnish the required information regarding such operator.
 4. Legal Description. The legal description and the 911 Emergency Address of the real property upon which the SES is to be located.



5. SES Description. The SES description and information including, but not limited to the following:
 - a. Type of solar technology (e.g. solar panels, solar shingles, etc.)
 - b. Solar panel mounting technique (e.g. ground-mount, roof-mount, etc.);
 - c. Solar panel installation height;
 - d. Nameplate generating capacity;
 - e. The means of interconnecting with the electrical grid;
 - f. The potential equipment manufacturers; including information sheets and installation manuals;
 - g. Accessory structures and other appurtenances; and,
 - h. Other information as determined by the Administrator.
6. Topographic Map. A United States Geological Survey (USGS) topographical map, or map with similar data, of the property and the surrounding area, with contours of not more than 2-foot intervals.
7. Preliminary Site Plan (SES-3 application only)
 - a. A site plan, drawn to scale, including distances pertaining to all applicable setback and buffer requirements. All drawings must be at a scale of 1"=30'. Any other scale must be approved by the Administrator. No individual sheet or drawing can exceed 24 inches by 36 inches without the prior consent of the Administrator.
 - b. The preliminary site plan must illustrate the following:
 - i. Property lines upon tract(s) subject to the application, together with property lines and with the names of owners or record of each adjacent tract(s).
 - ii. Location and name/number of public roads surrounding, abutting, and/or traversing the SES and any SES ingress/egress road.
 - iii. Substation locations
 - iv. Location of electrical cabling outside of fenced areas
 - v. Ancillary equipment
 - vi. Proposed solar arrays, connecting lines, and all affiliated installations and structures.
 - vii. Proposed Access points, interior drives, security features, and fencing
 - viii. Surface water drainage patterns
 - ix. Woodlands, Grasslands, and Farmland identification
 - x. Soil types
 - xi. Area designated Prime Farmland on each participating parcel.
 - xii. Any structure within one quarter (1/4) mile of the proposed SES boundary.
 - xiii. The location of any airport within one (1) mile of the proposed SES boundary.



- xiv. Setback lines: Distances from the SES to each setback requirement listed in this article.
 - xv. The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources, within 3 miles of a proposed SES.
 - xvi. The location of any wetlands based upon a delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within 3 miles of a proposed SES.
 - xvii. Location of any Special Flood Hazard Area as determined by the Federal Emergency Management Agency (FEMA) and by the Indiana Department of Natural Resources (IDNR), whichever is more stringent.
 - xviii. Location and height of fencing, access roads, berms and landscaping associated with any buffer zone.
8. Wetland Delineation. A Wetland delineation and report must be submitted on properties proposed for use as a SES within 3 miles of a wetland.
9. Landowner Agreements
- a. Fully executed leases signed by the landowner for every parcel under contract (financial information can be redacted) of any description signed by participating landowners authorizing the placement of the identified SES on landowner's property.
 - b. Fully executed Setback Waiver Agreements, if applicable, signed by adjacent landowners.
 - c. An executed copy of any other waiver agreement signed by adjacent landowners.
 - d. A copy of any recorded Solar Easements from adjacent landowners.
 - e. Property value agreements with all non-participating residents need to be on file and recorded with Rush County Recorder
10. Solar Easement. Where a land development proposes an SES, solar easements may be provided. Said easements must be in writing and are subject to the conveyance and instrument recording requirements prescribed in IC 32-23-2-5 or subsequent amendment. Any such easements must be appurtenant; run with the land benefited and burdened; and be defined and limited by conditions stated in the instrument of conveyance. If necessary, and responsibility of the applicant, owner and/or operator to obtain any variance required by such change and to comply with any other requirement necessitated by such change. Any variance required by this Section must be obtained prior to construction or implementation of such change.
11. Waiver Agreements. All waiver agreements must be in writing and follow the requirements specified in this article. Copies of all waivers are required as part of the SES application.
12. Fees. Applications are assessed an application fee based on the Rush County fee schedule. Fees are due with the submittal of an application.
- L. **Community Meeting**. Prior to submission of an application for special exception approval for a SES-3, the project developer must host a community information meeting, open and advertised to the public. The purpose of the meeting is outreach, with the intent of providing complete



information to the community in an informal setting. The meeting cannot be construed to be a local government meeting or formal public hearing. A summary and report regarding the community meeting must be submitted to the Planning Department at the time of the special exception application. The report must include a list of the landowners who were invited, a record of attendees, and copies of all written comments received.

M. **Application for an Improvement Location Permit (ILP) for a SES.** As part of an application for an ILP, applications for SES must include the following information:

1. Engineering Certification. For all SES and SES facilities, the manufacturer's engineer or another qualified registered professional engineer must certify that all structural aspects of the SES design are within accepted professional standards, and the structure or substrate the solar technology will be affixed to will tolerate the installed weight of said technology (e.g. roof structure, soils, etc.).
2. Proof of Correspondence and Cooperation with Wildlife Agencies (SES-3 only). For the purposes of demonstrating compliance with required permits, the applicant must provide written documentation that the applicant is in direct correspondence, cooperation and in compliance and must remain in compliance with all applicable regulations and requirements of the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources. The application must include the documentation of the wildlife and environmental analysis required by this article.
3. Erosion Control Plan
 - a. An erosion control plan must be developed in accordance with protocol of the Natural Resources Conservation Services (NRCS), and any storm water quality management plan adopted by the applicable jurisdiction(s).
 - b. The area beneath the ground-mounted SES is considered pervious cover. However, use of impervious construction materials within the SES would cause areas to be subject to the impervious surface's limitations for the applicable Zoning District. Natural (pervious) ground covers are required beneath the solar arrays.
4. Solar Easements. Where a land development proposes an SES, solar easements may be provided. Said easements must be in writing and are subject to the conveyance and instrument recording requirements prescribed in IC 32-23-2-5 or subsequent amendment. Any such easements must be appurtenant; run with the land benefited and burdened; and be defined and limited by conditions stated in the instrument of conveyance. If necessary, and responsibility of the applicant, owner and/or operator to obtain any variance required by such change and to comply with any other requirement necessitated by such change. Any variance required by this Section must be obtained prior to construction or implementation of such change.
5. Waiver Agreements. All waiver agreements must be in writing and follow the requirements specified in this article. Copies of all waivers are required as part of the SES application.
6. Emergency Services Plan. The SES owner or operator must provide a plan including but not limited to the project summary, electrical schematic, and site plan to the appropriate local safety officials including the Rush County Emergency Management, Sheriff Department, the



responding Fire Department, and Rush County Building Inspector. Upon request the owner or operator must cooperate with local safety officials in developing an emergency response plan. Any specialized training necessary will be provided at the operator's expense. Knox boxes and keys must be provided at locked entrances for emergency personnel access. All means of shutting down the solar photovoltaic installation must be clearly marked. The owner or operator must identify a responsible person for public inquiries throughout the life of the installation.

7. Operation and Maintenance Plan. The applicant must submit a plan for the operation and maintenance of the SES, including measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operation and maintenance of the facility. Maintenance of vegetation within the buffer strip and underneath the ground-mounted solar arrays should be included in the plan and consistent with the requirements in this section.
8. Decommissioning-Restoration Plan and Agreement (for SES-2 and SES-3). The applicant, owner and operator must submit and must enter into a Decommissioning Restoration Plan and Agreement with the County Commissioners outlining the anticipated means, costs and method of payment of all costs in carrying out such Decommissioning-Restoration Plan and Agreement at the end of the SES life or the life of any part of a SES-2 and SES-3, upon becoming an abandoned use, or being declared a public nuisance.
 - a. Discontinuation and abandonment (SES-2 and SES-3)
 - i. Owner operator must give written notice of intent to abandon use of an SES facility no less than 120 days prior to the discontinuation of electrical production to the County Commissioners and Plan Commission.
 - ii. An SES or portion of an SES must be considered an abandoned use after one year without energy production unless a Rehabilitation Plan developed by the SES owner and SES operator is submitted to, and approved by, the County Commissioners outlining the necessary procedures and time schedule for commencing or returning the SES to energy production as provided in this article. Failure by the SES owner and/or operator to commence energy production at such SES or return such SES to energy production within the time schedule which has been approved by the County Commissioners, said SES or portion of SES must be considered an abandoned use and/or a public nuisance.
 - b. Removal and Restoration
 - i. The SES owner and/or the SES operator is required to remove all physical material pertaining to the SES above ground level and all improvements of said SES below ground level for all SES's declared irreparably damaged, and/or an abandoned use and/or a public nuisance. All panels broken or at the end of life must be recycled. Any agreements with participating landowners that differ from these requirements must be submitted to the Administrator, and the Administrator must require a variance heard by the BZA. All materials must be removed, and the SES site restored within 365 days of the discontinuation of energy production. An SES which is irreparably damaged, abandoned or declared to be a public nuisance must, within the 365-day time limit,



must be restored by the SES owner and/or SES operator to as near as practicable to the original condition of the SES site prior to the development. If the property has been timbered or trees removed within 2 years prior to the initial landowner agreements, the original condition means replanted with trees of similar species as originally removed, unless otherwise agreed to by the landowner. If any portion of the SES is found to be hazardous in nature by state or federal regulatory agencies or required to be recycled, the SES owner and/or SES operator is required to remove it in a manner as prescribed by law.

- ii. Owner/operator must remediate all land to its original state and relative fertility based on pre-construction soil tests paid for by the developer. The soil test vendor is chosen by the County.
- c. Identification and Removal of Hazardous Materials. During any construction, removal, or restoration effort, the SES owner/operator must identify all hazardous materials as regulated by state and federal regulatory agencies, such as the EPA and IDEM, as well as non-hazardous materials and indicate the appropriate handling, storage, and transport during disposal.
- d. Performance Guarantee
 - i. The applicant must provide the County with a performance guarantee in the form of a cash bond as financial security acceptable to the County Commissioners in the amount of 150% of the estimated decommission and restoration cost to allow for the anticipated increase in future costs of decommission. Estimates must be determined by a licensed engineer.
 - ii. Unless otherwise agreed to by all parties, every 5 years, or upon request of the Rush County Planning Commission, a new engineer's estimate of probable cost of Decommissioning and Restoration, must be submitted for approval in the same manner as the initial submission, and the bond or other financial security acceptable to the county must be adjusted upward or downward as necessary. A new estimate will be submitted to the Commissioners prior to the sale of any portion of the SES and the Performance Guarantee adjusted appropriately and made part of the sales agreement.
 - iii. All expenses involved in the removal and restoration must be paid by the SES owner and SES operator, or removal and restoration will be completed by Rush County at the SES owner's expense and SES operator's expense as specifically provided by the Decommissioning-Restoration Plan and Agreement.
 - iv. If the owner/operator defaults or decommissions, the County retains the right, after appropriate court order, to enter the property and remove any parts of the SES with funds from the surety on file.
- e. Written Notices. Prior to implementation of any procedures or remedy for the resolution of any SES owner's and/or operator's failure to decommission the SES pursuant to the Decommissioning-Restoration Plan and Agreement, and/or Rehabilitation Plan and/or the Ordinance, the County Commissioners must first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice must provide the owner and/or operator a reasonable time period not to exceed 60 days, except upon such



longer time to which all parties agree, for good faith negotiations between the SES owner and/or operator and the County Commissioners or its duly appointed representative, to resolve the default(s). In the event the negotiations fail to resolve the default issue(s), either party may pursue any and all remedies available by the terms of the Ordinance and/or Decommissioning-Restoration Plan and Agreement and/or Rehabilitation Plan

- f. Costs Incurred by Rush County. In the event, after written notice, the owner and/or operator fails to enter into a Rehabilitation Agreement or decommission the SES in accordance with this Ordinance and the Decommissioning-Restoration Plan and Agreement, the owner and/or operator must pay all reasonable costs, including reasonable attorney fees, incurred by the County to remove the SES.

9. Drainage Agreement and Road Use and Maintenance Agreements

- a. The applicant must provide a Drainage Agreement and a Road Use and Maintenance Agreement approved by the County Commissioners or their designees. The Drainage Agreement must prescribe or reference provisions to address field tile damage and repairs for any field tile owned by Rush County. The Road Use Agreement should specify provisions to remedy any road damage caused by the SES.
- b. Damages, including but not limited to damming, cutting, removing, and blocking, to surface, subsurface drains, or any other drainage infrastructure, by any cause connected with the project during construction, post construction, while in operation, or before the decommissioning is complete, must be restored by the owner to a condition that is equal to or better than the pre-existing conditions within 3 months after receipt of notice of the damage, unless such repair is rendered impractical by weather or other natural force. The owner is responsible for all expenses related to repairs, relocations, reconfigurations, and replacements of drainage infrastructure and systems that are damaged as a direct result of the SES.
- c. The owner must post a "5A" surety bond in an amount to be determined by the Rush County Drainage Board ("Drainage Board"), payable to the Drainage Board to address any need for drainage tile repair, replacement or re-routing caused by construction activities or installation of the SES. The bond must be posted 45 days before commencement of the construction of the SES and SES facilities. The bond is to remain in effect for a period of 30 years after the first day the SES is in operation. The Drainage Board determines and adjudicates whether claims brought by an adjacent property owner for damage was and is a direct result from the project based on substantial evidence.
- d. The owner and operator of the SES must fully comply with Indiana Code requirements regarding regulated drains except as otherwise approved by the Drainage Board and any other entities with concurrent jurisdiction.
- e. The owner, operator, and/or petitioner must enter into an agreement with the Drainage Board and County Surveyor to retain an appropriate inspector, at the owner/operator's sole expense. The inspector will ensure that all drainage infrastructure was installed according to specifications of the drainage plans and according to the requirements in the Rush County Drainage Board and written requirements from the Drainage Board and County Surveyor.



10. Fees. Applications are assessed an application fee based on the Rush County fee schedule. Fees are due with the submittal of an application.

N. **Construction Requirements for SES-3.** During construction, the applicant must demonstrate and document to the satisfaction of the County Engineer, County Highway Superintendent, County Surveyor, Administrator and any other person(s) designated and authorized by the County Commissioners, that the following requirements are being met:

1. All reasonable dust control measures required by the County Commissioners during construction of the SES are being followed together with any additional steps or adjustments for dust control which may from time to time be required by the County Commissioners.
2. Reasonable stormwater best management practices as required by the approved Drainage Plan/Agreement.
3. Near a residence or public use, noise must be kept to a minimum during the hours of 7 pm to 7 am.

O. **Post-Construction Requirement for an SES-3.** Post-construction, the applicant must comply with the following provisions:

1. Road Repairs. Any road damage caused by the transport of any matter or material utilized in the construction or installation of the SES or the removal and decommissioning of the SES must be repaired to the satisfaction of the Administrator (per the Road Use and Maintenance Agreement). The Administrator may choose to require either remediation of road(s) upon completion of the SES or the Administrator is authorized to collect fees for oversized load permits. Further, a surety bond in an amount to be determined by the County Commissioners may be required by the County to ensure that future repairs are completed to the satisfaction of the County Commissioners. The cost of the bond must be paid by the SES owner and said bond must remain in full force and effect until the decommissioning and restoration is fully completed as prescribed by this Ordinance and the Decommissioning-Restoration Plan and Agreement.
2. As-Built Plans Requirement. Where upon completion of all development, the exact measurements of the location of utilities, structures and components erected during the development are necessary for public record and must therefore be recorded. The applicant, owner, and/or operator must submit a copy of the final as built survey to the Administrator with the locations of the SES facilities shown. The Administrator, after being satisfied that the locations of the SES facilities are substantially similar to the locations on the originally approved final plan(s) or as the same were from time to time amended, must submit to the County Commissioners for approval, date and sign said as-built survey for the SES, which the applicant, owner, and/or operator must then record and provide the Planning Department a copy of the recorded plans.
3. Change in Ownership. It is the duty and responsibility of the SES applicant, SES owner and/or SES operator and any subsequent SES owner and SES operator, in addition to the notice requirements of any SES plan(s) and SES agreement(s) to notify by written notice the County Commissioners and Administrator of any change in the ownership of the SES or any part of the ownership thereof to and through the time that the final Decommissioning-Restoration Plan and Agreement are concluded and all applicable acceptances, releases and performance



standards of any description have been met and concluded and accepted by the appropriate local, state, federal or private authority, department, agency, and person(s) and all financial payments or other financial obligations are fully satisfied.

P. Operation and Maintenance Standards

1. Repair. The SES owner and/or operator must repair, maintain, and replace the SES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the SES in good repair and operating condition.
2. Operation and Maintenance Plan. The applicant must submit a plan for the operation and maintenance of the SES, which must include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operation and maintenance of the installation.
3. Physical Modifications. Any physical modification to any SES that materially alters the mechanical load, mechanical load path, or major electrical components requires recertification by all appropriate regulatory authorities. Like-kind replacements do not require recertification, unless required by a regulatory authority. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such SES must confer with the Administrator, county surveyor, county engineer, utility, and any other appropriate regulatory authority as to whether the proposed physical modification requires recertification of such SES.
4. Groundwater Monitoring. Prior to construction, the owner/operator must engage at the owner/operators' expense an independent third party to develop a groundwater monitoring program within the fence line of the SES-2 and SES-3 which will include, but not be limited to, the establishment of baseline levels of ground water and for monitoring to continue annually for the life of the Project, with the final monitoring taking place within 60 days after the completion of decommissioning. The results of the monitoring program are to be submitted to the Administrator within 30 days of the owner/operator receiving the results from each monitoring every two years or in event of breakage of panels through storms or accidents or at the request of the Administrator. Results must also be provided to any necessary government agencies as required by law. These agencies, including county commissioners, may require continued monitoring or reparations if test results fail local, state and federally acceptable levels.
5. Declaration of Public Nuisance
 - a. Any SES declared unsafe by the County Commissioners by being in breach of, or out of compliance with its SES permit(s) may seek to be rehabilitated and declared safe by appropriate repair(s) and other essential steps necessary to eliminate the breach(es). An SES declared by the County Commissioners by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, abandonment or as provided herein to be determined unsafe, is declared to be a public nuisance.
 - b. A Rehabilitation Plan must be submitted to the County Commissioners within 60 days. This plan must provide procedures to rehabilitate the SES in a time not to exceed 365 days except in the event of force majeure, including unavailability of components or parts, strikes, and moratoriums, which extends the time to 18 months total or a reasonable



extension agreed to by the County Commissioners. In the absence of an approved Rehabilitation Plan or meeting the agreed to time schedule(s), or failure to execute the required repair(s), in the time determined reasonable by the County Commissioners, such SES must be demolished and removed in accordance with the Decommissioning-Restoration Plan and Agreement.

- c. Public Nuisance Waiver. In the instance that an unavoidable Act of God inhibits, damages, or destroys part of, or the majority of, the SES, the 365-day public nuisance removal timeline will be waived so long as the SES owner and/or SES operator provides a Rehabilitation Plan to remedy the damage. Within 60 days of the date the damage was incurred, or a time determined reasonable by the County Commissioners, the plan must be submitted to the County Commissioners for approval.. The plan must outline the necessary protocol and time schedule for returning the SES to energy production.

6. Adverse Effects

- a. To the extent possible the SES owner and/or operator must minimize and/or mitigate all adverse effects created by the development of a SES.
- b. Failure to Remedy a Complaint: Penalty: If the County receives a complaint about the SES operation, the Administrator must make an appropriate investigation and determine if the complaint is meritorious, and if so, follow the County enforcement process.

7. Liability Insurance. Prior to the initiation of construction and/or any operation, the owner and operator of an SES must maintain a commercial general liability policy covering death, bodily injury and property damage, which may be combined with umbrella coverage, and must name Rush County, Indiana as an additional insured solely to the extent of liabilities arising under this article, and said policy must carry dollar amounts satisfactory to the County Commissioners and with agreed upon dollar amount limits per occurrence, aggregate coverage, and deductible amounts, all of which must be agreed upon by the owner and operator and said County Commissioners and provided in the Decommissioning-Restoration Plan and Agreement or other appropriate plan or agreement between the County Commissioners and SES owner and SES operator.

8. Emergency Response. The owner/operator of the SES-2 and SES-3 must conduct, at the expense of the owner/operator, annual training drills with local emergency responders.

3.7 Wind Energy Systems (WES)

Q. **Purpose**

9. Assure that any development and production of wind and solar-generated electricity in Rush County is safe and effective;
10. Facilitate economic opportunities for residents; and
11. Manage the supply of wind and solar energy in support of Indiana's alternative energy sources potential and other such economic development tools.



- R. **Intent.** To provide a regulatory scheme for the construction and operation of WES in the county; subject to certain restrictions contained within. These regulations are intended to preserve the health and safety of the public.
- S. **Applicability.** The provisions of this article are applicable to those districts that allow WES, govern the siting of WES that generate electricity to be sold to wholesale/retail markets, or that generate electricity for private use.
- T. **Prohibition.** No applicant can construct, operate, or locate a WES within Rush County without having fully complied with the provisions of this article. New applications for WES after October 2019 have an overall height restriction of 200 feet maximum (including blades).

U. **WES Definitions**

WES Project: means the collection of WES as specified in the siting approval application.

Commercial WES: is defined for the purposes of the Rush County Zoning Ordinance to mean a wind energy system constructed on the property of another by a company or corporation or other entity, whose general intent is to capture wind energy and place it on a public utilities electrical grid. Any company, corporation, or entity that retains ownership of the WES after construction must become a public utility recognized by the Indiana Utilities Regulatory Commission.

Financial Assurance: Financial assurance means cash escrow with the County.

Meteorological Towers: These style WES are defined as Towers to gather wind energy data to determine project feasibility and not connected to any electrical power grid.

Micro-WES: defined as a small wind energy system whose general purpose is to provide energy to a residential or small business user such as a farmer or homeowners and not connected to primary voltages.

Non-Commercial WES: defined as a wind energy system that is generally smaller than a commercial WES and the primary purpose is to collect wind energy for the purpose of supplying energy to the owners, such as a business, school, or factory, and not connected at primary voltages.

Operator: means the entity responsible for the day-to-day operation or maintenance of the WES, including any third-party subcontractors.

Owner: means the entity or entities with an equity interest in the WES, including their respective successors and assigns. Owner does not mean (i) the property owner from who the land is leased for locating the WES (unless the property owner has an equity interest in the WES); or (ii) any person holding a security interest in the WES solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WES within one year of such event.

Primary Voltage: Alternating Current (AC) voltage at which power is distributed or transmitted by a public electrical utility (i.e. starting at 2400 volts and up).

Professional Engineer: means a qualified individual who is licensed as a professional engineer in any state in the United States and approved by the APC Administrator.



Secondary Voltage: Low voltage AC supplying one ultimate user (i.e. Under 600 volts).

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

WES Tower Height: means the distance from the rotor blade at its highest point to the top surface of the WES foundation.

Wind Energy System (WES): means all necessary devices that together convert wind energy into electricity, including but not limited to the rotor, nacelle, generator, WES Tower, electrical components, WES foundation, transformer, electrical cabling for the WES Tower to the Substations, switching stations, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WES project. References throughout Rush County UDO to Wind Energy Conversion Systems (WECS) are equally defined by the definition of Wind Energy Systems (WES).

V. WES Siting Regulations

1. Height. Any WES or meteorological tower greater than 35 feet requires a special exception use permit. For all WES there is a height limit of 200 feet.
2. Horizontal Extension. The furthest horizontal extension of a WES (including guy wires) must not extend into a required setback by the zoning district or be closer than 12 feet to any primary structure (unless supported by the primary structure), or right-of-way easement for any aboveground telephone, electrical transmission or distribution lines.
3. Setback Requirements. WES greater than 35 feet must have minimum setback distances of 2640 feet from the center of the tower to all property lines.
4. Safety Design and Installation Standards
 - a. Equipment Type
 - i. All turbines must be constructed of commercially available equipment
 - ii. Meteorological towers may be guyed.
 - iii. Experimental or prototype equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.
 - b. Industry Standards and other Regulations. All WES must conform to applicable industry standards, as well as all local, state and federal regulations. An applicant must submit certificates of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, or an equivalent third party.
 - c. Color and Finish. All wind turbines, blades and towers that are part of WES must be white, grey, or another non-obtrusive color.
 - d. Signs and Warnings
 - i. The following notices must be clearly visible on all WES facilities:
 - “No Trespassing” signs must be attached to any perimeter fence.



- “Danger” signs must be posted at the height of 5 feet on WES towers and accessory structures
 - A sign must be posted on the tower showing an emergency telephone number
 - The manual electrical and/or over-speed shutdown disconnect switches must be clearly labeled.
- ii. Meteorological Towers. Consideration must be given to paint aviation warning on all meteorological towers.
- e. Climb Prevention. All WES towers above 35 feet must include features to deter climbing or be protected by anti-climbing devices such as:
 - i. Fences with locking portals at least six (6) feet in height; or
 - ii. Anti-climbing devices 15 feet vertically from the base of the WES tower; or
 - iii. Locked WES tower doors.
- f. Blade Clearance. The minimum distance between the ground and any protruding blades utilized on all WES, exceeding the 35-foot height, must be 25 feet, as measured at the lowest point of the arc of the blades. The minimum distance may be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.
- g. Light Shielding. Lighting may require shielding so that no glare extends substantially beyond any WES structure.

W. Other Applicable Standards

1. Sewer and Water. All WES facilities must comply with the existing septic and well regulations as required by the Rush County Health Department and/or the State of Indiana Department of Public Health.
2. Shadow Flicker. A wind turbine's tower, nacelle, or blades cannot create shadow flicker on any non-participating landowner's property. For this section a nonparticipating landowner is be defined as a landowner on which a tower does not physically sit.
3. Noise and Vibration. The noise level of all WES cannot be greater than 32 decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels must comply with all county, state and federal regulations.
4. Sine Wave Deviations. Waveform deviations from WES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
5. Utility Interconnection. The WES, if interconnected to a utility system, must meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations, as amended.
6. Emergency Response. The WES applicant must cooperate with the local fire department to develop an Emergency Response Plan including access for training.



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

X. Operation and Maintenance

1. Physical Modifications. In general, any physical modification to any WES that alters the mechanical load, mechanical load path, or major electrical components requires recertification. Like-kind replacements do not require re-certification. Therefore, prior to making any physical modification, the owner or operator must confer with the Administrator for approval and Board of Zoning Appeals to determine whether the physical modification requires recertification.
2. Declaration of Public Nuisance. Any WES thereof declared to be unsafe by the Rush County Administrator by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and must be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.
3. Decommissioning Plan. Prior to receiving an Improvement Location Permit or Building Permit, or siting approval under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator must formulate a decommissioning plan outlining the anticipated means and cost of removing a WES at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WES is properly decommissioned.
 - a. Content. A decommissioning plan must include, at a minimum, the following language:
 - i. Assurance. Must provide written assurance and financial assurance based on submitted cost estimates that the facilities will be properly decommissioned upon the project life or if the facility is abandoned.
 - ii. Cost estimates. The applicant must provide a contractor cost estimate for demolition and removal of the WES facility which include any offsetting effects of salvage value. The cost estimates must be made by a competent party such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WES and approved by the Board of Zoning Appeals.
 - b. Discontinuation and Abandonment
 - i. Discontinuation. All WES is considered a discontinued use after 6 months without energy production, unless a plan is developed and submitted to the Administrator outlining the steps and schedule for returning the WES to service.
 - ii. Abandonment by the owner or operator. In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Administrator representing that all easements for wind turbines contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to



ensure that facilities are properly decommissioned within one year of expiration or earlier termination of the project.

- c. Removal. An applicant's obligations include removal of all physical material pertaining to the project improvements within 365 days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, (unless otherwise agreed to by the property owner) or by Rush County at the owner's expense.
- d. Written Notices. Prior to implementation of the existing procedures for the resolution of such defaults, the Administrator must first provide written notice to the owner and/or operator, setting forth the alleged defaults. This written notice must provide the owner and/or operator a reasonable time period not to exceed 60 days, for good faith negotiations to resolve the alleged defaults.
- e. Costs Incurred by the County. If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Rush County to enter the property to remove a tower pursuant to the terms of an approved decommissioning plan.

Y. **Liability Insurance**. The owner or operator of any commercial WES must maintain a current general liability policy covering bodily injury and property damage and is required to name Rush County as an additional insured with dollar amount limits per occurrence in the amount of two million dollars (\$2,000,000) minimum for all WES and an aggregate of five million dollars (\$5,000,000). Proof of liability insurance must be sent to the Administrator annually; failure to maintain said insurance will result in cancellation of the Improvement Location Permit by the Administrator.

Z. **Application Procedures**. In accordance with appropriate zoning district, application must be made to the Board of Zoning Appeals for a Special Exception. Permits and variances are applied for and reviewed under the procedures established by this Ordinance. In addition to the application requirements listed, applications for all WES must also include the following information:

- 1. Demonstration of Energy Need. The primary purpose of the production of energy from a WES is to serve an energy need. The applicant must demonstrate how much energy is needed and how the proposed size and number of the WES fulfills this need. Net-metering may be allowed but must not be the primary intent of the WES.
- 2. Utility Notification. WES cannot be installed until evidence has been given that the affected utility company has been informed and has agreed to accept energy from potentially interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

AA. **Fees**. Applications are assessed an application fee based on the Rush County fee schedule. Fees are due with the submittal of an application.

BB. **Pre-Construction Requirements**. Prior to the issuance of any Improvement Location Permit, the following must be submitted to and reviewed by the Administrator, who will certify that the following comply with all applicable regulations:



1. Decommissioning Plan. A Decommissioning Plan and financial assurance outlined in this article.
2. Drainage Agreement. The Drainage Agreement must prescribe or reference provisions to address crop and field tile damages in accord with the Rush County Drainage Board.
3. Erosion Control Plan. An erosion control plan developed in consultation with the Natural Resources Conservation Services (NRCS) and any storm water quality management plan adopted by the applicable jurisdiction.
4. Utility Plan. A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total WES project must be submitted to the Administrator. No individual sheet or drawing may exceed twenty-four inches by thirty-six inches (24" x 36").
5. Final Site Layout Plan. Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner.
6. Road Use and Maintenance Agreement. A Road Use and Maintenance Agreement for all oversized loads must be drafted in accord with the Rush County Highway Superintendent and approved by the Rush County Commissioners. Financial assurances may be required.

CC. **Post-Construction Requirements**. It is the responsibility of the owner or operator listed in the application to inform the Administrator of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

3.8 Temporary Uses, Events and Structures

All Temporary Uses, Events and Structures must comply with this article.

- A. Unless otherwise provided, temporary uses, events and structures require a Temporary Use permit according to this section. Approval by the Legislative Body is required for activities within the right-of-way.
- B. The following events are exempt from the provisions of this chapter:
 - Events hosted on an individual homeowner's property (e.g. garage sales, estate sales, private parties).
 - Government-sponsored events as approved by the County Commissioners or Town Council.
 - Events held on public park property which are part of the recreation program of the County or Town.
 - Garage sales and yard sales.
 - Non-incorporated children's stands, such as a lemonade stand.

C. **General Standards**

1. The Administrator may limit the location for traffic flow or public safety reasons.
2. All temporary structures must meet the setbacks for the zoning district where they are being installed.



3. Goods and display materials must be stored inside a structure during non-event hours.
4. The required parking for the principal use must not be negatively impacted by the temporary use or event. Additional parking may be required if the temporary use or event increases the need for parking.
5. Temporary uses and events must not impede pedestrian traffic nor force pedestrians into vehicle traffic lanes.
6. All equipment, materials, goods, poles, wires, and other items associated with the use or event must be removed within 2 days of the conclusion of the temporary use or event.
7. All temporary events must conform to all State and County Health Department regulations and codes.

The Administrator will issue a temporary improvement location permit, according to applicable provisions of this Article, for a temporary construction trailer or sales office structure only when used in conjunction with construction work taking place on the site. A trailer or structure used for this purpose must be removed within 30 days of the completion of construction work.

D. Temporary Use Permit

1. Application. Applications for a Temporary use and/or event permit are made in writing on forms provided by the Department at least 30 days prior to the scheduled event. Within 5 business days of the permit application, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Within 10 business days of the permit application, the Administrator will issue a permit for applications meeting the permit requirements or notify the applicant of the areas where the permit application does not comply with the permit requirements.
2. Supporting Documentation. Applications must include:
 - a. The name under which the business is to be conducted, and the name, address, and telephone number of the person making the application,
 - b. A written statement describing the requested use, operations plan, traffic control, and the proposed period, and
 - c. A sketch plan showing the locations of proposed activity areas in relation to property lines and existing buildings and structures, pedestrian and vehicular circulation on the site, and parking facilities.
 - d. If a permit for encroaching into any right-of-way is required, a copy of the encroachment request must be submitted with the temporary use/event permit application.
 - e. If alcohol is sold or consumed, then proof of appropriate permits from the State of Indiana, Alcohol and Tobacco Commission is required. If cooking or eating is involved in a temporary event, outdoor café, or some other eating area, then proof of review and approval from the County Health Department must be required with the application.
 - f. If the temporary use or event will take place on public property, a certificate of liability insurance insuring the applicant and naming the County or Town as an additional insured



with minimum coverages for personal injury of \$100,000 per person and \$300,000 per accident and property damage of \$50,000 per property and \$100,000 per accident. The applicant agrees to indemnify and hold harmless the County or Town for losses or expenses arising out of the operation of any temporary use or event.



Chapter 4

GENERAL STANDARDS

Standards that apply to all districts and uses

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4.1 Principles and Standards

- A. **Conformance.** Improvement Location Permits (ILP), site plans, and subdivisions must conform to the principles and standards established by this Ordinance. When reviewing plat, site plan, and ILP applications, the Plan Commission or Administrator, as applicable, determines if the plat or site plan conforms to the principles and standards required in this chapter.
- B. **Natural Design.** When subdividing land or developing a site, regard must be shown for natural features such as wooded areas, watercourses, historic sites, or similar conditions which, if preserved, add attractiveness and value to the proposed development.
- C. **Environmental Protection.** Consideration must be given to preventing air and water pollution, proper treatment and disposal of refuse and other waste, and the elimination of blighting characteristics.
- D. **Layout.** The design of the proposed improvements cannot be injurious to the health, safety, or welfare of the community.
- E. **Construction Standards.** All site plans and subdivision plats must conform to County or Town Construction Standards, as applicable, and the standards of this Ordinance.
- F. The applicant is responsible for installing all required public improvements at the applicant's expense without reimbursement, unless otherwise agreed upon in writing by the Legislative Body. The applicant is required to maintain all public improvements and provide for snow removal on streets and sidewalks until the public improvements are accepted by the Legislative Body.



4.2 Accessory Uses and Structures

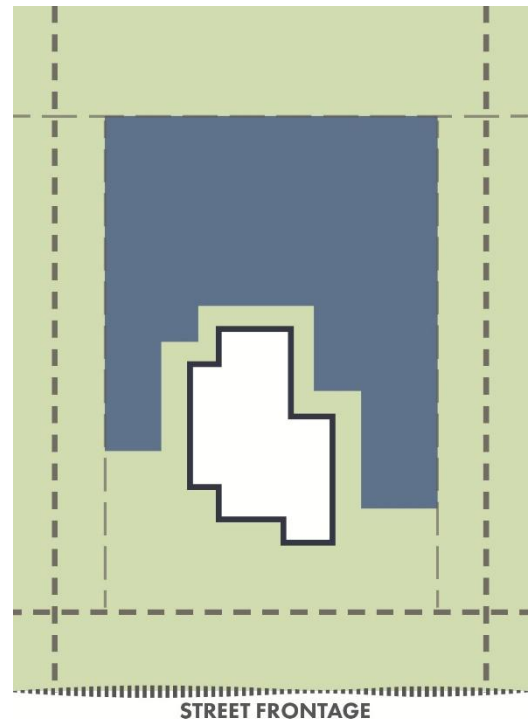
- A. Accessory uses and structures are permitted in each zoning district when determined by the Administrator that the use or structure is incidental to the permitted principal use, and the use or structure is consistent with the intent of the zoning district where it is located.
- B. **Setbacks.** An accessory structures 200 square feet or smaller must be at least 5 feet from the side and rear lot lines and located outside of all easements. An accessory structure over 200 square feet must meet the minimum setbacks for principal buildings, except as otherwise established by this Article. Within Rural Centers, accessory buildings for residential uses must be set back at least 5 feet behind the front facade of the principal building.
- C. **Timing.** Except in Agricultural Districts, accessory buildings cannot be constructed until construction of the principal building has begun. Accessory buildings cannot be occupied or utilized unless the principal building is first legally occupied for a permitted use within the applicable zoning district. The construction of an accessory building must be completed:

- Within one year of the issuance of a building permit, if such permit is obtained individually, or
- Within one year of the completion of construction of the principal building if the accessory building's building permit is obtained as part of the building permit for the principal building.

D. Accessory Dwelling Unit

1. Standards that apply to all Accessory Dwelling Units

- a. An accessory dwelling unit is permitted within a single-family detached dwelling or as a separate dwelling unit on the same lot or parcel with a principal dwelling unit.
- b. No more than one accessory dwelling unit is permitted on any lot or parcel.
- c. The accessory dwelling unit must share the same sewage disposal and water supply systems as the principal dwelling unit.
- d. The living area of an accessory dwelling unit cannot exceed 50% of the square footage of the principal dwelling unit.
- e. The owner of the property must live on the premises, either in the principal dwelling unit or the accessory dwelling unit and maintain that address as the primary place of residence.
- f. No new access points or driveways may be created or installed on the abutting street for vehicular access to the accessory dwelling unit.



STREET FRONTAGE

The shaded area is permitted placement for an accessory structure, set 5' back from the primary structure facade.



- g. If separated from the principal dwelling unit, the accessory dwelling must meet all setback requirements of the principal building.
 - h. The principal dwelling and the accessory dwelling will remain in the same ownership, unless the dwellings can be subdivided into individual building lots, each of which complies with the requirements of the Ordinance.
- 2. Standards for Accessory Dwellings located in Rural Centers. A detached accessory dwelling unit within a Rural Center must conform to all applicable building design and material requirements of **6.3 Architectural Standards**, applicable to the principal building.
- 3. Standards for Accessory Dwellings located in Agricultural Areas
 - a. An accessory dwelling unit may be located in a detached building larger than the principal building if the living area of the accessory dwelling unit does not exceed 50% of the square footage of the principal dwelling unit.
 - b. In the A1 and A1-R Districts, a mobile home may be used as a temporary accessory dwelling unit with special exception approval. The mobile home must be used for temporary housing of a blood relative and removed within 30 days of the relative vacating the home. The special exception approval is only valid for one year but may be renewed with a new special exception approval.
- E. **Amateur Radio Standards.** Individual amateur transmitting and receiving antennae and associated support structures owned or operated by licensed amateur radio operators are permitted as accessory structures according to these provisions.
 - 1. Amateur Radio Club and repeater station antennae and support structures are permitted to the height necessary to maintain reliable communications.
 - 2. Antenna structures of amateur radio operators licensed by the FCC cannot exceed 75 feet above grade. The height is measured vertically and includes the height of the building where the antenna support structure is mounted.
 - 3. Antennae may be located above the antenna support structure as necessary for effective radio communications.
 - 4. Upon the FCC licensed operator's cessation of ownership or leasehold rights in the antenna support structure, or on loss of the operator's federal amateur radio license (whichever occurs first), the operator must safely remove all antenna support structures within 30 days at no expense to the County or Town. If the operator fails or refuses to remove the antenna support structure, the owner of the subject lot is responsible for the removal of all such structures. Failure to remove antenna support structures is a violation of this Ordinance and subject to enforcement (**CHAPTER 9: ENFORCEMENT**).
 - 5. On residential lots, antenna support structures must be located behind the principal building and outside of the required side, rear, and street-side yard setbacks



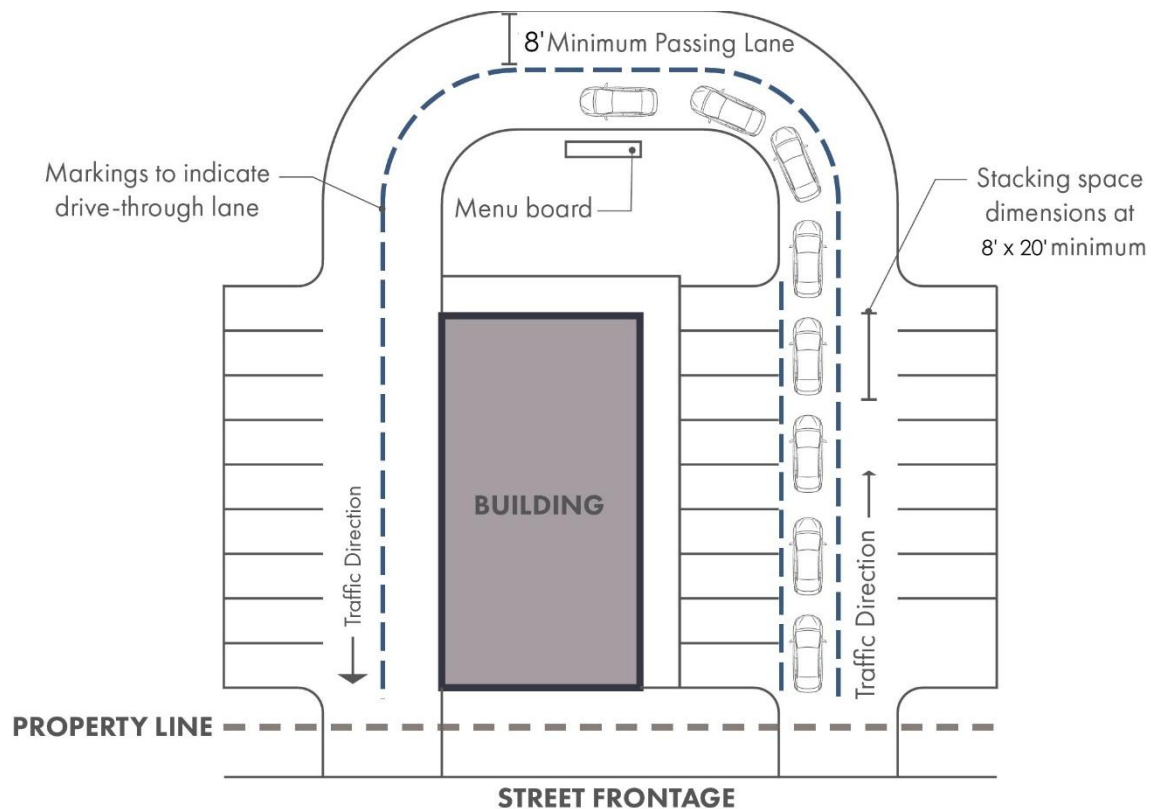
6. Nothing in this section affects any existing antenna support structure utilized by any federally licensed amateur radio operator constructed and in place before the passage of this Ordinance.

F. Drive-through Facilities

1. The drive-up or drive-through facility must be attached to a building. An automated teller machine may be in a stand-alone structure with a canopy or roof to protect users from the elements.
2. A drive-through must have an escape lane to allow a vehicle to pass those waiting to be served. This requirement may be waived by the Administrator if the applicant can demonstrate that such a waiver will not adversely impact public safety or inconvenience patrons (see [8.16 Modifications](#)).
3. All drive-through service windows must be located on the side or rear of the building to minimize visibility from a public or private street.
4. Amplified speakers and sound equipment must be located at least 60 feet from any adjoining residential district.
5. Stacking Requirements. The following requirements apply to uses with drive-through facilities.
 - a. General Requirements
 - i. Drive-through lanes and required stacking spaces must not interfere with parking space maneuvering aisles, parking drive aisles, loading spaces, internal site circulation, designated fire lanes, or site access points.
 - ii. Drive-through lanes and stacking spaces must be designed to prevent vehicles from stacking in the right-of-way ([Figure 4-1](#)).
 - iii. No stacking space may occupy any portion of a right-of-way.
 - iv. A stacking space does not constitute a parking space.
 - b. A stacking space must be at least 8 feet wide and 20 feet long with direct forward access to a service window or station.
 - c. The minimum number of required stacking spaces, excluding the position at the service window or ordering station are:
 - Fast food restaurant and coffee shops: 5 stacking spaces
 - Financial institutions, pharmacies, and takeout restaurants with drive-through: 2 stacking spaces per service window
 - All other facilities: 1 stacking spaces per service window



Figure 4-1: Stacking Requirements



G. **Home Businesses.** A home business must be incidental to the principal use of the premises as a residence. Home business must not adversely affect the character of the district or interfere with the reasonable enjoyment of adjoining properties.

1. The operator of the home business must be a resident of the dwelling unit.
2. An additional or separate entrance for the home business, if provided, must be consistent with the residential character of the dwelling.
3. One additional off-street parking space is permitted, but not required. An additional driveway to serve the home business is prohibited.
4. Display of goods or external evidence of the home business is prohibited, except for signs according to **4.8 Signage**.
5. Only stock in trade or commodities prepared, produced, or created on the premises by the operator of the home business, may be kept or sold on the premises.
6. Electrical or mechanical equipment must not interfere with local radio communications and television reception nor cause fluctuation in line voltage off the premises.



7. Home Businesses in Rural Centers

- a. Home businesses must be of a personal service nature limited to domestic crafts and professional service.
- b. Home businesses cannot include uses with significant visitors to the home, uses involving animals, nor uses associated with vehicle sales or repair.
- c. A home business must be located within the principal building and cannot be conducted in an accessory building.
- d. A home business cannot employ more than one person other than a member of the immediate family residing in the residence.
- e. Exterior alterations changing the residential appearance to a business appearance are prohibited.
- f. No more than 25% of the floor area of the principal building may be devoted to the home business.
- g. Outside storage of machinery, equipment, or materials is prohibited.

8. Home Businesses in Agricultural Districts. In agricultural districts, a home business may be conducted within the principal building or an accessory building.

H. **Outdoor Eating Areas**. Outdoor cafes and eating areas are subject to these standards.

1. All outdoor eating areas must conform to State and County Health Department regulations and code.
2. Outdoor eating areas must not impede pedestrian traffic or force pedestrians into vehicle travel lanes. A 5-foot pedestrian access area must be maintained on the perimeter of the outdoor café and eating area. The pedestrian access area must remain clear of obstructions. Approval by the County Engineer or Town Engineer, as applicable, or Legislative Body is required if the outdoor eating area is located within, or impacts, a public right-of-way.
3. Outdoor eating areas used for more than 7 days in a calendar year are deemed permanent. Permanent outdoor cafes and eating areas require site plan approval to ensure compliance with this Ordinance and compatibility with the surrounding area.

I. **Solar Energy Systems as Accessory Use**. Within Rural Centers, accessory solar energy systems must meet the following standards:

1. Solar carports and associated electric vehicle charging equipment are permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Ground-mounted systems do not count toward the maximum number of accessory structures permitted.
2. Building or roof-mounted solar energy systems cannot exceed the maximum height allowed in the Zoning District where the solar energy system is located. For purposes of height measurement, solar energy systems other than building-integrated systems are permitted the same height exceptions as building-mounted mechanical equipment.



3. Ground- or pole-mounted solar energy systems cannot exceed 15 feet in height when oriented at maximum tilt.
4. Solar carports in non-residential districts cannot exceed 20 feet in height.
5. A solar energy system must meet the accessory structure setback for the Zoning District where it is located and the requirements below.
6. Ground-mounted Solar Energy Systems. Ground-mounted solar energy systems cannot extend into a side or rear yard setback when oriented at minimum design tilt.
7. Roof- or Building-mounted Solar Energy Systems. The collector surface and mounting devices for roof-mounted solar energy systems cannot extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems is allowed to extend beyond the perimeter of the building on a side yard. Solar collectors mounted on the sides of buildings and serving as awnings are considered building-integrated systems and are regulated as awnings.
8. Accessory solar energy systems in residential districts must minimize visual impacts from the public right-of-way to the extent that doing so does not adversely affect the cost or efficacy of the system, consistent with IC 36-7-2-8.
 - a. Building-integrated Photovoltaic Systems. Building-integrated photovoltaic solar energy systems are allowed even if the system is visible from the public right-of-way. If the building component where the system is integrated meets all required setback, land use, or performance standards for the district where the building is located.
 - b. Aesthetic Restrictions. Roof-mounted or ground-mounted solar energy systems cannot be restricted for aesthetic reasons if:
 - The system is not visible from the closest edge of any public right-of-way other than an alley.
 - Roof-mounted systems on pitched roofs visible from a right-of-way have the same pitch as the roof and are no more than 10 inches above the roof.
 - Roof-mounted systems on flat roofs visible from a right-of-way are not more than 5 feet above the finished roof. Such systems are exempt from any rooftop equipment or mechanical system screening requirements.
 - c. Reflectors. Solar energy systems using a reflector to enhance solar production must minimize the glare from the reflector onto adjacent or nearby properties.
9. Solar energy systems requiring a building permit or Improvement Location Permit must provide a site plan with the permit application.
10. Electric solar energy system components must have an Underwriters Laboratory (UL) or equivalent listing and solar hot water systems must have a Solar Rating and Certification Corporation (SRCC) or equivalent rating.



11. Solar energy systems require approval of local building code officials, consistent with the State of Indiana Building Code. Solar thermal systems must comply with HVAC-related requirements of the Energy Code and applicable Indiana State Plumbing Code requirements. Photovoltaic systems must comply with the Indiana State Electric Code.
 12. For grid-tied solar energy systems, the interconnection application must be submitted to the utility prior to applying for required permits. Off-grid systems are exempt from this interconnection application requirement.
- J. **Swimming Pools and Hot Tubs.** Within Rural Centers, all swimming pools and hot tubs must meet the following requirements:
1. Swimming pools cannot be installed without first being issued an Improvement Location Permit according to [8.11 Improvement Location Permits](#).
 2. Swimming pools or hot tubs cannot be in any required setback or in front of the principal building. Swimming pools or hot tubs must have at least 10 feet of separation from the principal building.
 3. All swimming pool construction, including associated decking, fencing, and means of access must conform with the regulations set forth in [675 IAC 20-4](#).
- K. **Temporary Construction Buildings.** The standards of this Ordinance do not prevent the use of a temporary construction building to be utilized for the storage of tools, materials, and other equipment during the period of construction.
- L. **Wind Energy Conversion Systems as Accessory Use**
1. Wind energy conversion systems (WECS) are a permitted accessory use in all zoning districts, subject to the requirements of this Article. Wind energy conversion systems do not count toward the maximum number of accessory structures permitted. Most of the energy produced by an accessory WECS should be consumed only on the property where it is located.
 2. As accessory uses WECS must be:
 - a. Installed on a certified tubular free-standing tower, a lattice tower, or a monopole tower. Towers may be guyed or self-supporting.
 - b. Filtered, shielded, or otherwise designed and constructed to not cause electro-magnetic interference.
 - c. Grounded to protect against lightning strikes.
 - d. Designed with automatic over speed control to render the system inoperable when winds are blowing at higher speeds than the machine's capability.
 - e. Equipped with a redundant breaking system, including both aerodynamic over speed controls and mechanical breaks. Mechanical brakes must be operated in a fail-safe mode. Stall regulation is not a sufficient braking system for over speed protection.
 3. The WECS owner and operator must make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.



4. A WECS must be setback from property lines at least 120% of the total height of the WECS.
5. A WECS must comply with the maximum height limitation for the zoning district where it is located.
6. WECS must be white, light gray, or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes must be matte or non-reflective and meet Federal Aviation Administration color requirements. No advertising or signage is allowed on a WECS.
7. A WECS requires an Improvement Location Permit. The permit application includes a site plan and a description of the project addressing: the number and type of turbines, generating capacity, tower design and height, blade arc diameter, total height, means of connection with the electrical grid, potential equipment manufacturers, and all related accessory structures. The manufacturer's engineer or another qualified professional engineer must certify that the turbine, foundation, and tower design are within accepted professional standards given local soil and climate conditions.
8. Electric WECS components must have an Underwriters Laboratory (UL) or equivalent listing.
9. Wind energy conversion systems require approval of local building code officials, consistent with the State of Indiana Building Code.
10. For grid-tied WECS, the interconnection application must be submitted to the utility prior to applying for required permits. The WECS must be designed to meet the utility's requirements for interconnection and operation. Automatic and manual controls that render the system inoperable in case of loss of utility power is required. Off-grid systems are exempt from these requirements.

4.3 Agricultural Preservation

- A. **Intent.** A primary objective of the County's land use policy is to preserve the majority of the County's quality farmlands for agricultural use. This is done by preserving the best land for agricultural use while minimizing conflicting uses in the agricultural zones that would interfere with continued agricultural activity. Preservation of farmland should be achieved by:
1. Direct residential growth away from areas of quality farmland and into Rural Centers.
 2. Utilizing the least productive farmland where possible for industrial, commercial, or residential growth.
 3. Providing an extensive, well-insulated agricultural area to encourage continued agriculture and agricultural-related industries.
 4. Preventing the County from becoming the recipient of leapfrog development and exurban sprawl.
- B. **Agriculture as a Primary Use.** Lands set aside for agricultural uses should reflect the better agricultural soils as well as including those areas to be protected from unnecessary development. Where feasible, soils classified as good for agricultural purposes should be preserved for agricultural use. In planning for agricultural land, it is the County's policy to consider agricultural land as "developed land" that is being used to produce a product, and not as "undeveloped farmland awaiting another use." Farming is a land-intensive manufacturing process converting raw materials into a



product comparable to other industrial operations, with occasional accompanying nuisances of noise, odor, and dust. The Agricultural Districts should not be considered as a holding zone, but as a zone utilizing the County's natural resources for the benefit of the entire community. The County should protect the Agricultural Districts from interference by incompatible uses that breakdown the integrity of the districts and interfere with normal and customary operations within the districts.

- C. **Protection of Existing Agricultural Uses.** Existing agricultural and forestry uses are protected by Indiana's Right-to-Farm statutes (see [*IC 32-30-6*](#)).
- D. All applicants for an Improvement Location Permit in an Agricultural District must sign the "Notice of Agricultural Activity" located in [*4.11 Appendix*](#).
- E. **Limited Residential Uses.** Within the Agricultural Districts, residential development should occur in limited amounts consistent with the County's land use goals. The Agricultural Districts are not an appropriate place for dense residential growth to occur. The limited residential development that does occur should be directed toward lower quality agricultural soils and locations limiting the operation of existing agricultural uses. Residential development in the Agricultural Districts must follow the standards in [*7.12 Rural Subdivision Standards*](#).
- F. All secondary plats within an Agriculture District must include the Deed of Dedication Agricultural Zone Covenants located in [*4.11 Appendix*](#).

4.4 Buildings

- A. Every building erected must be located on a lot and in accordance with this Ordinance.
- B. A lot used for single-family residential purposes must have only one principal building devoted to residential use, except as otherwise permitted in this Ordinance.
- C. A lot used for multifamily purposes may have more than one principal building devoted to residential use.
- D. A lot in a non-residential district may have more than one principal building devoted to non-residential uses.
- E. Primary buildings and building additions must comply with the setback and height requirements of the zoning district where the building is located.
- F. Prohibition on Shipping Containers as Residential Dwellings. A shipping container (a metal box used to transport goods by sea or land) is not designed to be used as a home and does not meet the minimum standards for safety, insulation, and ventilation. Therefore, a shipping container is prohibited to be used as a residential dwelling unit.
- G. Residential Building Standards. All Single-Household Detached Dwellings, Duplex Dwellings, Triplex Dwellings, Quadplex Dwellings, and Townhouse Dwellings must meet the following standards:
 - 1. The dwelling unit must be installed on a permanent foundation.
 - 2. Each dwelling unit must be at least 20 feet wide and have a minimum living area of 950 square feet.



3. The main roof of the dwelling unit must have a minimum 4:12 roof pitch. Elements such as porches, bays, and dormers may have a lower roof pitch.

4. Roof Materials

Permitted roof materials include: architectural asphalt shingles, standing seam metal, clay or concrete tile, slate, wood shingles or shakes, composite or synthetic materials designed to replicate the appearance of slate, wood shake, or tile.

Prohibited roof materials include: exposed rolled roofing paper or tar paper, corrugated fiberglass panels, unpainted or unfinished metal, and materials not specifically listed as permitted above.

5. Exterior Siding Materials

Permitted siding materials include: brick, stone or manufactured stone, wood siding, fiber cement siding, vinyl siding, stucco or synthetic stucco (EIFS), and cedar shakes or shingles. Architectural metal panels may be used as building accents.

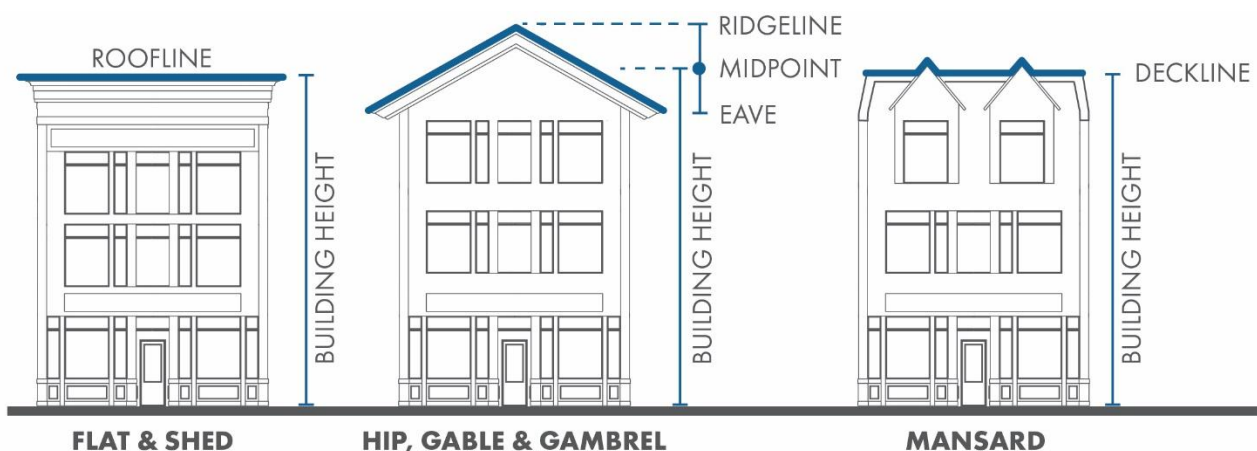
Prohibited siding materials include: aluminum siding and any material not specifically listed as permitted above.

- H. A combination of materials may be used on a single structure, provided all materials are from the permitted list. Any change in siding material should occur at inside corners, outside corners, or along horizontal trim lines

4.5 Height

A structure cannot exceed the height limits established and specified in the zoning district in which the structure is located except as otherwise provided in this Ordinance.

In all zoning districts, spires, church steeples, agricultural structures (such as grain silos), chimneys, cooling towers, stacks, tanks, water towers, elevator bulkheads, fire towers, scenery lofts, power transmission lines or towers and distribution poles and lines, essential mechanical appurtenances, and similar structures may be erected to any height not prohibited by other laws or ordinances.



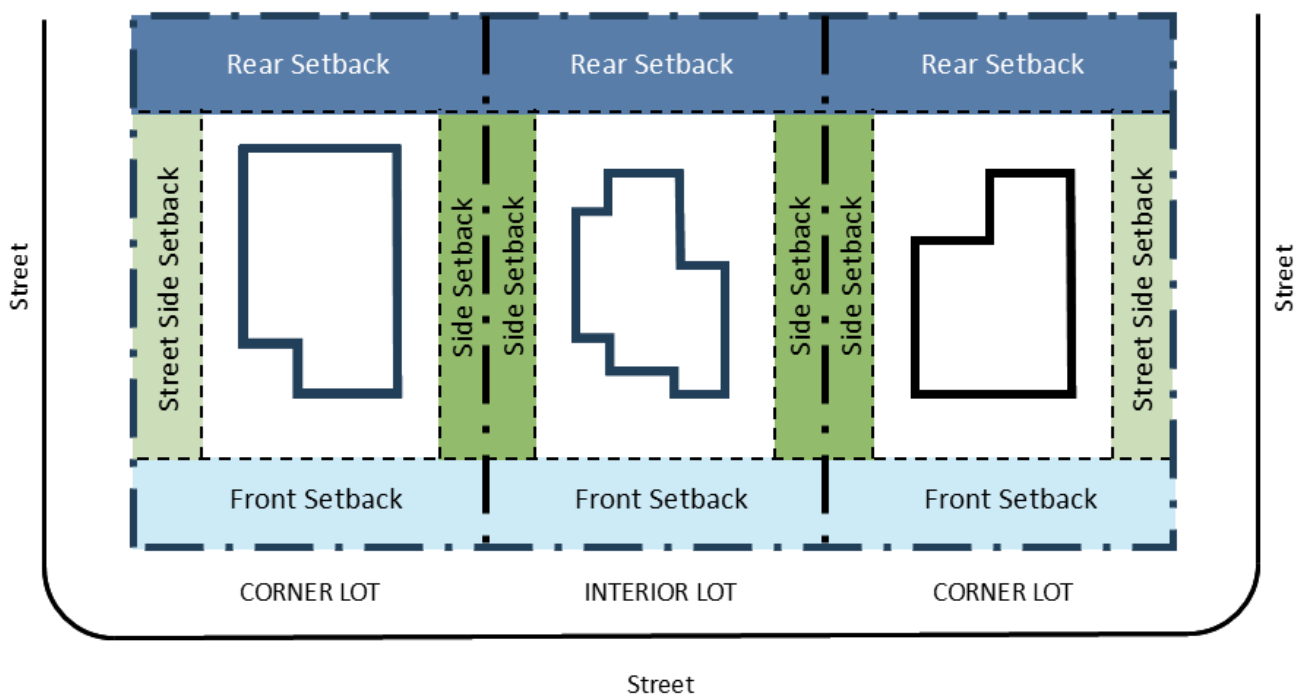


4.6 Lots

- A. Lots must meet the area and width requirements for the lot's zoning district.
- B. All Lots must abut on a street, private street, or alley and must have a minimum lot frontage as set forth by the zoning district.
- C. Any nonresidential lot without street frontage must have an unobstructed access easement at least 25 feet wide (***5.3(D) Cross-access Easements***).

4.7 Setbacks

These standards apply in all zoning districts.



- A. Setbacks are measured as the shortest horizontal distance from a lot line to the required building setback line. Where there is no right-of-way line, the setback line is measured from the edge of pavement or the edge of the access easement line, whichever is closest.
- B. The minimum building setback lines and minimum building separation requirements are as set forth in this Ordinance (***CHAPTER 2: ZONING DISTRICTS***).
- C. If a minimum building separation requirement is not provided, the minimum building separation requirement is the district's minimum side yard building setback.
- D. Where 25% or more of the lots in a block frontage are occupied by buildings, then the average building front and side setback lines of buildings on that block may be used instead of the front and side setbacks regulations of this Ordinance. This allows new development on the block to be cohesive with the existing development patterns of the neighborhood.



- E. Setback lines established on a recorded plat establish the setbacks for the subdivisions when they are more restrictive than provided in this Ordinance.
- F. On through lots, the front yard is established by the existing principal buildings in the block.
- G. All setbacks must be maintained as open space and landscaped with grass, trees, shrubs, or in combination with other suitable groundcover materials in compliance with **6.5 Landscape**, unless otherwise improved according to this Ordinance (e.g., parking areas).

4.8 Signage

A. Sign Standards Applicable to All Uses in All Districts

- 1. No sign shall project beyond a lot line, obstruct in any way a driver's vision of the road, or hinder her/his passage in any way.
- 2. No sign shall be placed to hinder or obstruct any pedestrian along any pedestrian path.
- 3. Real Estate Signs must be temporary with a maximum of 7 ½ square feet per side.
- 4. Off-premise advertising signs (billboards) are prohibited in all districts.
- 5. Restrictions for C&C Welding and Fabrication Facilities for signs intended to be seen outside lot lines:
 - a. Non-illuminated business signs are permitted.
 - b. Maximum sign area of 4 square feet per side.

B. Residential District Sign Standards (R1, R2, R3, R4)

For signs intended to be seen outside of lot lines:

- 1. Non-illuminated business signs are permitted.
- 2. Maximum sign area of 4 square feet per side.

C. Mobile Home District Sign Standards (MH)

For signs intended to be viewed from outside the mobile home court:

- 1. One illuminated non-flashing sign is allowed per court
- 2. Maximum sign area of 16 square feet.

D. Industrial Districts Sign Standards (I1, I2)

For signs intended to be seen outside of lot lines:

- 1. Illuminated business signs are permitted.
- 2. Maximum sign area of 50 square feet per side.

E. Agricultural Districts Sign Standards (A1, A1R, A2, A3, A4)

For signs intended to be seen outside of lot lines:



1. Non-flashing illuminated business signs are permitted.
2. One sign per principal use with a maximum sign area of 12 square feet.

F. **Sign Permits**

1. Permits Required. Except as otherwise provided in this article, it is unlawful for any person to erect, construct, enlarge, move, or convert any sign without first obtaining a sign permit from the Administrator.
2. Application. Application for a permit is made to the Administrator on forms provided by the Department with permit application fee and required information to assure compliance with this Ordinance. Within 5 business days of the permit application, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Within 10 business days of the permit application, the Administrator will issue a permit for applications meeting the permit requirements or notify the applicant of the areas where the permit application does not comply with the permit requirements.
3. Effects of Sign Permit Issuance. Permits issued in accordance with this article do not authorize unlawful signs.
4. Nullification. A sign permit becomes null and void, and the permit fee is forfeited, if the authorized work has not been completed within 6 months of the date the permit was issued.

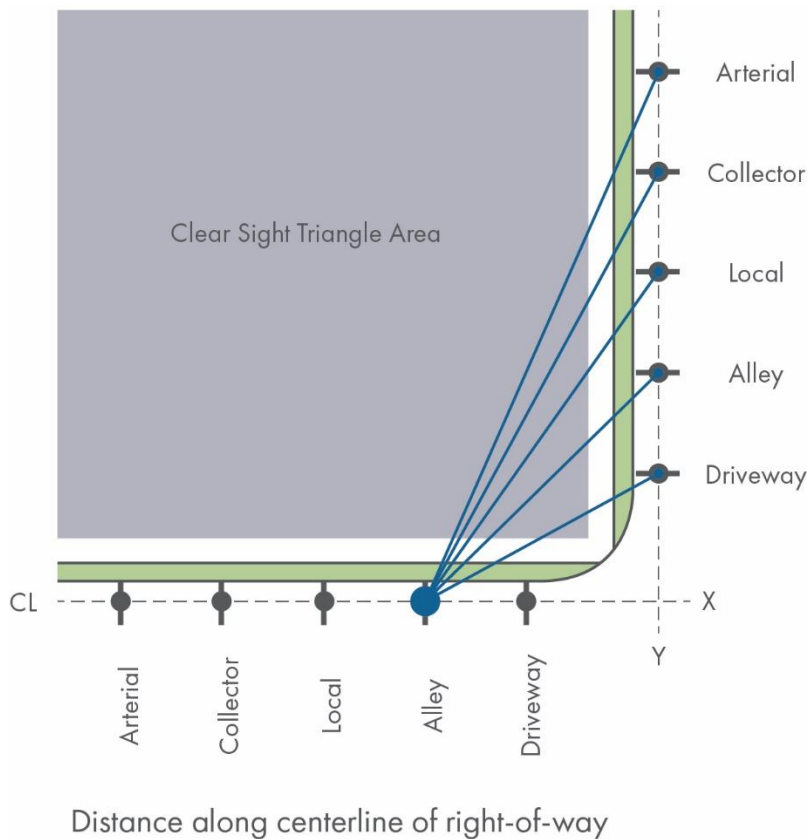


4.9 Vision Clearance

Unless otherwise approved in writing by the Administrator, no sign, fence, wall, landscaping, utility, or other improvement obstructing sight lines between 3 and 9 feet above a street are permitted on a corner lot, within the triangular area formed by the intersecting centerlines of the streets or driveways and a tangent determined based upon the following street classifications:

STREET CLASSIFICATION	DISTANCE FROM CENTERLINE INTERSECTION
Arterial	200 feet
Collector	150 feet
Local	100 feet
Alley	30 feet
Driveway	20 feet

The example below shows the vision clearance triangles created when a local street intersects with other street classifications.

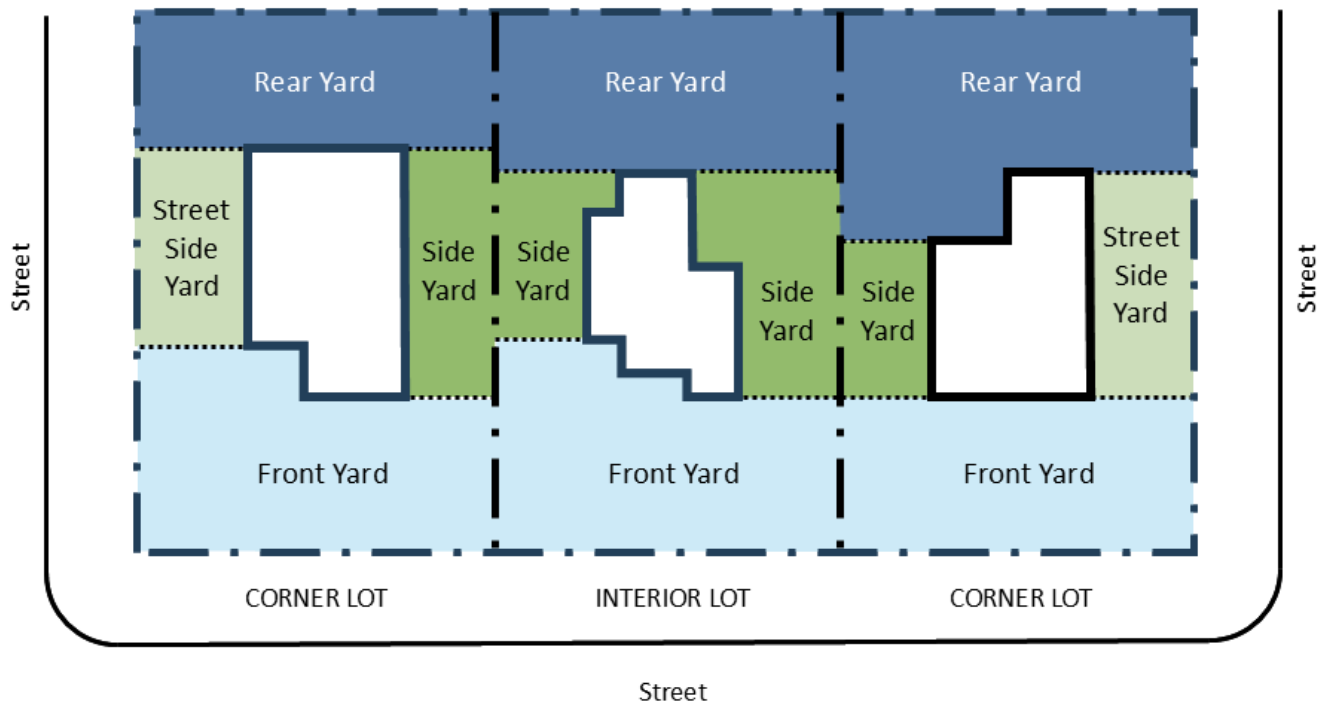


Where unusual or complex situations exist, the County Engineer may require a larger vision clearance triangle.



4.10 Yards

- A. If an alley has not been developed for carrying traffic, the alley may be included in the lot area.
- B. An established yard is measured as the shortest horizontal distance from a lot line to the nearest outside wall of an existing building or structure.





4.11 Appendix

A. Notice of Agricultural Activity

NOTICE TO ALL APPLICANTS FOR AN IMPROVEMENT LOCATION PERMIT IN AN AGRICULTURE DISTRICT OF RUSH COUNTY, INDIANA.

This notice is given to you because of your application for an Improvement Location Permit to build or move into an area of Rush County that is within an Agriculture District.

The purpose of this notice is to assure you are aware that all agricultural operations are allowed in this area.

Agricultural activity may include, but is not limited to, grazing of livestock, confined feeding of livestock, application of animal manure to land, application of pesticides to fields and growing crops, creation of dust from field operations, and noise from livestock and machinery operations at all hours.

Single-family dwellings are permitted uses of land in an Agriculture District, and this is not restricted to farm families. However, people who choose to live in these areas must understand that agricultural operations may be occurring nearby.

You must also understand that Indiana has a "RIGHT TO FARM" law that protects farm operations from unwarranted nuisance suits by neighbors who move next to an existing farm operation. Farm operations do not constitute a nuisance so long as they are not negligently maintained, do not endanger human health, and do not cause bodily injury to third parties. By signing this notice form, you verify that you have received it, read it, and understand it. You are not giving up the right to seek redress for negligence by individuals associated with a farm operation or by other residents of the area.

MY SIGNATURE CERTIFIES THAT I HAVE RECEIVED THIS NOTICE. I HAVE READ IT AND UNDERSTAND IT.

Printed Name

Signature

Street Address

Date

City, State, ZIP Code

Permit Number



B. Deed of Dedication Agricultural Zone Covenants

The owner of the real estate shown and described in this plat (the "Real Estate"), for and in consideration of the right to develop the Real Estate for uses other than agricultural uses, makes the following covenants for all current and future owners and occupants of the Real Estate.

1. All current and future owners:
 - a. Acknowledge and agree that the Real Estate is in or adjacent to an area zoned for agricultural uses, which uses include, but are not limited to, production of crops, animal husbandry, land application of animal waste, the raising, breeding, and sale of livestock and poultry, including confined feeding operations, use of farm machinery, sale of farm products, and spraying applications.
 - b. Waive any and all objections to any agricultural use, including those listed above, on any parcel zoned for such uses within two miles of any boundary of the Real Estate, whether the use currently exists, or is established, enlarged, or occurs due to a use change in the future.
 - c. Agree that current or future agricultural uses do not constitute a nuisance as long as they are not negligently maintained, do not cause bodily injury to third parties, or directly endanger human health.
 - d. Agree that this covenant is for the benefit of, and enforceable by, the County Planning Commission and all persons engaged in agricultural uses within two miles of any boundary of the Real Estate.
 - e. May not adversely affect the surface or subsurface drainage of any adjoining property.
2. If any current or future owner or occupant of the Real Estate objects to or opposes an agricultural use within a two-mile radius that is not negligently maintained, the owner or operator of the agricultural use is entitled to any reasonable attorney's fees incurred in opposing any objection or action.
3. If any of the provisions of this covenant are determined to be unenforceable, in whole or in part, for any reason, the remaining covenants remain fully operative.



Chapter 5

DESIGN STANDARDS

Items shown on a site plan or primary plat

5.1	BLOCKS	3
5.2	DRAINAGE	3
5.3	EASEMENT.....	3
5.4	MONUMENTS AND MARKERS.....	8
5.5	STREETS AND RIGHTS-OF WAY	9
5.6	SURETIES.....	17
5.7	UTILITIES	20







5.1 Blocks

- A. **Dimensions.** Block length and width within bounding streets must be sufficient to accommodate the lot sizes required by the zoning district and to provide convenient access, circulation, and safety of vehicular and pedestrian traffic.
- B. **Length.** The maximum block length is 600 feet. This requirement does not apply to blocks containing lots abutting the boundary lines of the parent track of a subdivision. In granting modifications to allow blocks longer than 600 feet, the Plan Commission may require crosswalks and traffic calming measures where useful to facilitate pedestrian circulation.
- C. **Depth.** Residential blocks must have sufficient depth to accommodate two tiers of lots, except where lots back up to an interstate, arterial street, or floodplain are used.
- D. **Shape.** Blocks should fit easily into the overall design of the subdivision and their design must reflect consideration of lot layout, configuration, traffic flow, and public areas.

5.2 Drainage

A drainage system is required for proper drainage of new developments. The system must be designed and constructed per the applicable Stormwater Drainage Manual.

5.3 Easement

This article applies to all development.

- A. **Drainage and Utility Easements.** All developments submitted for approval must allocate areas for drainage and utility easements. All easements and corresponding utility location plans must be complete and approved prior to the final approval of any plan. When located between lots, easements should be centered on the lot line so each lot is encumbered by half the easement width, unless otherwise approved by the Administrator or the appropriate utility provider. Before determining the location of easements, the plan must be discussed with the local public utility companies to assure proper placement and installation of such services. No improvements (e.g., accessory buildings, buildings, driveways, fences, retaining walls, structures) are permitted within a drainage and utility easement, unless otherwise approved by the easement holder.
- B. **Surface Drainage.** If any stream or necessary surface drainage course is within the development area, an easement is established along all sides of the drainage course according to the County Surveyor or Indiana law if a regulated drain, or 20 feet per side (measured from the top of bank) if not a regulated drain. The easement is for widening, deepening, sloping, improving, or protecting the stream or surface drainage course.
- C. **Easement Instrument Specifications.** Where an easement is required by this Ordinance but the standards for the easement type are not specified, or an easement is required per a commitment or condition of approval, then the property owner ("grantor") must execute the easement instrument in favor of the appropriate party or entity ("grantee"). When a secondary plat is being recorded, the applicant may print an easement certificate on the secondary plat, the



content of which has been approved by the Administrator or Legislative Body. The easement instrument must:

1. Specify the docket numbers of the complete applications and/or project numbers of the permits associated with the easement.
2. Specify the activities the grantee is authorized to perform in the easement.
3. Specify the activities the grantor is prohibited from performing in the easement.
4. Be binding on all heirs, successors, and assigns to the property where the easement is located.
5. Be enforceable by the grantee and the County or Town, as applicable.
6. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
7. Provide for modification in the manner stipulated in this Ordinance.
8. Be cross-referenced to the most recently recorded deed to the property where the easement is to be established.
9. Include a metes and bounds description of the easement.
10. Be signed by an authorized representative of the property owner of record granting the easement and by an authorized representative of the grantee accepting the easement.

D. Cross-Access Easements

1. Easement Instrument Specifications. When required by this Ordinance, each property owner ("grantor") must execute a cross-access easement instrument in favor of the adjoining property owner ("grantee"). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the public the right to utilize the easement for purposes of accessing adjoining parking facilities.
 - c. Prohibit the parking of vehicles within the easement.
 - d. Prohibit any person from placing any obstruction within the easement.
 - e. Be binding on all heirs, successors, and assigns to the properties where the easement is located.
 - f. Be enforceable by each party to the easement and by the County or Town, as applicable.
 - g. Specify any other specially affected persons and classes of specially affected persons that are entitled to enforce the easement.



- h. Provide for modification or termination in the manner stipulated in this Ordinance.
- i. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
- j. Include a metes and bounds description of the easement.
- k. Be signed by an authorized representative of each property owner granting the easement and by an authorized representative of each property owner accepting the easement.

2. Cross-access Easement Certificate

- a. When a secondary plat is being recorded, the applicant may print the following cross-access easement certificate on the plat:

"There are shown on this instrument areas designated as 'Cross-Access Easement' or abbreviated as 'C-A.E.' Such easements are established in favor of the adjoining property owner ('grantee') and grant the public the right to enter the easement for purposes of accessing adjoining parking facilities. These easements prohibit any person from parking vehicles within the easement and prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the [County or Town] may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the Unified Development Ordinance, or its successor ordinance."

- b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the cross-access easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

E. Private Street Easements

- 1. Easement Instrument Specification. When required by this Ordinance, the property owner ("grantor") must execute a private street easement instrument in favor of the owner of the lot ("grantee") to which the private street provides access. The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the grantee the right to access the easement to access their lot.



- c. Specify the grantee's financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
- d. Prohibit any person from placing any obstruction within the easement.
- e. Require the private street be built to the standards of the County or Town, as applicable.
- f. Be binding on all heirs, successors, and assigns to the property where the easement is located.
- g. Be enforceable by the grantee and the County or Town, as applicable.
- h. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
- i. Provide for modification or termination in the manner stipulated in this Ordinance.
- j. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
- k. Include a metes and bounds description of the easement.
- l. Be signed by an authorized representative of each property owner granting the easement and by an authorized representative of each property owner accepting the easement.
- m. Include the following language: "The property owner expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision, because the streets are private, that all maintenance, repairs and replacement now and forever must be undertaken at the expense of the lot owners according to the terms and conditions set forth in the owners association bylaws and articles. No governmental entity has any duty or responsibility to maintain, repair or replace any private street."

2. Private Street Easement Certificate

- a. When a secondary plat is being recorded, the applicant may print the following easement certificate on the plat:

"There are shown on this instrument areas designated as 'Private Street Easement' or abbreviated as 'P.S.E.' Such easements are hereby established in favor of the adjoining property owners ('grantee') and grant the grantee the right to enter the easement for purposes of accessing their lot. These easements prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the [County or Town] may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be



modified or vacated in the manner stipulated in the Unified Development Ordinance, or its successor ordinance."

- b. In addition, the secondary plat must include the following language: "The subdivider expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision that because the streets are private all maintenance, repairs and replacement now and forever must be undertaken at the expense of the lot owners according to the terms and conditions set forth in the owners association bylaws and articles. The subdivider, and their successors and assignees, waive all rights to petition a governmental entity to be responsible for the maintenance and ownership of such private streets. No governmental entity has any duty or responsibility to maintain, repair or replace any private street."
- c. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- d. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the Private Street easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

F. Shared Driveway Easements

1. Easement Instrument Specifications. When required by this Ordinance, each property owner ("grantor") must execute a shared driveway easement instrument in favor of the adjoining property owner ("grantee"). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the adjoining property owners the right to access the easement to maneuver vehicles.
 - c. Specify the adjoining property owners' financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
 - d. Prohibit any person from placing any obstruction within the easement.
 - e. Be binding on all heirs, successors, and assigns to the properties where the easement is located.
 - f. Be enforceable by the parties to the easement and the County or Town, as applicable.
 - g. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.



- h. Provide for modification or termination in the manner stipulated in this Ordinance.
 - i. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
 - j. Include a metes and bounds description of the easement.
 - k. Be signed by an authorized representative of each property owner of record granting the easement and by an authorized representative of each property owner accepting the easement.
2. Shared Driveway Easement Certificate. When a secondary plat is being recorded, the applicant may print the following shared driveway easement certification the plan:
- "There are shown on this instrument areas designated as 'Shared Driveway Easement' or abbreviated as 'S.D.E.' Such easements are hereby established in favor of the adjoining property owners ('grantee') and grant the grantee the right to enter the easement for purposes of maneuvering vehicles. The easement prohibits the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the [County or Town] may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the Unified Development Ordinance, or its successor ordinance."
- a. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
 - b. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the shared driveway easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

5.4 Monuments and Markers

A. General Standards

- 1. Monument and markers must be installed per *Indiana Administrative Code, 865 IAC 1-12-18* and the standards set forth in this article.
- 2. Permanent reference monuments must be placed so the center of the pipe or marked point coincides exactly with the intersection of lines to be marked and the top of the monument or marker is level with the finished grade.
- 3. Required monuments and markers must include a surveyor's cap as required by Indiana law, and at a minimum, must include a substantial plastic or metal cap permanently affixed showing the registered professional surveyor's surname and professional license number or firm/agency identification number.



4. Upon completion of the development, as-built drawings must be submitted showing where monuments and markers were placed. This must be accompanied by an affidavit by the surveyor, registered in the State of Indiana, attesting to the accuracy of installed monuments and markers, and certifying that the monuments and markers are still accurately in place and were not removed, moved, or buried such that they do not accurately denote surveyed lines or cannot be easily located.
 5. Monuments which are damaged or altered must be reset by the party responsible for damage/alteration. If a responsible party cannot be readily determined, then the active developer will bear the costs of having the monument(s) reset.
- B. **Monument Standard.** Monuments must be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of 4 inches by 4 inches by 30 inches, set vertically in place. They must be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross.
- C. **Monument Locations.** Monuments must be set:
1. At the intersection of lines forming angles in the boundary of the subdivision,
 2. At least 2 monuments must be set on each side of a straight section of a street and on lot corners near each end of the street,
 3. At least 2 monuments must be set on any straight line over 400 feet in length and on lot corners near each end of the line, and
 4. Any location at bearing changes.
- D. **Marker Standard.** Markers must consist of iron pipes or steel bars at least 24 inches long, and not less than 5/8 inch in diameter.
- E. **Marker Locations.** Markers must be set on boundaries not covered by required monument locations, including:
1. At the beginning and ending of all curves along street lot lines,
 2. At all points where lot lines intersect curves, either front or rear,
 3. At all angles in lot lines, and
 4. At all other lot corners not established by a monument.
- F. **Centerline Modification.** Approved hard surface monuments must be set:
1. At the beginning and ending of all curves, and
 2. At all points where street centerlines intersect.

5.5 Streets and Rights-of Way

- A. **Applicability.** Proposed developments must allocate adequate areas for new streets in conformity with this Ordinance, applicable construction standards, and the Comprehensive Plan.



B. **Street Classifications.** Streets are classified as below. The streets are listed in order of decreasing intensity.

1. Arterial. A major roadway designed for high-volume, high-speed through traffic with limited direct property access. They often have multiple lanes and controlled access points to maintain traffic flow.
2. Collector. A medium-capacity roadway that collects traffic from local streets and channels it to arterials. They balance traffic movement with moderate property access at moderate speeds.
3. Local Road. A low-volume roadway designed primarily to provide direct access to adjacent properties. They accommodate local traffic at low speeds with minimal through traffic.

C. **Design Principles**

1. The street system layout must provide access to all lots and parcels of land within a development. The design of the street system is guided by the following principles:
 - a. Adequate vehicular and pedestrian access is provided to all parcels within the development with extensions or connections to adjacent parcels.
 - b. The street patterns must provide reasonably direct access to the primary circulation system. The access point cannot conflict with the efficiency of primary circulation system.
 - c. Planning and construction of streets must clearly relate to their local function to operate effectively and safely. Pedestrian-vehicular conflict points should be minimized.
 - d. Local roads are designed to avoid impacts to significant topographic features, to discourage excessive speeds, and to minimize through traffic movement.
2. Streets should adjust to the contour of the land to produce useable lots and streets of reasonable gradient. Street grades must be at least 0.5% and cannot exceed 5%. Consideration must be given to natural features, such as existing wooded areas, streams and creeks, historic locations, or similar conditions that, if preserved, will add attractiveness and value to the community.
3. Acceptable limits for visibility, curvature, and maximum grade depend on topography, sight distance, functional classification, anticipated traffic volumes, number and nature of access points, etc. Road designs are based on sound engineering judgment and current INDOT Standards, Guides, and Manuals. The County Engineer approves the design speeds selected for each project. Individual projects may warrant additional requirements dictated by sound engineering design and specified by the County Engineer.
4. Streets must align and connect with existing or planned streets and provide connections with adjacent property. Where appropriate, proposed streets must extend to the boundary line of the site to provide normal circulation of traffic within the vicinity and the extension of distribution lines for most utilities, such as water, sewer, gas, electricity, and telecommunications systems. Within Rural Centers, stub streets must be provided at intervals



not exceeding 1,000 feet unless otherwise approved by the Plan Commission. All streets must be constructed to the boundary lines of the subdivision.

5. Street and Right-of-Way Widths. Widths of streets and minimum rights-of-way widths are as follows:

Street Classification	Minimum Right-of-Way Width	Minimum Number of Lanes
Arterial	90 feet	2-4
Collector	60 feet	2
Local Road	50 feet	2

6. Horizontal centerline curve radii must meet or exceed INDOT Standards and correspond with the following design speeds unless otherwise approved in writing by the County Engineer:
- A local road with a design speed of 30 MPH requires a minimum centerline radius of 150 feet.
 - A local road or collector with a design speed of 40 MPH requires a minimum centerline radius of 300 feet.
 - An arterial with a design speed of 50 MPH requires a minimum centerline radius of 675 feet.
 - The minimum tangent distance between reverse curves is 100 feet.

D. **Improvement Standards.** Streets must conform to the following:

- Construction. Street improvements must be designed, constructed, and installed according to the applicable construction standards and specifications.
 - Streets and alleys must be completed as shown on approved plans, profiles, and cross-sections.
 - Streets must be graded, surfaced, and improved to the dimensions required by the cross-sections and the work must be performed in the manner prescribed in the Indiana Department of Transportation's Standard Specifications.
 - When connecting to an existing street wider than a proposed street, a taper must be provided to match the width of the existing street. The County Engineer determines the length of the taper based upon the street classification and site conditions.
 - The maximum ponding depth within the street cannot exceed 6 inches at the crown of the roadway for a 100-year storm event.
 - All excavations under the pavement or within 5 feet of the edge of pavement must be backfilled with structure backfill or flowable mortar per INDOT specifications. Any



deviation from these provisions must be approved by the County Engineer prior to construction.

2. Cul-de-sac Standards. Cul-de-sacs must conform to the following standards:
 - a. A cul-de-sac can provide access to a maximum of 20 dwelling units.
 - b. The cul-de-sac terminus must be designed with a minimum right-of-way radius of 55 feet and a minimum driving surface radius of 45 feet measured to the back of curb.
 - c. A temporarily dead-ended street is permitted if a street is proposed to be extended but is not yet constructed. An adequate easement or right-of-way for a turn-around must be provided if the dead-end street extends 300 feet or more in length measured from the nearest intersection. If an easement is used, it must automatically vacate to the abutting property owners when the street is extended. The cross-section of a temporary cul-de-sac must be at least 9 inches of compacted #53 aggregate over a compacted subgrade. If the temporary cul-de-sac is required for more than 3 years, a 2-inch layer of asphalt intermediate is required. Any temporary cul-de-sac with a stone surface 3 years after installation must be paved with a 2-inch layer of asphalt intermediate prior to the release of the maintenance surety for the streets.
 - d. The Plan Commission or Administrator may require a pathway or sidewalk to connect a cul-de-sac to an adjacent cul-de-sac or street to provide reasonably direct connection between likely pedestrian destinations. Such connection must be constructed according to **6.8 Pedestrian Networks** and located within an easement or common area.
3. Alleys. Alleys must be constructed according to the applicable construction standards and specifications, unless otherwise approved by the County Highway Department or Town Street Department.
4. Intersections.
 - a. Street curbs must be rounded by radii of sufficient length to permit the smooth flow of traffic. A 25-foot minimum radius is required for local roads. A 40-foot minimum radius is required for arterials, collectors, roads in a commercial or industrial development, and roads that intersect with state roads or state highways.
 - b. Street right-of-way at intersections must be designed to provide at least 10 feet of separation between the right-of-way line and the curb.
 - c. Intersecting streets must meet as perpendicular as possible. In no case can intersecting streets create an angle less than 75 degrees.
 - d. The intersection of more than 2 streets at one point is prohibited.
 - e. Roundabouts are approved by the County Engineer.
 - f. When a street of lesser functional classification intersects with a street of greater functional classification, the radii arcs at the intersection must comply with the standards for the street of greater functional classification, unless otherwise approved by the County Engineer. The pavement thickness of all improvements within the right-



of-way of the intersection must comply with the street requiring the greater pavement thickness.

- g. At least 100 feet of straight street is required before entering an intersection, unless otherwise approved by the County Engineer.
 - h. Street Separations. Unless otherwise approved by the County Engineer, street intersections cannot be closer than 300 feet centerline-to-centerline for local roads and 600 feet centerline-to-centerline for collector and arterial streets. This requirement does not apply to frontage roads.
 - i. Driveway Separations. Driveways must meet the following separation requirements:
 - Arterials - 300 feet for residential driveways, 600 feet for non-residential driveways.
 - Collectors - 200 feet for residential and non-residential driveways.
 - Local Roads – Determined at primary plat or site plan review based upon the site design and driveway context.
 - j. Landscaping and other obstructions cannot be placed where they would obstruct the visibility of a stop sign within 150 feet of the stop sign.
5. Access Points.
- a. The following standards apply to access points for a development. The Plan Commission, Legislative Body, or Administrator may deny a proposed access point due to safety concerns. Additional access points may be approved due to the size of the development or if the additional access point improves traffic circulation.
 - b. Only one street, driveway, or point of vehicle access is permitted from a development onto an arterial or collector.
 - c. Direct access from a residential driveway to an arterial or collector is discouraged unless it is the lot's only means of access.
 - d. Where a proposed street, commercial drive, or industrial drive intersects with an existing street, acceleration and deceleration lanes and a passing blister are required. All roadwork involving the construction of a passing blister or acceleration and deceleration lanes requires a 1-inch overlay of bituminous surface extending to the centerline of the existing roadway and the improvements. The bituminous surface extends to the far ends of the tapers and/or blister. Butt joints must be milled at the ends of the work to ensure a smooth transition.
6. Traffic Control Devices. Traffic control devices must comply with the current edition of the Indiana Manual on Uniform Traffic Control Devices.
7. Subsurface Drainage. Subsurface drains must be installed at a depth of 2 feet below and aligned with the inside face of the curb or along the junction where the face of the concrete curb meets the material of the travel surface. The subsurface drains must be at least 6-inch diameter perforated polyethylene pipe. For residential subdivisions in Rural Centers, laterals at least 4 inches in diameter must be provided to each lot, extended to the right-of-way line,



and capped. The ends must be marked by permanently marking (stamping) the lateral location in the curb and extending a board or other suitable material to the surface. The lateral locations must be shown on the record drawings. No direct surface water or garage floor drains can connect to the subsurface drains.

8. Soil Conditions in Streets. Wet spots or other unusual soil conditions may develop in streets. Such conditions may be addressed by the following measures after approval by the County Engineer:
 - a. Underdrains. Polyethylene lateral underdrains at least 4 inches in diameter are placed at regular intervals under the subbase extending through the wet areas. The laterals are connected to the subsurface drainage system.
 - b. Additional Aggregate. In addition to the minimum base requirements, additional compacted aggregate (#53 stone) is added to the street cross section at a thickness determined by the County Engineer.
 - c. Geogrid as approved by the County Engineer.
 - d. Soil Modification. Soil modification, such as lime stabilization, complying with INDOT Standard Specifications may be used. Application rates are determined based on testing of the in-place subgrade. Test results and proposed application rates must be provided to and approved by the County Engineer prior to application.
9. Joints in Rigid Pavement. Rigid pavement must be jointed to control cracking. Joints must be constructed according to the type, dimensions, and locations required by INDOT Standard Specifications, these regulations, or as directed by the County Engineer.
 - a. Spacing. Spacing of weakened plane, transverse, or contraction joints cannot exceed 20 feet. Closer spacing to average 15 feet is encouraged. A transverse contraction joint may either be formed or sawed dummy groove, ribbon, or pre-molded strip type and must be $\frac{1}{4}$ the thickness of the pavement.
 - b. Sawing. When a transverse joint is formed by sawing, saw the grooves soon after placing the concrete to prevent the formation of cracks due to contraction of the slab.
 - c. Catch Basins and Manholes. A joint is required at every catch basin and manhole in the pavement. The location of manholes in the pavement determines the exact location of the joints.
 - d. Full Pavement Width. All joints must extend throughout the curb to the full width of the pavement.
 - e. Transverse Expansion Joint. A transverse expansion joint is required at intersections, tangent points of sharp curves, and wherever else shown on the plans.
 - f. Longitudinal Joint. Whenever the width between forms of the pavement under construction is greater than 10 feet, a longitudinal joint is required to divide the pavement into strips not to exceed 10 feet each. This may be accomplished by sawing or installing a groove for a contraction joint.



- g. Curing Compound. White membrane curing compound AASHTO Number 2-M-14B must be properly applied to give complete coverage immediately after finishing, around all inlets and manholes, and every 50 lineal feet of pavement, and where concrete adjoins asphalt.

10. Curb and Gutter.

- a. Curbs. Within Rural Centers, a 2-foot concrete curb and gutter is required for all developments unless otherwise approved by the County Engineer or Town Council.
- b. Construction. Materials, concrete specifications, and construction procedures, including cold weather construction standards, must comply with INDOT Standard Specifications.
- c. Valley Gutters. Valley gutters that connect gutter drains across intersections are prohibited.
- d. Frozen Material. The County Engineer has determined that a material is considered frozen when any part of its temperature reaches 32° Fahrenheit.
- e. Height of Asphalt. The maximum height of the asphalt must meet or exceed the gutter line of the curb.

11. Roadside Ditches. Roadside ditches are required for all existing and proposed streets that will not have curb and gutter.

- a. Shoulder Width and Slopes. Roadside ditches are located to provide a shoulder width per INDOT Standard Specifications and sound engineering design. The shoulder must be at least 4 feet wide. Drainage side slopes cannot exceed a 3:1 slope. The Plan Commission, Administrator, or County Engineer may require a wider shoulder and drainage ditch.
- b. Culvert Cover. Roadside ditches must provide at least 12 inches of cover over a driveway culvert pipe, or as recommended by the culvert manufacturer, whichever is greater.
- c. Driveway Pipe Size. The minimum size of a driveway pipe is 24 feet of 12 inch culvert pipe. The County Highway Department may require a larger pipe diameter and/or length.

12. Bridges and Similar Drainage Structures.

- a. Design and Construction Standards. All bridges and similar drainage structures must be designed and constructed to comply with AASHTO Standard Specifications for Highway Bridges. All bridges must incorporate a crash-tested barrier rail per INDOT Standard Specifications. The length of approach rail must meet INDOT Rehabilitation, Restoration, and/or Resurfacing (3R or RRR) requirements or better, and be approved by the County Engineer.
- b. Approval. Structure size and type and final design plans must be approved by the County Engineer. The County Engineer may require additional right-of-way for future maintenance of the structure.
- c. Testing and Inspection. Material certifications and testing must be done during construction according to INDOT Standard Specifications with copies provided to the County Engineer. On-site construction inspection must be provided by the owner



according to County procedures for locally funded bridges, with the County Engineer copied on all inspection reports and correspondence. The County Engineer must participate in the final inspection. A separate maintenance bond for the structure must be provided to the County Engineer. All construction within existing right-of-way and any crossings of the travel surface require a permit from the County Engineer prior to construction.

13. Street Names. All street names and lot addresses are coordinated through the Administrator. Street names that duplicate or may be confused with names of existing streets cannot be used, unless permitted by the Plan Commission. Streets that are logical extensions, continuations, or alignment of existing streets must continue the names of the existing streets.

E. **Dedication of Right-of-way**. Developments adjoining or including existing streets not conforming to the minimum right-of-way dimensions established in 5.5(C)(5) of this article must dedicate enough additional right-of-way along the streets to meet the minimum requirements. If the development only contains property on one side of the street, then sufficient right-of-way must be dedicated to bring the half right-of-way up to the minimum dimensions required. Dedication of new half streets is prohibited.

1. Passing Blister. Where a passing blister is required and inadequate right-of-way exists to install the passing blister, then the developer must make a good faith effort to acquire property sufficient for the installation of the passing blister. If the property owners where the passing blister is to be installed refuses to sell the property, then the developer must provide the Administrator copies of all surveys, appraisals, and written offers made by the developer to the property owners, and correspondence from the property owners.
2. Acceleration and Deceleration Lanes. Where an acceleration lane and/or deceleration lane is required and the development does not contain street frontage needed to install the lane, then the developer must make a good faith effort to acquire property sufficient for the installation of the acceleration lane and/or deceleration lane. If the property owners where the acceleration lane and/or a deceleration lane is to be installed refuses to sell the property, then the developer must provide the Administrator copies of all surveys, appraisals, written offers made by the developer to the property owners, and correspondence from the property owners.
3. Eminent Domain. The installation of passing blisters, acceleration lanes, and deceleration lanes is vital to the health, safety, and welfare of the motoring public. The Legislative Body may, but is not obligated to, begin eminent domain proceedings according to IC 32-24: Eminent Domain for the acquisition of public right-of-way sufficient for the installation of the passing blister, acceleration lane and/or deceleration lane upon receipt of documentation illustrating the developer's failure to acquire the needed property. Upon completion of the eminent domain proceedings, the developer reimburses the Legislative Body the price paid by the Legislative Body for the right-of-way acquisition, including professional and legal expenses, any condemnation and relocation within the acquired right-of-way. The developer then installs the passing blister, acceleration lane and/or deceleration lane according to the applicable construction standards.



- F. **Delay of Surface Layer.** Installation of the surface layer of asphalt may be delayed with permission of the County or Town up to one year until the binder layer of asphalt has had enough time to prove its durability under the stress of heavy construction traffic. A separate performance bond covering the cost of installing the surface layer of asphalt is required prior to approving the delayed installation.
- G. **Waiver of Stub Street Improvements.** The Plan Commission may waive the requirement to construct the improvements within a stub street to abutting undeveloped land specified in [5.5\(D\)\(4\)](#) of this article. When such a waiver is approved, the Owner is required to dedicate the right-of-way as part of the plat of the subdivision. When the abutting land is developed, the developer of that property is responsible for installing the street and making the connection between the subdivisions.
- H. **Private Streets**
1. Private streets are permitted but must conform to the street and right-of-way standards of this Ordinance and be constructed according to the applicable construction standards.
 2. Private streets must be established within access easements complying with [5.3 Easement](#).
 3. When a private street easement appears on a secondary plat, a private streets certificate ([5.3 Easement](#)) must be printed on the plat. Unplatted easements for private streets must have the same language included on a recorded easement instrument.
 4. Financial sureties are required according to [5.6 Sureties](#) and applicable construction standards.
 5. When the term right-of-way is used in this chapter, it also applies to private street easements in the context of this chapter only.
- I. **Fire Hydrants.** Fire hydrants must be provided throughout the development as determined by the local fire department having jurisdiction over the site.
- J. **Acceptance of Improvements.** Before any financial surety ([5.6 Sureties](#)) covering a street installation is released, the Plan Commission, Legislative Body, or Administrator may request core borings for thickness determination. The developer must engage the services of an independent testing laboratory to take cores at locations selected by the County or Town. The results of the testing must be provided to the Administrator for review and approval.

5.6 Sureties

- A. As a condition of approval of a subdivision, site plan, special exception, or planned unit development, a financial guarantee may be required to assure the installation of the improvements such as streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
- B. A bond, irrevocable letter of credit, or other guarantee acceptable to the Legislative Body ("financial surety") must be executed prior to issuing an Improvement Location Permit for single site developments or recording a secondary plat prior to the completion of improvements.



C. **Construction/Performance Surety**

1. A performance surety to the Legislative Body must include any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility to be dedicated to the County or Town. On-site and off-site improvements shown on the approved plans must be covered by the performance surety.
2. The performance surety must:
 - a. Be 120% of the estimated costs determined by the Legislative Body to be sufficient to complete the improvements in compliance with this Ordinance and the applicable construction standards;
 - b. Provide surety satisfactory to the Legislative Body;
 - c. Run to and be in favor of the Legislative Body;
 - d. Specify the time for the completion of all improvements; and
 - e. Be on a form approved by the Legislative Body.
3. Performance sureties must be effective from the date of approval to begin construction of the project and must not terminate until released by the Administrator. The performance surety cannot be released until the Administrator certifies the improvements have been installed according to the intent of the approved site plans.
4. A dedicated account is created in a form acceptable to the State Board of Accounts to hold and accumulate all funds paid pursuant to the provisions of this article. Funds appropriated from the account must only be used for the completion of infrastructure improvements approved by the Legislative Body and which had not been completed after having been initiated.
5. The County or Town may consider alternative forms of ensuring the proper completion of improvements to be dedicated to the County or Town or for the benefit of the public.
6. Upon completion of all improvements and installations as required by this Ordinance, the developer furnishes appropriate documentation indicating that required improvements and installations have been constructed, installed, and completed in compliance with the provisions of this Ordinance, the requirements of the Plan Commission, and the provisions of other applicable ordinances of the County or Town. The Plan Commission prescribes procedures for determining whether all improvements, installations, and lot improvements have been constructed and completed as required by this Ordinance.
7. Upon acceptance of required improvements or installation, the accepting agency or department provides a completion letter to the developer that officially accepts maintenance responsibility, subject to the terms of the required maintenance guarantees.
8. Two months prior to the expiration of the performance or maintenance guarantee, the Legislative Body determines if the public improvements have been installed consistent with applicable standards and special conditions or requirements, if any, established at plat approval. If the improvements have not been installed to the satisfaction of the Legislative



Body, the Legislative Body notifies the developer of their intent to secure the funds pledged by the performance or maintenance guarantee, or at their discretion, to grant one extension for a period up to 12 months, and the developer files with the Legislative Body a new performance or maintenance guarantee within the extension period. The Legislative Body may upon proof of difficulty, grant one additional extension of the completion date for a maximum period of up to 12 additional months, provided that the performance or maintenance guarantee submitted for this extension period meets all other requirements herein and the extension has been requested in writing prior to the expiration of the first extension.

9. Failure to Complete Public Improvements. In cases where a performance guarantee has been posted and the required public improvements have not been installed within its terms, or if the Legislative Body finds upon inspection that any of the improvements have not been constructed according to the approved construction plans, then the Legislative Body may declare the performance guarantee to be in default and cause all public improvements to be installed according to the approved plans regardless of the extent to which development has occurred at that point in time.
10. Release or Reduction of Performance Guarantee. A performance guarantee may be reduced upon actual acceptance of public improvements and any conditions imposed on the plat and then only by the amount originally estimated for the completion of said public improvements. The Legislative Body cannot accept required public improvements, nor reduce a performance guarantee, until the developer has submitted a certificate attesting to satisfactory completion and the developer's engineer or surveyor has provided the Legislative Body with certified "as built" construction plans of the public improvements including the utilities, indicating location, dimensions, materials, and other information required by the Legislative Body and reviewed by the County/Town Engineer or representative. Upon certification and evidence of satisfactory completion, the Administrator recommends acceptance to the Legislative Body and the Legislative Body accepts the applicable public improvements for maintenance according to established procedures.
11. Temporary Public Improvements. The developer must build and pay all costs for temporary public improvements required by the Legislative Body and must maintain the same for the period specified. Prior to construction of any temporary public facility or improvement, the developer files with the Legislative Body a separate suitable performance guarantee for temporary facilities, which insures that the temporary facilities will be properly constructed, maintained, and removed (except for turnaround at ends of the peripheral stub streets intended for connection into adjacent future subdivisions).

D. Maintenance Surety

1. When the improvements are completed and accepted by the County or Town, the performance surety may be released. For 3 years after the date of improvements were accepted by the County, Town, or applicable agency, the developer must make all repairs to the improvements which may become necessary due to improper workmanship or materials. Such maintenance does not include any damage to improvements resulting from forces or circumstances beyond the control of the developer.



2. The developer must provide a maintenance surety to the County or Town for any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility dedicated to the County or Town. On-site and off-site improvements shown on the approved plans must be covered by the maintenance surety.
 3. The maintenance surety must:
 - a. Run to and be in favor of the Legislative Body;
 - b. Be in a sum of not less than 25% of the total improvements' construction cost of the development;
 - c. Provide surety satisfactory to the Legislative Body;
 - d. Warrant the workmanship and materials used in the installation of the improvements;
 - e. Include a certification from the developer that all improvements have been made according to the approved plans.
 4. Maintenance sureties are effective from the date of acceptance and must not terminate until the County or Town Engineer certifies inspection and approval of the improvements.
- E. **Waiver of Required Public Improvements.** The Legislative Body may defer or waive at the time of primary approval, subject to the appropriate conditions, the provision of any or all such public improvements as in its judgment, are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities.
- F. **Use of Funds.** Any funds received from the performance and maintenance guarantees can only be used for making improvements, installations or repairs that were guaranteed by a bond or irrevocable letter of credit.

5.7 Utilities

- A. This article applies to all development including major subdivisions, improvement location permits, and site plans.
- B. Utilities must be installed underground in designated utility easements or rights-of-way.
- C. Development must provide for the collection of all sanitary sewage discharges by the installation of sanitary sewers. These sewers must be tied into a public sanitary sewer system and constructed within right-of-way and/or dedicated sewer and utility easements. When a public sanitary sewer is not available, then a septic sewer system on an individual lot may be provided if permitted by this Ordinance and if constructed according to the minimum requirements of the County Health Department.
- D. Development must provide a complete water main supply system connected to a municipal or a community water supply system approved by the County Health Department. When a municipal or community water supply is not available, then an individual water supply on each lot must be provided.



Chapter 6

**RURAL CENTER
IMPROVEMENT STANDARDS**

Regulations applying to Rural Centers

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6.1 Rural Centers Identified

A Rural Center is defined as the portions of the county located within an incorporated town, an unincorporated community, and land within ¼ mile of the boundary of the City of Rushville. This includes the Town of Carthage, the Town of Glenwood, and the unincorporated communities of Arlington, Boyd, Charlottesville, Fairview, Falmouth, Farmers, Gings, Gowdy, Henderson, Homer, Manilla, Mauzy, Mays, Milroy, Moscow, New Salem, Occident, Raleigh, Richland, Sexton, and Williamstown. The official boundaries of the Rural Centers are shown on the Official Zoning Map. Illustrative maps of Rural Center communities are found in [6.15 Rural Center Maps](#). The Administrator determines the boundaries of the Rural Centers consistent with [1.11\(B\) Determination and Interpretation of District Boundaries](#).

6.2 Animal Standards

These standards apply to new and existing development in all districts within Rural Centers:

A. Definitions

For the purposes of the article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Animal. A vertebrate animal not including any human being.

At Large. A pet animal shall be deemed to be at large when it is of the property of its owner and not under the control (e.g. leashed, obedient to commands, or caged) of its owner or other competent person.

Dangerous/Vicious. Any pet animal that, because of its individual temperament or breed propensity, endangers the safety of or injures a human being. This definition shall also include pet animals that injure or kill another animal without provocation and dogs trained for the purpose of fighting.

Exotic Animal. Any animal requiring a special permit from the State of Indiana or Department of Natural Resources.

Livestock. Cattle, calves, horses, ponies, mules, donkeys, swine, sheep, goats, llamas, alpacas, rabbits (more than nine), chickens, and ducks.

Pet Animal. Any domesticated cat or dog.

Small Animal. Any mouse, rat, turtle, reptile, ferret, hamster, rabbit, chinchilla, gerbil.

Wild Animal. Any non-domesticated, free roaming animal, to include feral cats.

B. Animals Permitted in Rural Centers

1. Residents within a Rural Center cannot own or temporarily confine any type of animal other than a pet animal or small animal.
2. 10 non-roaming chickens are allowed, but roosters are prohibited.



3. Animal sites must take all reasonable steps to prevent the site from creating a neighborhood nuisance. Excreta should be removed from livestock animals' primary enclosures at least weekly, more often as necessary, to prevent odor, health, and sanitation problems.
4. Cats and dogs may run within a fenced yard. All other animals must be restrained in an area at least 15 feet from any property line and 20 feet from any residential dwelling.
5. Any new structures and or/fencing must meet the requirements of this Ordinance.
6. Shelter and runs must be predator-proof, well-ventilated, and clean to prevent disease and pest infestations. There should be adequate space for the number of animals.

C. Exceptions

1. 4-H Animals or School Animals. When related to a 4-H or school project, a resident may habitat rabbits and ducks subject to the following requirements or restrictions:
 - a. No more than 2 of any animal type per person is permitted on site at any given time.
 - b. The project participant must provide written certification to the Administrator from a 4-H or school official identifying the animals as part of a 4-H or school project. The certification must include the project's completion date.
 - c. All animals must be moved to another location or disposed of in a humane manner within 30 days from the project's completion date.
 - d. Any fish, fowl, or animal covered under the Article cannot exceed 25 pounds at adult weight.
 - e. Violations may result in the exception being revoked for the resident.
2. Pygmy Goats. Pygmy Goats are diminutive in size, social in nature, low-maintenance, and easy-going. The following requirements or restrictions apply to the keeping of Pygmy Goats.
 - a. One female or neutered male pygmy goat is permitted with consideration of other animals on the lot. An animal area at least $\frac{1}{4}$ acre in size is required per pygmy goat, with a maximum of three pygmy goats at any property.
 - b. Animal exception request must be received by the Legislative Body at least 10 days before the council meeting. Supporting documentation should confirm the number of pygmy goats and the size of the location. A drawing of the property and location of the shelter and fence lines should be provided to confirm the required setbacks.
3. Emotional Support Animals. Emotional support animals must meet the following requirements:
 - a. An Emotional Support Animal (ESA) Letter must be printed on your therapist's official letterhead, stating that you suffer from a specific emotional disability (as included in the Americans with Disabilities Act). The letter must also explain that your emotional support animal is key to your wellbeing. Finally, the letter is required to be signed and dated by your licensed therapist, as well as include their license number, and the date and place it was issued. An ESA letter is only valid for one year from the issued date.



- b. If you are interested in ESA Letters for more than one animal, it's important to understand that a licensed mental health provider must agree that there is a valid reason that multiple ESAs are necessary for your health and well-being.
 - c. If the ESA request is for an exceptionally large animal, such as a horse or llama, special exception approval by the BZA is required.
 - d. Approvals are valid for one year after the emotional support letter date.
 - e. Emotional Support Animals must follow all regulations in [IC 22-9-7](#).
4. All Other Exceptions. Any other animal exceptions will be handled as a special exception through the BZA.

D. Humane Care of Animals

1. In addition to all applicable state laws regarding the ethical treatment of animals, this section requires that all animals be provided with adequate food, water, and shelter. The shelter must be of a size that the animal can heat the enclosed space with its own body heat, while also providing fresh air for adequate ventilation. The sheltering area for the animal must provide protection from adverse weather conditions (heat, cold, wind, rain, and snow) and must allow the animal to remain completely dry.
 2. If tied, the animal must have a comfortable buckle collar or harness (no chains, ropes, choke collars, pinch collars, or similar devices are permitted) and a tie-out length of at least 15' is required. The tie-out must allow the animal access to its food, water, and shelter, and must provide the animal space to lie outside of puddles, mud, and excrement.
 3. Proper care must be provided to protect animals from internal and external parasites and veterinary care must be provided to treat injured and sick animals.
 - a. Dogs and cats that are vaccinated with a rabies vaccine whose label recommends annual boosters should be revaccinated within 12 months of the prior vaccinated.
 - b. Dogs and cats that vaccinated with a rabies vaccine whose label recommends a booster one year later and triennially thereafter shall be revaccinated within 12 months of the first vaccination and shall be revaccinated within 36 months of each vaccination thereafter.
 - c. The owner of the animal is responsible for procuring the vaccinations required by this section.
 - d. Proof of rabies vaccination shall be required for all dogs or cats found running loose or involved in a bite incident.
- E. **Running At Large.** No person owning or having control of a pet animal or small animal shall permit such animal to run at large, damage the property of anyone other than the owner, or attack without provocation any person, including the owner. Local law enforcement may confine any pet animal or small animal caught running at large until it is either released to its owner or transported to a Rush County animal-sheltering facility. The owner is responsible for the daily cost of impoundment of the pet animal or small animal. The owner shall also provide proof of compliance with this Ordinance.



F. **Quietude**

1. Owners must prevent their pet animals or small animals from disturbing the peace and quiet of other persons by not preventing prolonged periods of barking, howling, or other loud noises. The time of day and circumstances surrounding the incident may be considered before a warning or violation is issued. Continuous noise is not permitted to exceed 30 minutes, nor intermittent noise to exceed 2 hours.
2. Based upon complaints by neighboring owners/residents, a maximum of two warnings may be issued by the Administrator. Upon the third or more complaint, a violation is issued.

G. **Removal of Excrement.** A person responsible for a pet animal or small animal is required to immediately remove such animal's excrement from any public lands or from the private property of any other person. Violations issued under this section are issued to the adult owner of the pet animal or small animal.

H. **Determination of Dangerous/Vicious Animal**

1. Upon the receipt of a sworn complaint or bite report, the incident is investigated by the Administrator to determine whether the animal involved fits the criteria of dangerous/vicious. Law enforcement personnel may also initiate investigations when there is information leading them to believe that an animal may be dangerous or vicious.
2. If insufficient evidence exists to declare an animal dangerous/vicious, the owner is required to obtain liability insurance specific to that animal, to have the animal securely confined while on the owner's premises, and to be in their immediate restraint, by way of leash, when off the owner's premises.

I. **Penalty.** Violations of this article may be enforced per **CHAPTER 9: ENFORCEMENT.**

6.3 Architectural Standards

These standards apply to new development in all districts within Rural Centers:

- A. **Purpose.** These standards are to ensure new buildings contribute to the community and are compatible with the existing development of the surrounding neighborhood.
- B. **Applicability.** Unless otherwise waived in writing by the Administrator, these standards apply to applications for site plans and improvement location permits located within the Downtown District or on an infill site located within a Rural Center. An infill site is one where the proposed development is located on vacant or underutilized land substantially enclosed by other buildings and developments.
- C. **Review Criteria.** The following principles, listed in order of importance, are applied in the review of proposed developments:
 1. Building Form – The scale of the building and how it is positioned on the site. This is regulated by requirements on lot width, setbacks, building height, lot coverage, and building floor area.
 2. Frontage – How the building relates to the public realm, typically the public street. The interaction between the building and the street is regulated by front setbacks, window and door placement, and building features such as porches.



3. Site Elements – How components other than the building are placed on the site. This is regulated by requirements for pedestrian and vehicular access, parking, signage, and landscaping and screening.
4. Use – The activities that are permitted on the lot. Permitted uses and specific use standards have the greatest influence on the uses of the property.

Buildings subject to these standards are reviewed for the compatibility of the proposed development with the surrounding neighborhood on the following requirements:

- Massing of the building form,
- Building scale,
- Location and treatment of entryways, including porch heights,
- Surface materials, finishes, and textures,
- Size of building footprint,
- Eave heights,
- Building silhouette,
- Spacing between buildings,
- Setbacks from street property lines,
- Proportions of windows, bays, doorways, etc.
- Shadow patterns from massing and features, and
- Landscaping.



Example of compatibility between single household home and duplex.

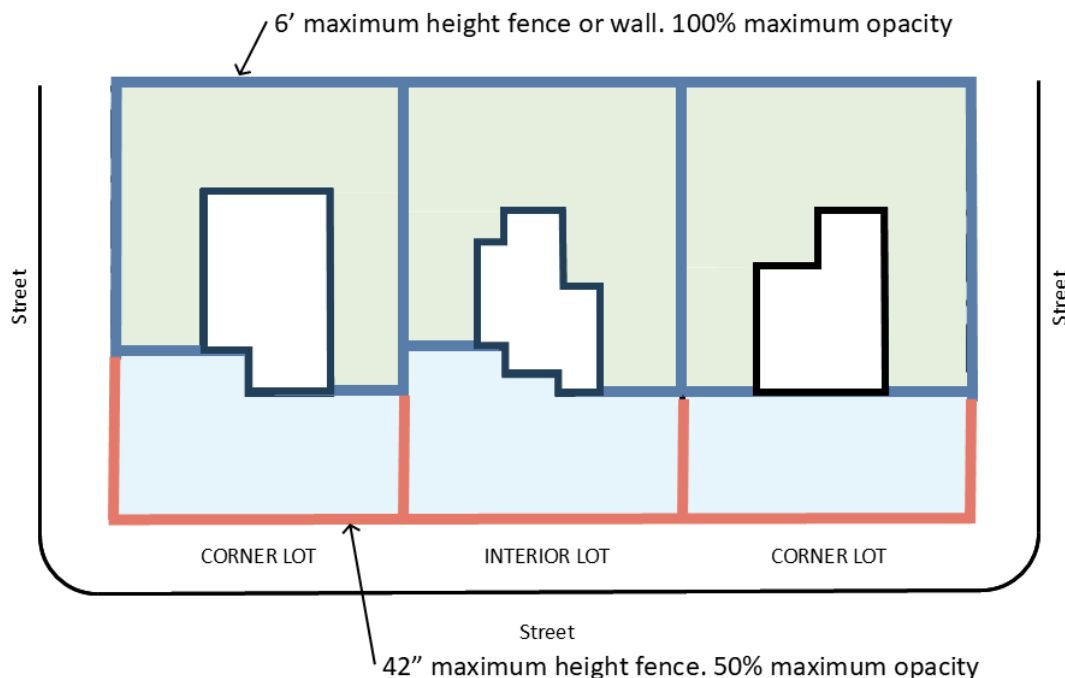
- D. In Commercial and Downtown Districts, building façades should be enhanced with: (a) The use of multiple colors, textures, and patterns; or the addition of architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.).
- E. In Commercial and Downtown Districts, building façades must have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated, cornice or molding.

6.4 Fences and Walls

These standards apply to new development in all districts within Rural Centers:

- A. Fences and walls cannot be erected or altered in a manner that obstructs the vision of a vehicle driver (**4.9 Vision Clearance**). Fences and walls may be built directly along lot lines; however, they must not encroach into rights-of-way, nor into easements prohibiting the installation of fences or walls (e.g., drainage and utility easements).
- B. Fences and walls associated with agricultural uses are exempt from the standards of this article but must still comply with **4.9 Vision Clearance**. In all Zoning Districts, temporary fences for safety and construction are permitted and are exempted from the standards of this article.

- C. Fence or wall height is measured from the top of the fence or wall to the adjacent finished grade. When placed upon a mound or berm the fence or wall is measured from the top of the fence or wall to the finished grade at the base of the mound or berm.
- D. Fences or walls located within a side, street side, or rear yard of a residential lot cannot exceed 6 feet in height and may be 100% opaque.
- E. Fences or walls located within a required or established front yard of a residential lot cannot exceed 42 inches in height nor be more than 50% opaque.
- F. Open wire mesh fences surrounding sports facilities, such as tennis courts and baseball diamond backstops, may be erected to a height customary for such facilities.
- G. Fences enclosing an institutional, commercial, or industrial property, may consist of an open mesh fence not to exceed 10 feet unless otherwise restricted by this Ordinance.
- H. Opaque fences must be installed so the finished side of the fence is facing outward (e.g., toward the lot line). Fences on a lot line in which two or more property owners share in the expense of the fence are exempt from this provision.
- I. Fences or walls for screening of permitted outdoor storage or display areas must also comply with **6.7 Outdoor Storage**.
- J. In all Zoning Districts, temporary fences for safety and construction are permitted and are exempted from the standards of this article.





6.5 Landscape

These standards apply to new development in all districts within Rural Centers:

- A. **Purpose and Intent.** These regulations are intended to promote the health, attractiveness, and safety of the community; foster aesthetically pleasing and environmentally sensitive development; and encourage the preservation of trees and natural areas.
- B. **Applicability.** These regulations apply to all new development within Rural Centers. Unless otherwise stated below, single-family and two-family dwellings are exempt from this article.

C. Landscape Plan Review

1. Review. Landscaping plans are subject to Plan Commission or Administrator review and approval. Conditions may be imposed on the plan approval. To ensure the landscaping is installed per the approved plan, the Plan Commission or Administrator may require a financial guarantee, as provided in [5.6 Sureties](#).
2. Modifications. The Plan Commission or Administrator may modify the requirements of this article if:
 - a. Existing vegetation, topographic features, or easements make compliance with requirements unnecessary or difficult to achieve.
 - b. The application of requirements will result in a significant loss of existing vegetation or natural or cultural features.
 - c. Modification of requirements will clearly result in a superior design that could not be otherwise achieved.

D. Landscaping General Requirements

1. Required Plant Materials. Plant material must be hardy to the local climate, suitable for the site, free of disease and insects, and conform to the American Standard for Nursery Stock ([ANSI Z60.1-2004](#)). The use of native plants is strongly encouraged (indiananativeplants.org). Plants listed on the Indiana Invasive Species Council [Invasive Plant List](#) cannot be used to fulfill any requirement of this Ordinance. If vegetation required by this Ordinance dies or is removed, replacement plant materials must be installed.
2. Minimum Plant Sizes at Installation. Unless otherwise specifically noted, the minimum plant size at the time of installation for required plant material is according to [Table 6-1: Minimum Plant Sizes](#).



Table 6-1: Minimum Plant Sizes

PLANT MATERIAL TYPE (ASNS TYPES)	MINIMUM SIZE
Deciduous/ Overstory Shade Tree (Type 1 or Type 2)	
— Single Trunk	2 in. caliper
— Multi-Trunk	10 ft. in height
Evergreen/Coniferous Tree	6 ft. in height
Ornamental/ Understory Tree Single Trunk	1.5 in. caliper
Ornamental/ Understory Tree Multi-trunk	6 ft. in height
Large Shrub – Deciduous (Type 2 or 3)	24 in. in height
Large Shrub – Evergreens (Types 4, 5 or 6)	30 in. in height
Small Shrub – Deciduous (Type 1)	18 in. in height
Small Shrub – Evergreens (Type 1, 2 or 3)	24 in. in spread
Ground cover	3 in. in height

3. Installation and Delay of Installation Due to Season. Landscaping material must be installed prior to issuing a Certificate of Occupancy. The Administrator may authorize a delay in installation up to 120 days due to periods of adverse weather, availability of plant material, or conflicts between construction scheduling and proper planting conditions.

E. Preservation of Existing Vegetation

1. If existing vegetation meets the intent of these landscape regulations, preserved existing vegetation may be credited for landscape materials required by this Ordinance. Credit will not be given for existing vegetation listed on the ***Invasive Plant List***.
2. Existing vegetation to be preserved must be protected during construction by a fence erected 1 foot beyond the drip line of the vegetation. The enclosed area must be protected from any land disturbing activity, including placing materials within this protected area.

- F. **Residential Subdivision Landscaping Requirements.** For new residential subdivisions containing five or more lots, a minimum of two shade trees per lot is required. These shade trees may be planted at subdivision entries, within common areas, or on individual lots. To provide design flexibility and diversity, up to 50% of the required shade trees may be substituted with ornamental or evergreen trees at a 2:1 ratio (e.g., 2 evergreen trees substituted for 1 shade tree).

- G. **Parking Lot Landscaping.** Where a parking lot is within 50 feet of a street, a landscape area at least 5 feet wide must be provided between the parking lot and the street. This landscape area must be planted with 1 shade tree and 7 medium-sized shrubs per 35 linear feet.

H. Screening of Trash Receptacles for Multi-Family, Commercial, and Industrial Uses

Within Rural Centers, except for detached single-household dwellings or duplexes on individual lots, screening is required around all garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas and other similar facilities in all zoning districts.



Garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas, loading areas and other similar facilities must be completely and permanently screened from view of rights-of-way, and where possible, adjoining properties.

6.6 Lighting

These standards apply to new development in all districts within Rural Centers:

- A. **Purpose and Intent.** The purpose of this article is to provide minimum standards for effective, economical, and attractive outdoor lighting. It is the intent of this article to discourage excessive lighting, minimize glare and light trespass, create a safe environment in hours of darkness, and regulate the type of light fixtures, lamps, and standards.
- B. **Applicability.** These regulations apply to all newly installed or relocated outdoor lighting within Rural Centers. Outdoor light fixtures permitted prior to the adoption of these regulations are exempt from the shielding requirements of this article. When an outdoor light fixture becomes inoperable, the replacement light fixture must comply with the standards of this article.
- C. **Exceptions.** The following are exempt from the regulations of this article.
- All hazard warning lighting required by Federal and State regulatory agencies.
 - All temporary emergency lighting required by local law enforcement, emergency service and utility departments.
 - All traffic control and directional lighting.
 - All underwater lighting used for the illumination of swimming pools and water features are exempt from the lamp type and shielding standards of this article.
 - All lighting for temporary festivals, carnivals, and holiday displays.
 - All low wattage residential accent and landscape lighting fixtures having a maximum output of 1600 lumens (equal to one 100-watt incandescent light) per fixture.
- D. **Prohibitions.** The following actions are prohibited:
1. The use of any mercury vapor lamp or low-pressure sodium lamp.
 2. The use of laser source light or other similar high-intensity light for outdoor advertising.
 3. The operation of searchlights and floodlights for advertising purposes.
 4. The use of any lighting source on towers is prohibited except as required by the Federal Aviation Administration.
 5. Neon tubing, LED strip lights, and other such lighting cannot be used to outline site elements such as buildings, walls, fences, or windows.
- E. **General Lighting Standards**
1. All light fixtures must be fully shielded and direct light downward. Internally illuminated signs or electronic signage is exempt from this standard.
 2. Lighting sources must be positioned in such a manner as to direct light away from adjacent lots and rights-of-way. Internally illuminated signs or electronic signage is exempt from this standard.



3. Lighting sources must be directed away from reflective surfaces to minimize glare upon adjacent lots and rights-of-way.
4. Light pole height must not exceed 25 feet. Light fixtures in parking facilities must be designed and located to confine emitted light to the parking facility.
5. Light fixtures must meet Building Code requirements.
6. Parking lots should be illuminated with a minimum light level of 1 foot-candle throughout the entire parking area.

F. Multi-Household Residential, Commercial, and Industrial Standards

1. All light fixtures must be positioned so the source of the light is not visible from a residential lot or right-of-way when viewed at ground level. Internally illuminated signs or electronic signage is exempt from this standard.
2. Light meter readings must not exceed 0.1 foot-candles at the lot lines of any residential use and 0.3 foot-candles at the lot lines of any non-residential use.
3. Lights on poles, stands, or mounted on a building must have a shield, adjustable reflector, and non-protruding diffuser.
4. Canopy structures must have lights with diffusers that are recessed and do not extend below the surface of the canopy.

G. Lighting Plans. A lighting plan for proposed outdoor lighting must include:

1. A development plan indicating the location of all existing and proposed lighting structures, supports and light fixtures.
2. A graphic and textual description of all existing and proposed lighting fixtures. The description may include cut sheets and illustrations by the manufacturer, lamp types, wattages, and lumen outputs.
3. A development plan with illuminance levels superimposed on the development plan in the form of an iso foot-candle diagram or point-by-point grid diagram. Lighting levels must be depicted at ten-foot intervals or less. The iso foot-candle diagram must plot foot-candle increments of 0.5 foot-candle or less.
4. Any other information the Administrator determines necessary to ensure compliance with the provisions of this article.



6.7 Outdoor Storage

A. These standards apply to new development in all districts in Rural Centers:

1. Storage of materials incidental to a principal use in a non-residential district is permitted, provided the storage is located within an enclosed structure, or the provisions of **6.4(H) Screening** are met.
2. No portion of any lot can be used for the permanent storage of motor vehicles, storage containers (such as shipping containers or PODS), semi-tractors, trailers, airplanes, boats, rubbish, garbage, junk, or building materials, except during construction in accordance with the terms of this Ordinance. Permanent storage means the presence of stored vehicles or materials for a period of 48 or more consecutive hours in any 1-week period.
3. No storage is permitted within any right-of-way.
4. In Commercial Districts, outdoor storage areas must be in a side or rear yard immediately adjacent to the principal building and must not encroach into any required building setback.
5. Outdoor storage areas must be in a side or rear yard immediately adjacent to the principal building and must not encroach into any required building setback.

B. **Storage of Recreational Vehicles in Residential Districts.** In new and existing development, storage or parking of recreational vehicles within Rural Centers is subject to the following:

1. Recreational vehicles and trailers may be parked or stored within accessory buildings. If parked or stored in the open, only one recreational vehicle or trailer is permitted on the lot. The vehicle or trailer must be stored in the side yard or rear yard without encroaching into any required side yard setback or rear yard setback.
2. Parked or stored recreational vehicles and trailers cannot be occupied or used for living, sleeping, or housekeeping purposes. Connections to gas, water, or sanitary sewer service are prohibited.
3. Recreational vehicles and trailers may not be stored in a right-of-way at any time except for the immediate loading and unloading of the vehicle.

6.8 Parking

These standards apply to new development in all districts within Rural Centers:

A. **Purpose and Intent.** The purpose of these regulations is to establish standards for off-street parking and loading of motor vehicles, ensure adequate parking and access are provided in a safe and convenient manner, and to afford reasonable protection for adjacent land uses from light, noise, air pollution and other effects of parking areas. These regulations are designed to alleviate congestion of streets by establishing minimum requirements for on-site parking, access, storage, loading, and/or unloading. Off-street parking and loading facilities must be provided and maintained for all buildings, structures, or premises according to the provisions of this article.

B. **General Requirements**



1. Applicability of Parking Requirements

- a. When the intensity of use of any building, structure, or premises is increased through the addition of dwelling units, floor area, or other unit of measurement, additional parking and loading facilities must be provided for the increase based on the requirements.
- b. Whenever the existing use of a building, structure, or premises changes or converts to a new use permitted by this Ordinance, parking and loading facilities must be added, if needed, to comply with the parking requirements.
- c. On-street parking is permitted, subject to the rules and conditions of the jurisdiction with authority over the street. Unless otherwise provided in this article, on-street parking does not count toward off-street parking requirements.

2. Limitations on Parking Areas within Rural Centers. Required off-street parking facilities can only be used for the parking of passenger vehicles or light trucks for patrons, occupants, or employees of specified uses. Parking facilities cannot be used for storage, display, sale, repair, dismantling, or wrecking of any vehicle, equipment, or material. Inoperable vehicles cannot be stored in an off-street parking area for more than 2 months, except for areas approved for outdoor storage of vehicles.

C. **Required Off-Street Parking**

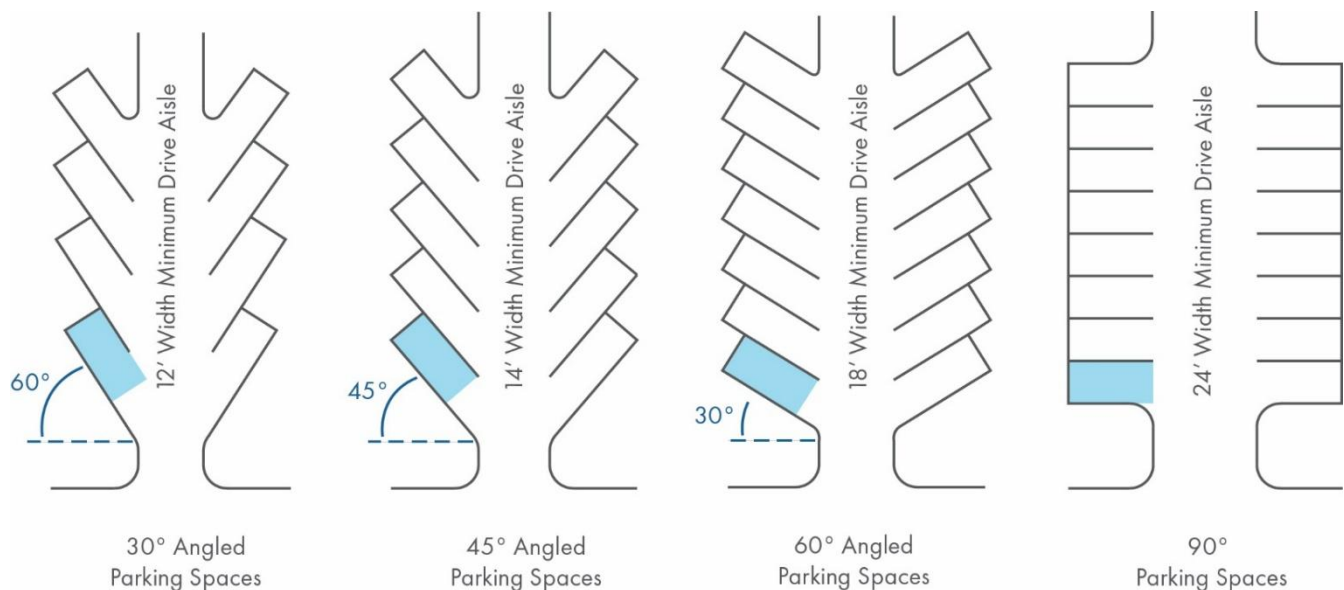
1. Buildings or structures to be erected or substantially altered require off-street parking spaces in accordance with these regulations. The number of parking spaces to be provided is based upon the number of employees, expected level of customer traffic, or actual counts at similar establishments. Consideration is given to the presence of convenient municipal off-street parking or on-street spaces located adjacent to the site and if walk-in trade is reasonable due to pedestrian connections to adjacent residential neighborhoods or employment centers.
2. The minimum number of parking spaces to be provided is identified on the **3.2 Use Matrix**. The number of spaces is calculated based on gross floor area of the use to which the parking is accessory, or as otherwise provided on the **3.2 Use Matrix**.
3. If the calculation of required parking spaces results in a fraction, the fraction is rounded up to the next unit and counted as one additional space.
4. For uses not specified on the **3.2 Use Matrix**, the minimum number of parking spaces required is determined by the Administrator, based on requirements for similar uses, the gross floor area of the use, and the relationship between the size of the use and the number of persons served or employed.
5. In the DT Downtown District, there is no minimum nor maximum parking requirement. In this district, the owner provides parking spaces based upon the expected level of demand created by the mix of uses on the site.



6. The minimum aisle width for angled parking is:

ANGLE OF PARKING SPACE	MINIMUM AISLE WIDTH
30 degrees	14 feet
45 degrees	18 feet
90 degrees	24 feet

Figure 6-6: Dimensions for Parking



D. **Design Standards.** Off-street parking areas must be developed according to the standards of this section.

1. **Accessibility.** Off-street parking or loading facilities must be designed with vehicular access to a street or alley in a manner that least interferes with traffic movement on that street or alley. Vehicle maneuvering space for parking and loading must be located on the subject property.
2. **Location of Parking and Loading.** Off-street parking and loading spaces must be provided on the same lot as the use served, except as otherwise provided in this Ordinance.
3. **Layout.** Each off-street parking space must open directly upon an aisle or driveway to provide safe and efficient vehicular access to the parking spaces. Aisles or driveways must remain unobstructed and always allow for the passage of emergency vehicles.
4. **Size of Spaces.** Off-street parking spaces must be at least 10 feet wide and 22 feet long with a vertical clearance of 7 feet. Parallel parking spaces must be at least 10 feet wide and 22 feet long. Parking spaces are exclusive of access drives, aisles, ramps, columns, and work areas.



5. Non-Residential Parking. Driveways, drive aisles, and parking spaces must be surfaced with asphalt, concrete, or similar material to provide a durable and dustless surface. Gravel driveways and drive aisles are prohibited, unless approved by the Administrator. Pervious parking spaces are encouraged to reduce post-construction stormwater runoff rates, volumes, and pollutant loads. The Administrator may approve the use of permeable surfaces such as pervious concrete, porous asphalt, permeable interlocking concrete pavers, and concrete or plastic grid pavers.
6. Curbing. Curbs and gutters built per the applicable Construction Standards are required around the perimeter of all required parking areas to prevent a parked vehicle from extending beyond the parking area onto a street right-of-way or adjacent property and to protect landscaped areas.
7. Residential Driveways. A residential dwelling unit is limited to one driveway with a maximum width of 20 feet measured at the right-of-way line. Acceptable surfaces include asphalt, concrete, and gravel. Dirt and grass driveways are prohibited.
8. Drainage or Runoff. Parking areas must be graded and drained, so water does not flow onto adjacent property or public sidewalks. Runoff generated by parking areas must be collected in appropriate drainage facilities per the applicable stormwater standards.
9. Striping of Parking. Parking areas must be striped and maintained to identify each parking space.
10. Lighting. Parking lot lighting must comply with the standards of [6.6 Lighting](#).
11. Landscaping. Off-street parking areas must be landscaped in accordance with [6.5\(G\) Parking Lot Landscaping](#).
12. Accessible Parking. Accessible parking must be provided pursuant to the [Americans with Disabilities Act \(ADA\) of 1990](#), as amended.

E. Parking Options

1. Credit for On-Street Parking. Wherever on-street parking is provided in the improvement of a street, credit toward off-street parking requirements may be granted for every parking space provided. On-street parking is subject to approval by the Administrator and specifically not permitted in the following areas:
 - a. On an arterial street.
 - b. Within 20 feet of a corner.
 - c. Within 5 feet of each side of a driveway or alley.
 - d. Within a fire hydrant zone or other emergency access zone.
2. Shared Parking. Groups of users requiring parking spaces may create a shared parking facility if all the criteria below are met. Approval by the Plan Commission is required.
 - a. Off-site, off-street parking facilities are within 600 feet of the property.
 - b. Safe and convenient pedestrian uses must be provided between the parking facilities and uses.
 - c. Interior vehicle access must connect the properties sharing the parking facilities.



- d. Shared parking facilities may cross interior lot lines of abutting parcels.
 - e. A written reciprocal parking agreement or similar document with a minimum duration of 20 years, signed by all property owners involved is required. It must include provisions for: easements (if applicable), maintenance, snow removal, ownership, and liability. The agreement must be recorded in the County Recorder's office with a copy provided to the Department. When the reciprocal parking agreement expires or terminates, the uses for which the parking was provided are considered non-conforming. Continuation or expansion of the uses is prohibited unless the use is brought into compliance with the parking regulations of this article.
- F. **Off-Street Loading Requirements.** When provided, loading areas within Rural Centers must meet the following standards.
- 1. Loading docks must have adequate area for semi tractor trailers to maneuver in and out of the facility without blocking rights-of-way, streets, alleys, aisles, or other internal circulation ways.
 - 2. Loading docks must be paved with asphalt or concrete. The Administrator may approve the use of porous paving materials.

6.9 Pedestrian Networks

These standards apply to new development in all districts within Rural Centers:

- A. **Applicability.** Within Rural Centers, all non-residential developments and platted residential subdivisions must have a pedestrian network of sidewalks and/or asphalt pathways for pedestrian transportation and recreation unless waived in writing by the Administrator.
- B. **General Standards**
- 1. All concrete sidewalks, asphalt pathways, and crosswalk improvements must be constructed per the applicable construction standards and comply with requirements of the *Americans with Disabilities Act (ADA)*, as amended.
 - 2. Curb ramps for handicapped accessibility must be provided at all intersections of streets, alleys, and drives (excluding individual residential driveways) and comply with ADA requirements. Curb ramps are not permitted in driveways.
- C. **Internal Pedestrian Network Standards**
- 1. Sidewalks must be at least 5 feet wide. When abutting a curb, sidewalks must be at least 6 feet wide.
 - 2. Sidewalks are required on both sides of internal streets in all developments.
 - 3. When a proposed development abuts an existing development or pathway, connection to the sidewalks or pathways is required.
 - 4. Connector sidewalks must be provided from the sidewalk or path adjacent to the street to the front entrance of all non-residential structures. Where the sidewalk intersects driving lanes or



parking aisles within the parking facility, then crosswalks and ramps must be installed according to ADA requirements.

- D. **Perimeter Pedestrian Network Standards.** Developments must participate in the establishment or improvement of the pedestrian network along streets adjacent to their perimeter according to the following:
1. Where a proposed development plan or subdivision abuts an existing right-of-way, multi-use pathways or sidewalks must be provided along the perimeter streets and constructed per the applicable construction standards.
 2. Required multi-use pathways or sidewalks should be located within the right-of-way. Pathways located outside the right-of-way must be located within an access easement approved by the Administrator or Legislative Body.
- E. **Sidewalk Construction.** Sidewalk materials and construction requirements must comply with INDOT Standard Specifications and the following requirements:
1. Sidewalks must be 4,000 psi concrete.
 2. Sidewalks must be at least 4 inches thick in pedestrian areas and at least 6 inches thick in vehicular areas, such as driveways.
 3. The cross slope of a sidewalk cannot exceed $\frac{1}{4}$ inch per foot.
 4. Sidewalks should be located at least 1 foot inside the right-of-way line, unless located in an access easement outside the right-of-way.
 5. To prevent cracking and heaving, sidewalk control joints must be provided at a maximum spacing of 4 feet with expansion joints placed at a maximum spacing of 40 feet.
- F. **Vertical Drop.** Within 5 feet of the outside edge of the sidewalk, the grade cannot drop more than 12 inches. Where the grade drops more than 12 inches, a barrier complying with INDOT Standard Specifications is required.
- G. **Installation.** Sidewalk installation is the responsibility of the property owner. The property owner must complete the installation of the sidewalk prior to the issuance of a Certificate of Occupancy. Prior to the termination of the maintenance surety for the streets, the property owner must complete the installation of all remaining sidewalks and pedestrian ways located interior to the subdivision, even if the lots are not yet developed.
- H. **Maintenance.** The abutting property owner is responsible for maintaining the sidewalk, including clearing snow and ice. If the Town, County Engineer, or Zoning Administrator determines the condition of the sidewalk warrants replacement, the property owner is responsible for the cost of the replacement.



6.10 Performance Standards

These standards apply to new and existing development in all districts within Rural Centers:

- A. **Obnoxious Characteristics.** No use can exhibit obnoxious characteristics to the extent it constitutes a public nuisance.
- B. **Fire Protection.** Firefighting equipment and prevention measures acceptable to the Fire Department and any federal, state, county, and/or local authorities with jurisdiction must be readily available and apparent when conducting an activity involving the handling or storage of flammable or explosive materials.
- C. **Electrical Disturbance.** No use can cause electrical disturbance adversely affecting radio, television, or other equipment in the vicinity.
- D. **Noise.** No use can produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness, or vibration. Noises must be muffled or otherwise controlled to not become detrimental.
- E. **Vibration.** No use can cause vibrations or concussions detectable beyond the lot lines without the aid of instruments.
- F. **Air Pollution.** No use can discharge across a lot line fly ash, dust, smoke, vapors, noxious, toxic, or corrosive matter, or other air pollutants in such a concentration as to be detrimental to health, animals, vegetation, or property, or conflict with public air quality standards.
- G. **Heat and Glare.** No use can produce heat or glare in a manner to be a nuisance or create a hazard perceptible from any point beyond a lot line.
- H. **Water and Solid Waste Pollution.** No use can produce erosion or pollutants in such quantity as to be detrimental to adjacent properties or conflict with public water quality standards.
- I. No approval of a use under this Ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under Indiana State statute. Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the authorities with rightful jurisdiction.
- J. No use can accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in conflict with applicable public health, safety, and welfare standards and regulations.
- K. The performance standards above do not apply to: (1) site construction, maintenance, repair, or alterations of buildings or other improvements on or within the lot; (2) the operation of motor vehicles; and (3) safety or emergency warning signals or alarms.
- L. Any industrial use must conform to any applicable state and federal government regulations. All relevant federal and state permits or approvals are required prior to issuing an Improvement Location Permit.



6.11 Property Maintenance

These standards apply to new and existing development in all districts within Rural Centers:

- A. All land and exterior areas under roof but not enclosed must be maintained free from:
 - Accumulation of garbage, debris, or blight, including graffiti, tires, broken glass, or anything posing a hazard to public health;
 - 3. Tarps, plastic sheeting, or similar materials used as screening, fencing, or wall covering;
 - 4. Abandoned vehicles or inoperable vehicle parts, visible from a right-of-way, except a single inoperable vehicle undergoing minor repair work, not to exceed two months; or lawful commercial activities involving vehicles as allowed by this Ordinance. Farm vehicles, equipment, or implements stored in an Agricultural District are exempt from this requirement;
 - 5. Commercial appliances, machinery, freezers, refrigerators, or other household items;
 - 6. Any object or landscaping that interferes with the use of any sidewalk, street, alley, highway, or visibility of a traffic light or traffic sign;
 - 7. Landscaping visible from public property that is substantially dead, damaged, or characterized by uncontrolled growth;
 - 8. Anything posing an imminent hazard to public health and safety;
 - 9. Any unprotected well or excavation more than 2 feet deep;
 - 10. Any wall or fence missing blocks, boards, or other material, or is otherwise deteriorated to constitute a hazard to people or property; and
 - 11. Graffiti visible from a public area or right-of-way.
- B. These standards exclude: items kept in covered bins or receptacles; a lawfully established junkyard; any neatly stored materials used in the development of property; and items stored or kept in enclosed trailers or vehicles.
- C. These standards do not apply to the orderly storage of materials in side and rear yards of residential uses provided the storage does not exceed the height of any fence or wall enclosing the storage area.
- D. All premises must be kept free from rodent infestation and other noxious pests.
- E. All premises must prevent the accumulation of stagnant water.
- F. All fences and walls must be safe, structurally sound, and uniform in color, structure, and design. They must not constitute a hazard or be in disrepair. Repair of an existing fence or wall must be made with the same or similar materials.
- G. Occupied buildings must have an adequate number of garbage receptacles maintained in clean condition and good repair. The owner or occupant must arrange for the regular removal of garbage from the premises.



- H. Vacant lots or land subject to enforcement action for dumping must be secured to prevent future dumping.
- I. Unenclosed or unsecured excavations, septic tanks, cesspools, and similar conditions must be fully restored to a safe, serviceable condition, or filled with clean fill. Excavations must be maintained in a secure manner to prevent a hazard to public health and safety.
- J. Buildings or structures determined to be unsafe or dangerous as defined in the Building Code must be abated in accordance with the provisions of that code.

6.12 Streetlights

These standards apply to new development in all districts within Rural Centers:

- A. Streetlights must be installed at all intersections, development entrances, and along internal streets as required by the provisions of this Article. The Plan Commission may direct streetlights at other locations if it determines they are necessary to provide vehicular or pedestrian safety.
- B. Streetlights providing the illumination necessary for vehicular and pedestrian safety at all intersections within the development must be installed per the applicable construction standards and the public utility providing the lighting. The Plan Commission may reduce the number of intersections required to have street lighting. The provision of streetlights at major intersections involving Collectors or Arterials within the development cannot be waived.
- C. Lighting between intersections must be accomplished by:
 - 1. Installing streetlights at the midpoint of the block or every 15 lots, whichever provides the shorter spacing between streetlights,
 - 2. Installation of dusk-to-dawn lights on the street-side of each home with such lights maintained in good operating condition by the property owner in perpetuity, or
 - 3. A combination of the above options.
- D. If the County or Town have established a streetlight standard along the street where the entrance is located, the development must install the same lighting standard. Luminaires must be shielded to prevent glare on residential properties.
- E. Decorative streetlights may differ from the applicable construction standards if approved by the Plan Commission. Decorative streetlights must be installed at the expense of the developer and maintained by the property owners' association. An agreement between the County or Town and the property owner's association is required establishing that the property owner's association is responsible for replacing the decorative streetlights and poles when the original streetlights installed are lost or damaged. If the County, Town, or public utility providing the lighting must replace a streetlight, it is not obligated to use a decorative streetlight.



6.13 Street Signs

These standards apply to new development in all districts within Rural Centers:

- A. Streets must have the minimum number of street signs necessary to create a safe environment for drivers and pedestrians and convey information to efficiently find a certain street or address.
- B. A street name sign is required at each intersection within and at the perimeter of the development.
- C. Street signs must comply with the current edition of the *[Indiana Manual on Uniform Traffic Control Devices](#)* and the applicable construction standards.
- D. Street name and regulatory signs must be installed prior to any street being opened to the public or the issuance of building permits within the development section.
- E. Decorative street signs may differ from the applicable construction standards if approved by the Plan Commission. Decorative street signs must be installed at the expense of the developer and maintained by the property owners' association. An agreement between the County or Town and the property owner's association is required to establish that the property owner's association is responsible for replacing the decorative street signs and poles when the original signs installed are lost or damaged. If the County or Town must replace a street sign, it is not obligated to install a decorative sign.

6.14 Unsafe and Abandoned Buildings

These standards apply to new and existing development in all districts within Rural Centers:

- A. **Purpose.** The purpose of this article is to create minimum standards for buildings and structures, establish the responsibilities of owners of unsafe or substandard structures or vacant buildings; and provide administration and enforcement of standards related to such buildings. The standards in this article only apply to what can be observed from outside of the abandoned or dilapidated structure. An old barn located in an Agricultural District is exempt from the standards of this article.

Upon finding a building vacant or abandoned, the Administrator may issue the owner an order for continuing maintenance pursuant to the Unsafe Building Act, *[IC 36-7-9](#)*, as amended, or similar authority granted by state statute, this Ordinance or other statutes, ordinances, and regulations. The window and door openings of all buildings on the property must be secured against unlawful entry using appropriate locks.

- B. **Definitions.** For the purposes of this Article, the following definitions apply:
 - 1. **Building/Structure.** Any dwelling, garage, shed, commercial building, or man-made structure.
 - 2. **Unsafe Building.** Any structure defined under *[IC 36-7-9-4](#)*.
 - 3. **Substandard or Unfit Building.** Structures failing local minimum standards.
 - 4. **Nuisance Structure.** Dilapidated, infested, unsecured, hazardous, or unfit buildings.
- C. **Minimum Building Standards.** A structure is substandard or unfit if it fails any of the following:
 - 1. Structural Integrity. Foundation failure, risk of collapse, failing roof/walls/floors.



2. Weather Protection. Leaks, broken windows, missing doors, deteriorating siding.
3. Sanitation and Utilities. Unsafe wiring, now water/sewage, mold, infestation.
4. Fire Safety. Exposed wiring, unsafe heating, flammable hazards.
5. Secure and Safe. Vacant buildings must be secured. See **6.14(G)** below.
6. Exterior Maintenance. Collapsing porches, rotten materials, external hazards.

D. Inspection Authority.

According to IC 36-7-9, the Administrator is authorized to enter, inspect, and investigate any building, structure, or premises at reasonable times to determine if it constitutes an unsafe building or violates minimum standards. When a complaint is received or an unsafe condition is observed, the Administrator conducts an inspection and prepares a written report documenting findings. Refusal to allow lawful inspection constitutes a violation of this Ordinance.

E. Unsafe Building Order.

If a structure violates these standards or IC 36-7-9-4, the Administrator may issue an Unsafe Building Order requiring repair, securing, vacating, or demolition. The order includes defects, required actions, deadlines, and appeal rights.

F. Nuisance Abatement.

1. If any owner fails to comply:
 - a. The County or Town may repair, secure, or demolish the structure.
 - b. All costs incurred by the County or Town are responsibility of the property owner.
 - c. A lien is applied to the property if the costs are not paid by the owner.
2. Emergency Action. If danger exists, the Administrator may secure or demolish immediately, followed by a hearing.
3. Cost Recovery and Liens. All abatement and demolition costs may become a lien on the property.
4. Penalties. Penalties for violations may be assessed per 9.7 Penalty Schedule.

G. Standards of Maintenance for Abandoned Buildings within Rural Centers. Within Rural Centers, the following standards apply to vacant or abandoned buildings:

1. The owner of an abandoned building must conduct regular inspections (at least once every 2 weeks) to ensure the property is secured against unlawful entry, cleaned, vegetation is mowed, and the property walkways and driveways have been adequately cleared of snow and ice.
2. To protect a building against unlawful entry or vandalism while it is vacant, an owner may secure the windows and doors of the building using boarding that meets the following standards:
 - a. Doorways and windows must be boarded up using 5/8 inches or thicker exterior grade plywood, fastened by tamper-proof screws or one-way bolts; and

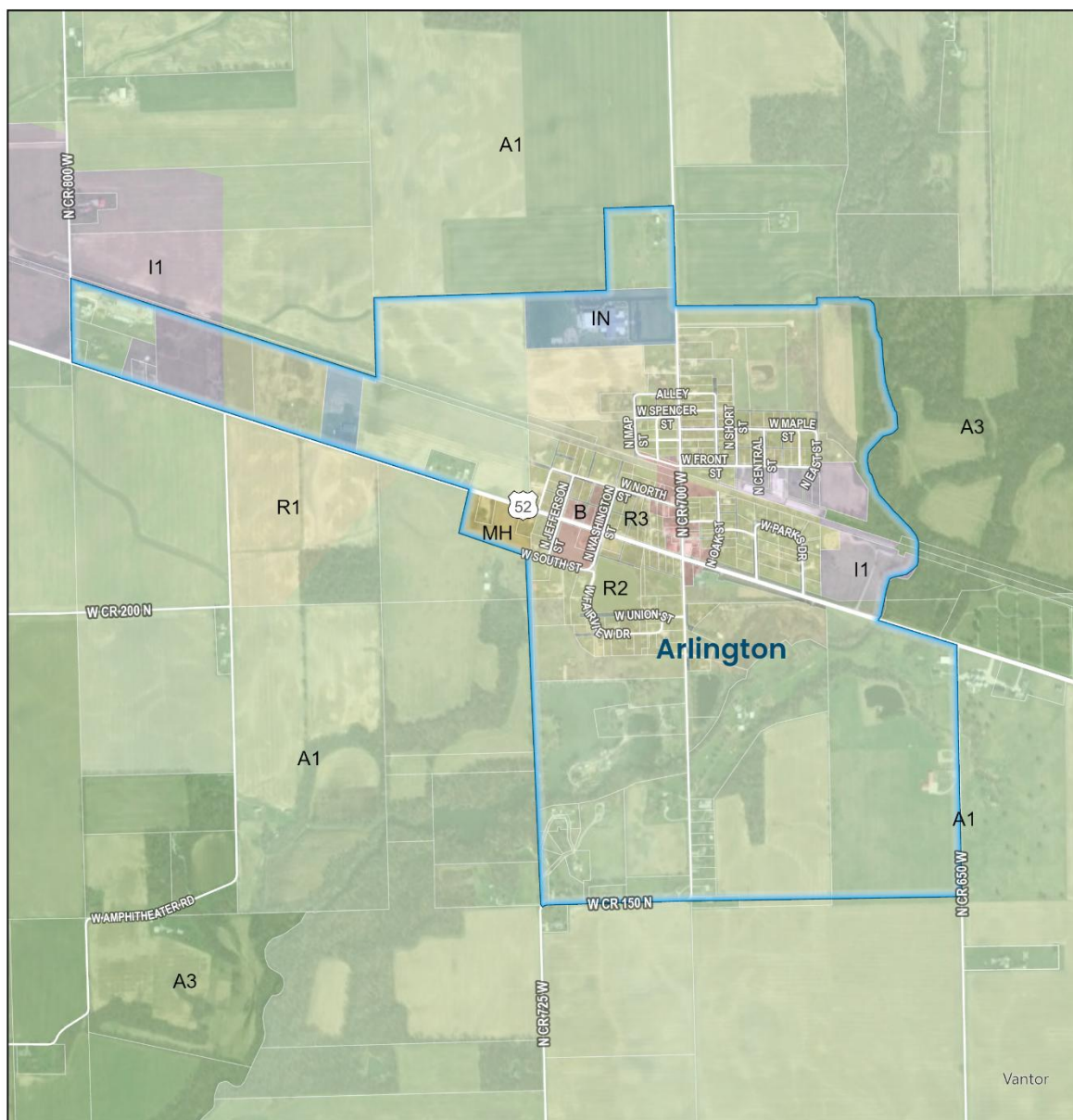


- b. For commercial buildings, opaque window coverings may be allowed by the Administrator in lieu of boarding provided all windows are maintained and if broken or cracked, are replaced within one week. The Administrator may revoke the use of this alternative when the owner or responsible party fails to maintain them within the specified period.
 3. Boarding a vacant structure is considered a temporary method of securing the building. Any boards applied to secure doors and windows for more than 30 days must be surface coated with exterior grade paint to reduce the blighting effect on the immediate neighborhood.
 4. After 6 months, all plywood must be removed and replaced with secure doors or glazed windows.
- H. **Violations.** An owner of an abandoned or vacant building structure not complying with the requirements of this article is subject to enforcement, unless:
1. Documentation has been filed and approved by the Administrator indicating the owner's intent to eliminate the vacant or abandoned status of the property;
 2. The owner is current on all property taxes and special assessments; and
 3. At least one of the following applies:
 - A valid building permit for repair or rehabilitation is issued for the structure and the owner is proceeding diligently and in good faith to complete the repair or rehabilitation as defined in the enforcement order;
 - The structure is maintained in compliance with this chapter and actively being offered for sale, lease, or rent.
 - The owner demonstrates a diligent and good-faith effort to implement actions approved by the Administrator.
 4. If the structure continues to remain vacant beyond the initial 90-day period, and the owner does not meet any of the exceptions in this article, the Administrator may bring enforcement actions per **CHAPTER 9: ENFORCEMENT**.

6.15 Rural Center Maps

The following maps are for illustrative purposes only. Refer to the Zoning Map for the official boundaries of the Rural Centers.

A. Arlington

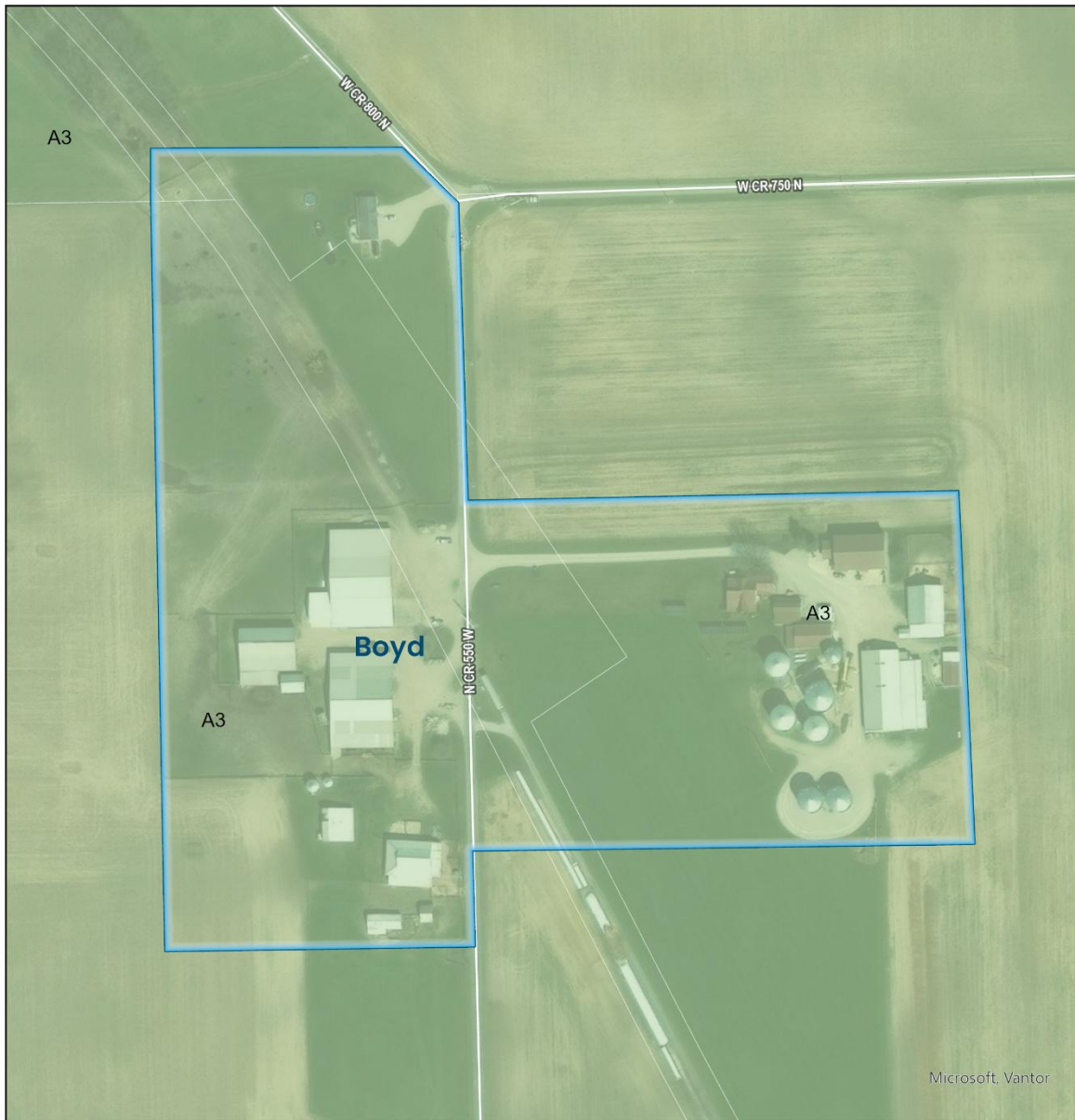


- Proposed Zoning**

Rush County Boundary	A1-R - Transitional Agriculture	R2 - Residential	B - Business
Corporate Limits	A2 - Agri-Business	R3 - Residential	C - Commercial
Rural Centers	A3 - Regulated Livestock	R4 - Residential	I1 - Light Industrial
	A4 - Agricultural Park	MH - Mobile Home	I2 - Heavy Industrial
	R1 - Residential	DT - Downtown Mixed-Use	IN - Institutional
A1 - Rural Preservation			



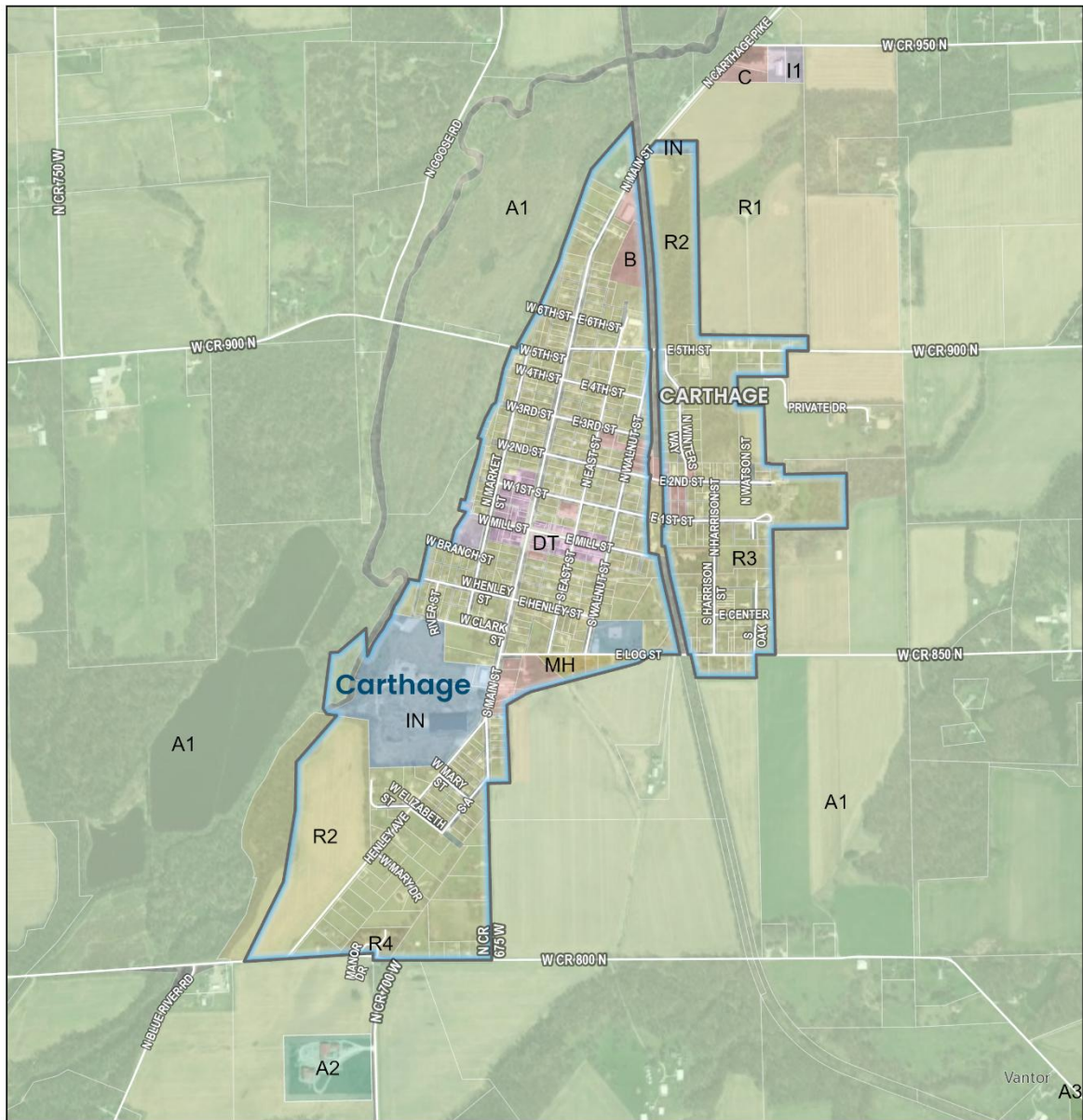
B. Boyd



Rush County Boundary	A1-R - Transitional Agriculture	R2 - Residential	B - Business
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Rural Centers	A3 - Regulated Livestock	R4 - Residential	I1 - Light Industrial
Proposed Zoning	A4 - Agricultural Park	MH - Mobile Home	I2 - Heavy Industrial
A1 - Rural Preservation	R1 - Residential	DT - Downtown Mixed-Use	IN - Institutional



C. Carthage



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

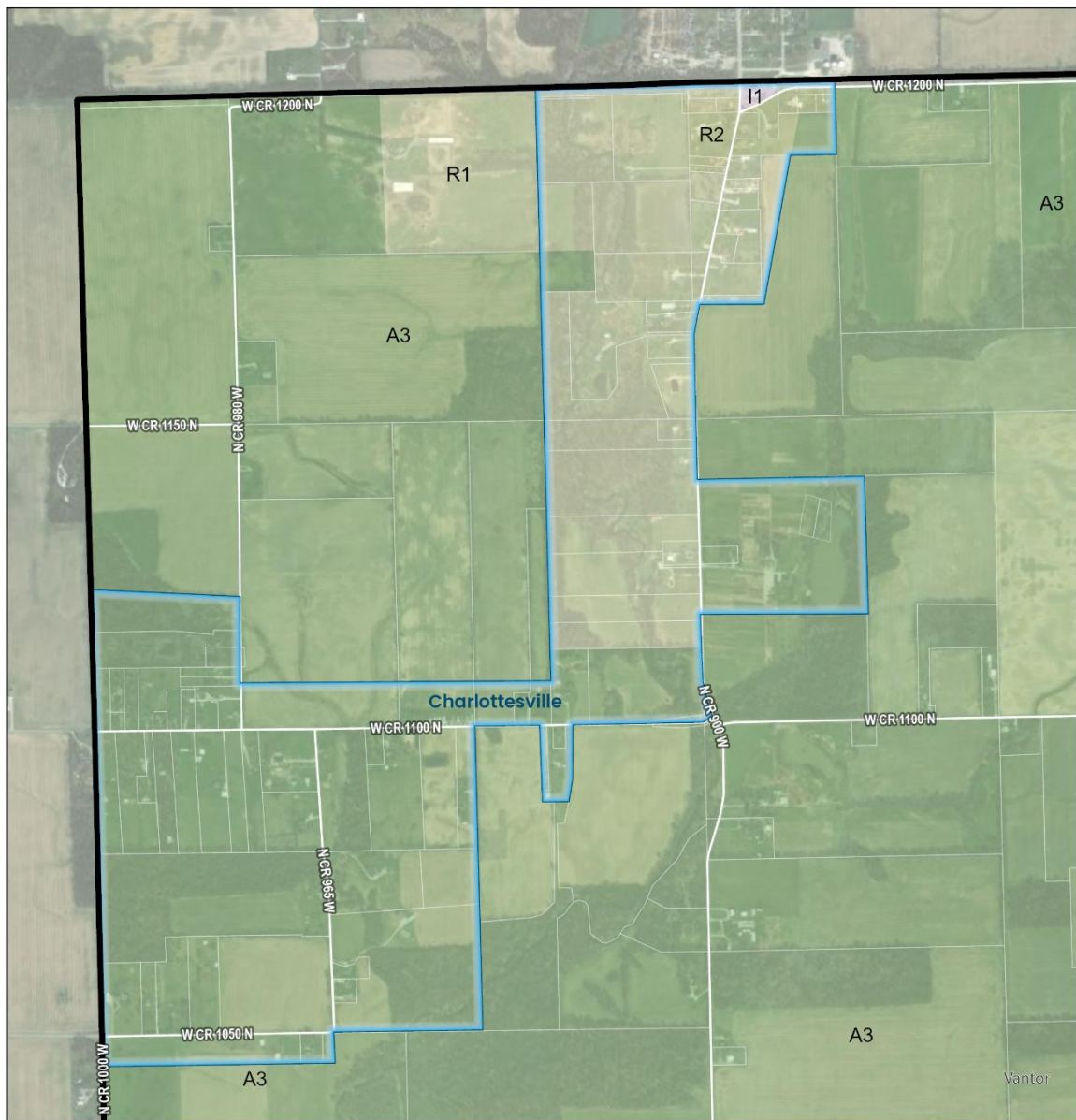
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I2 - Heavy Industrial

IN - Institutional



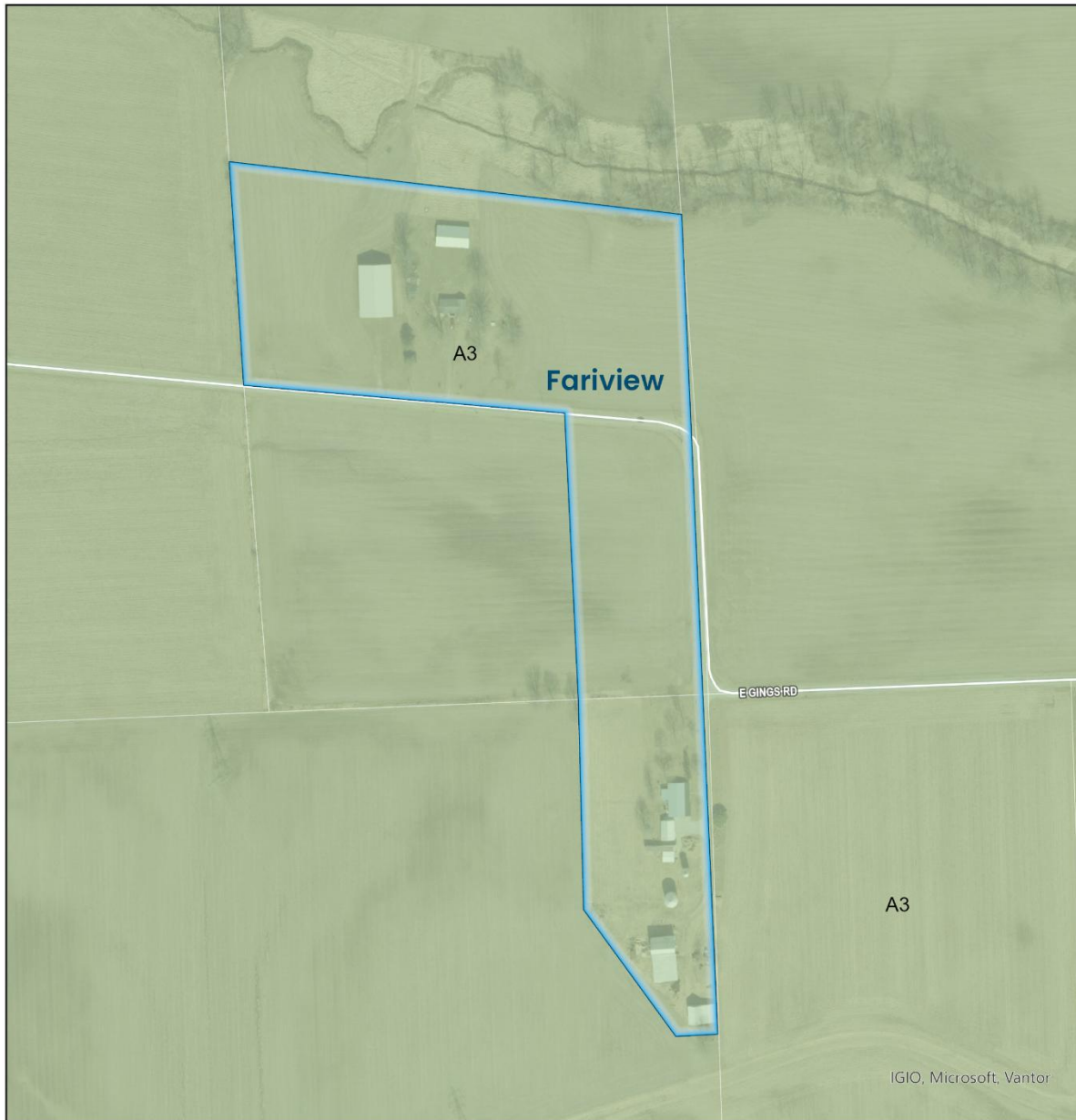
D. Charlottesville



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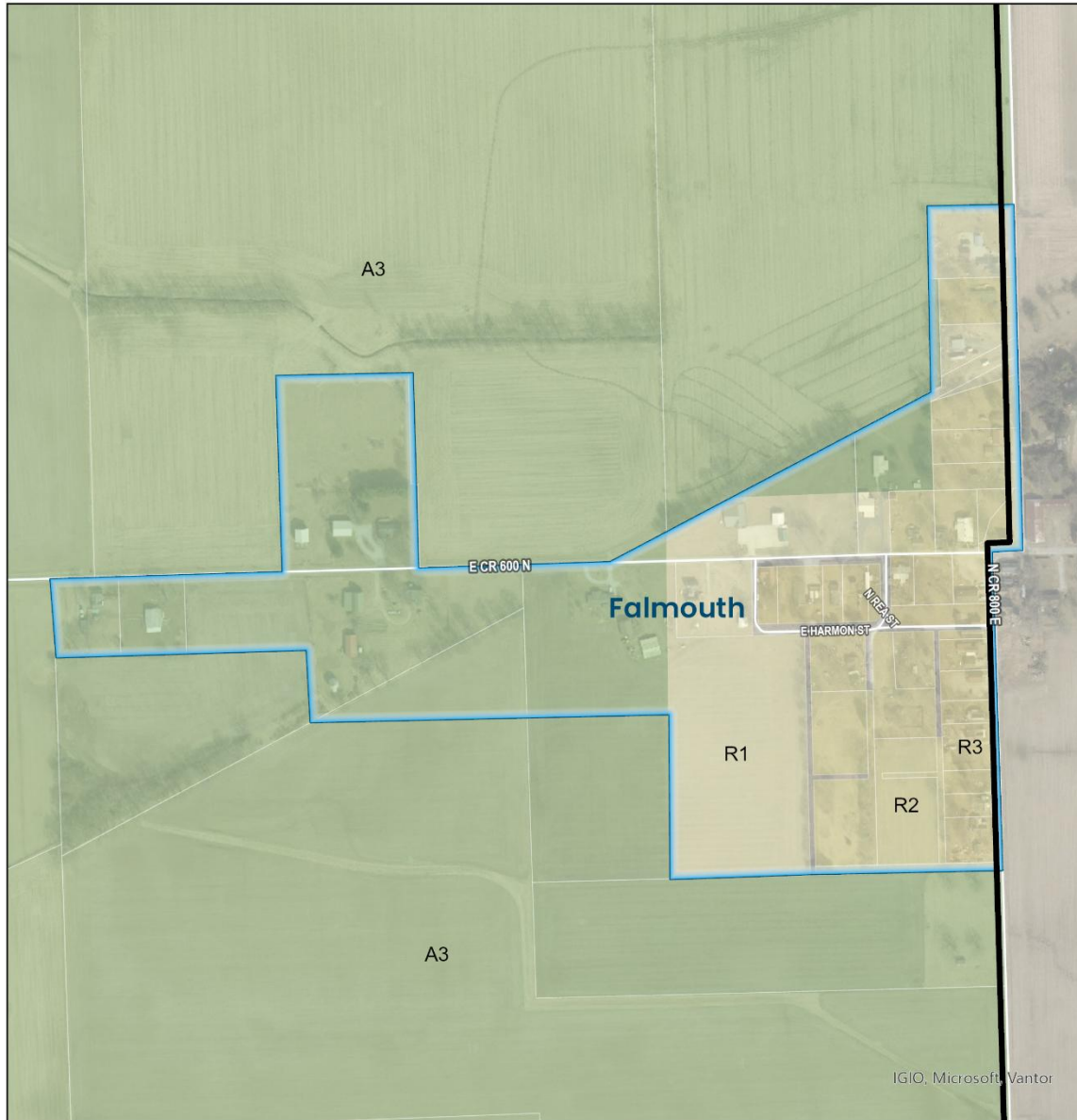
E. Fairview



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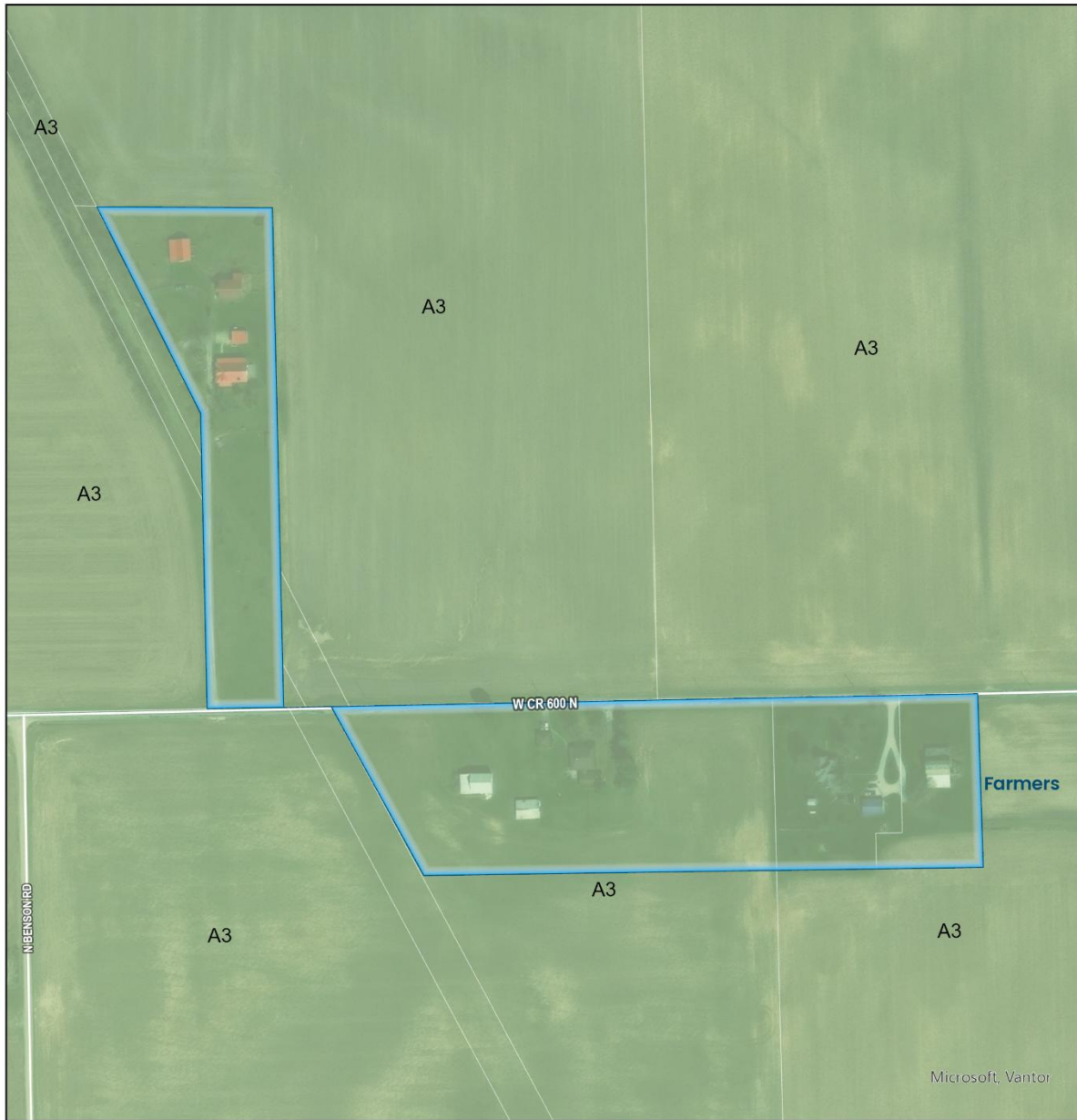
F. Falmouth



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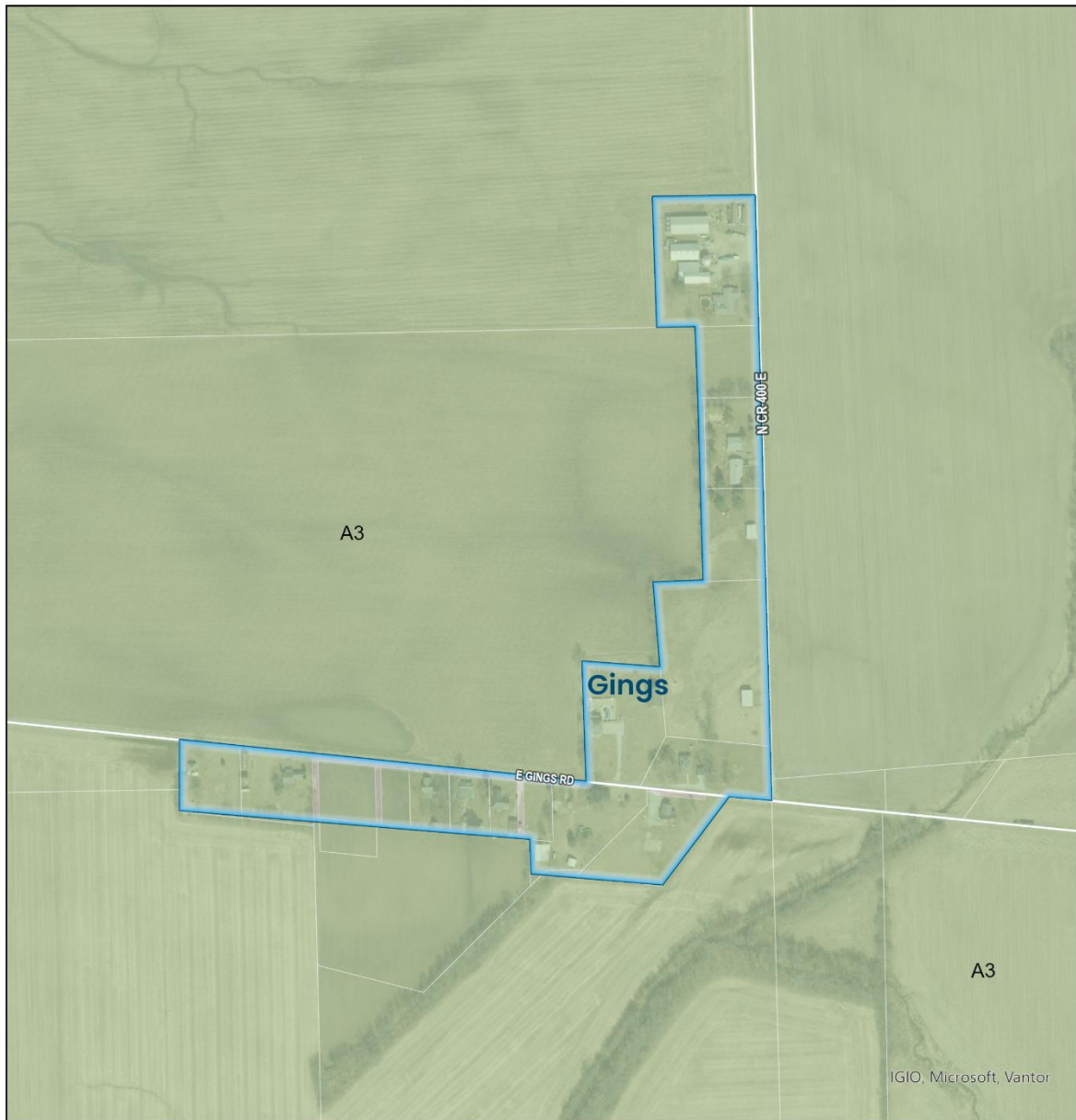
G. Farmers



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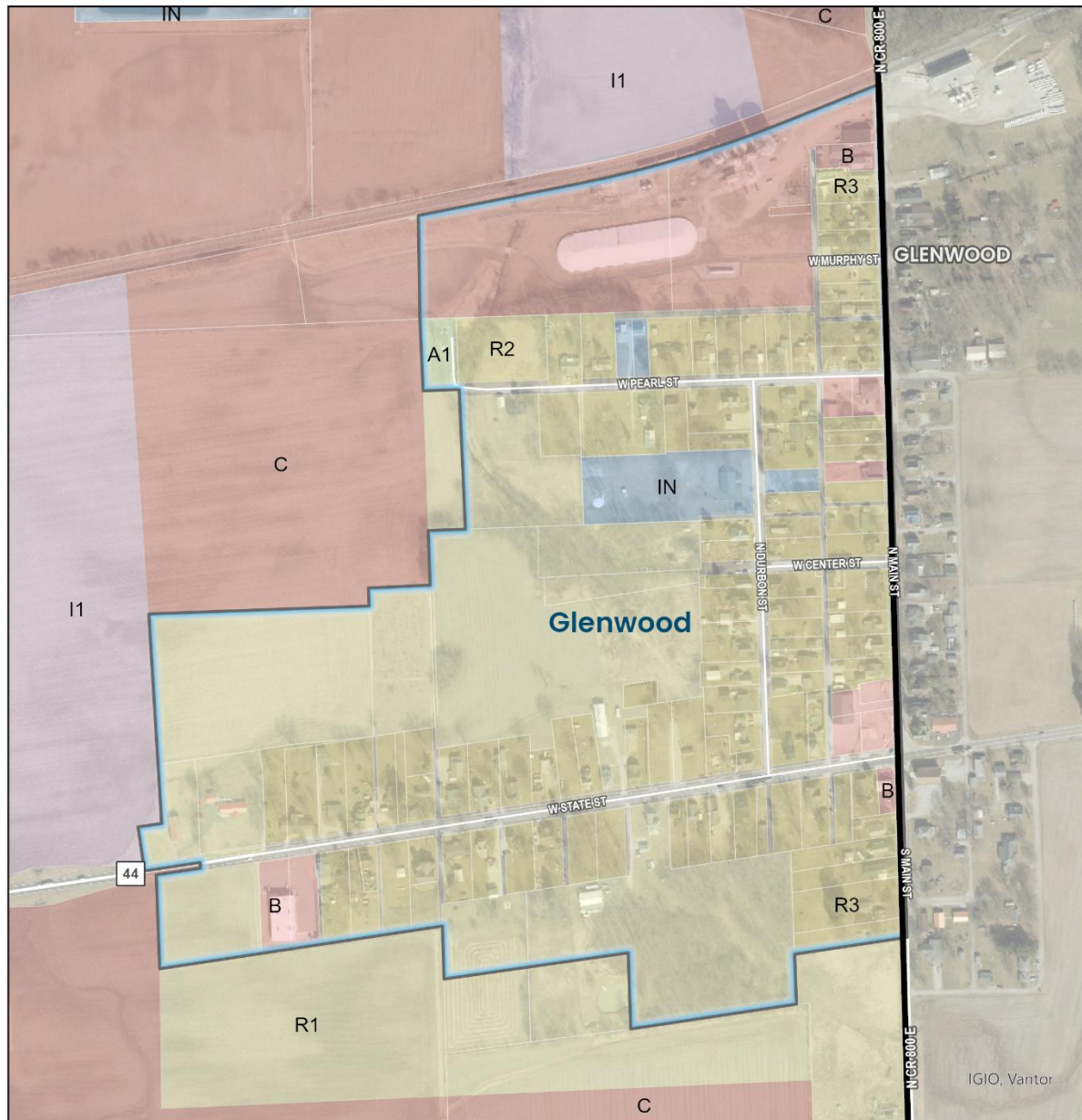
H. Gings



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I. Glenwood



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

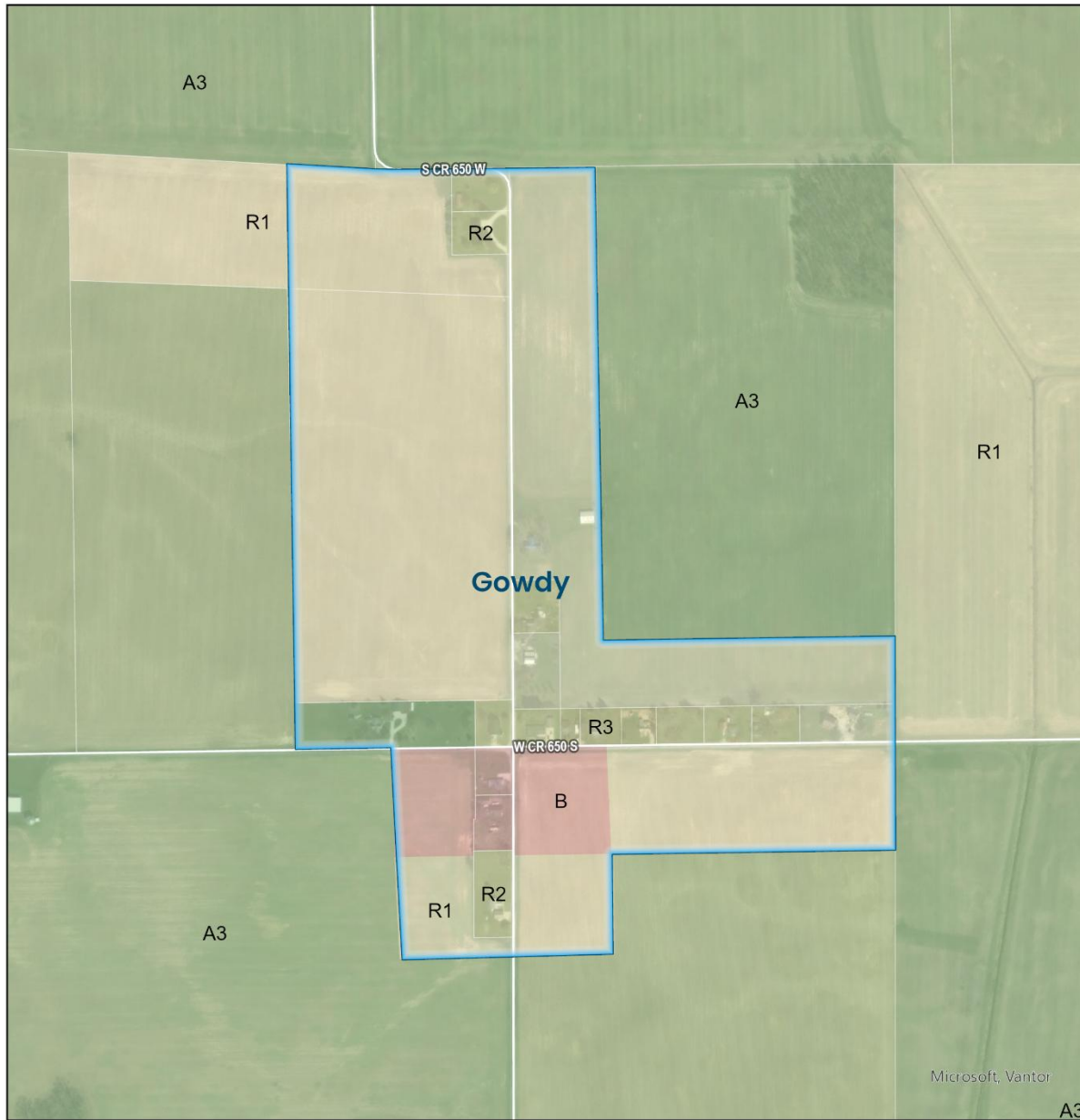
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I2 - Heavy Industrial

IN - Institutional



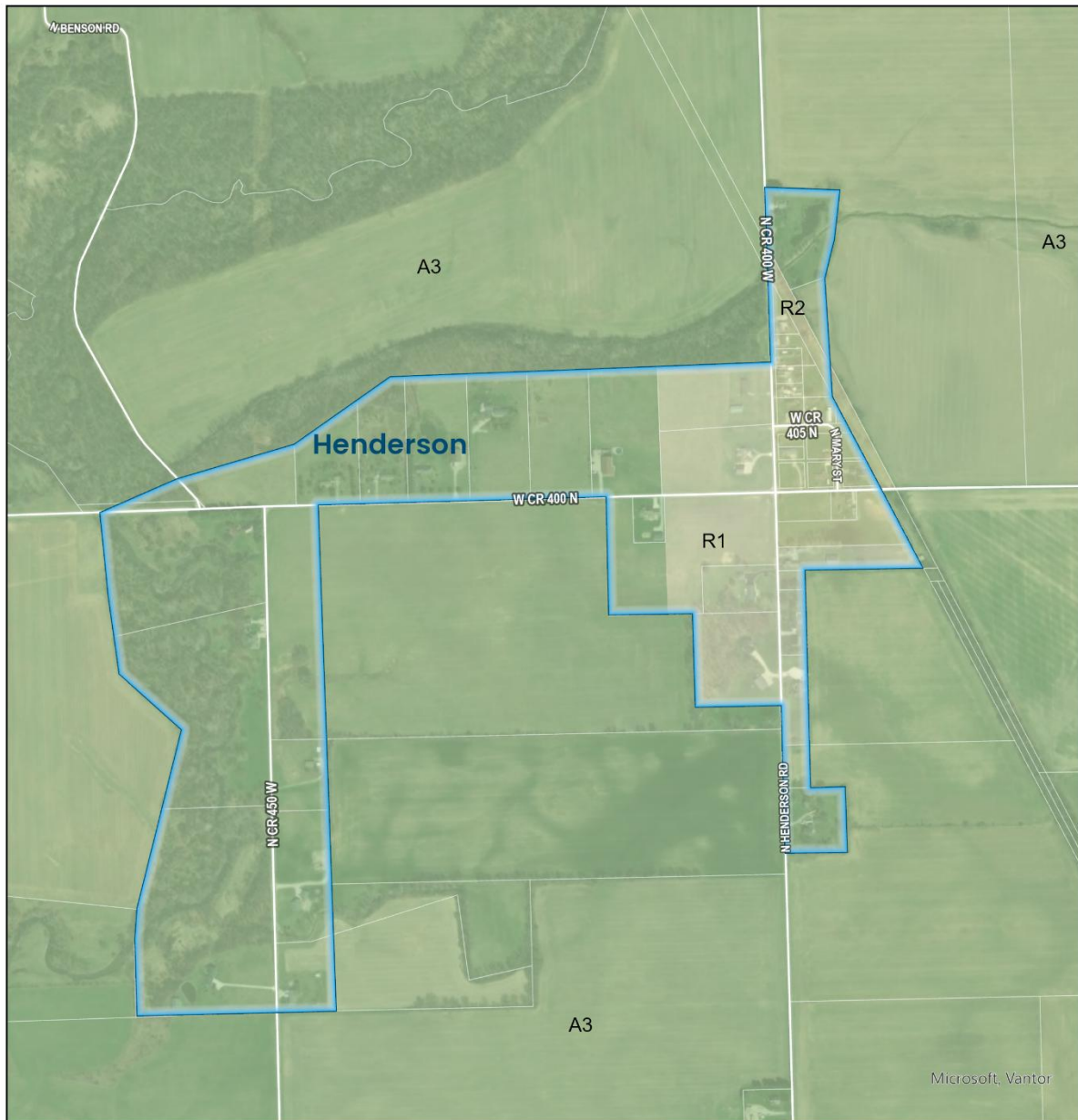
J. Gowdy



Rush County Boundary	A1-R - Transitional Agriculture	R2 - Residential	B - Business
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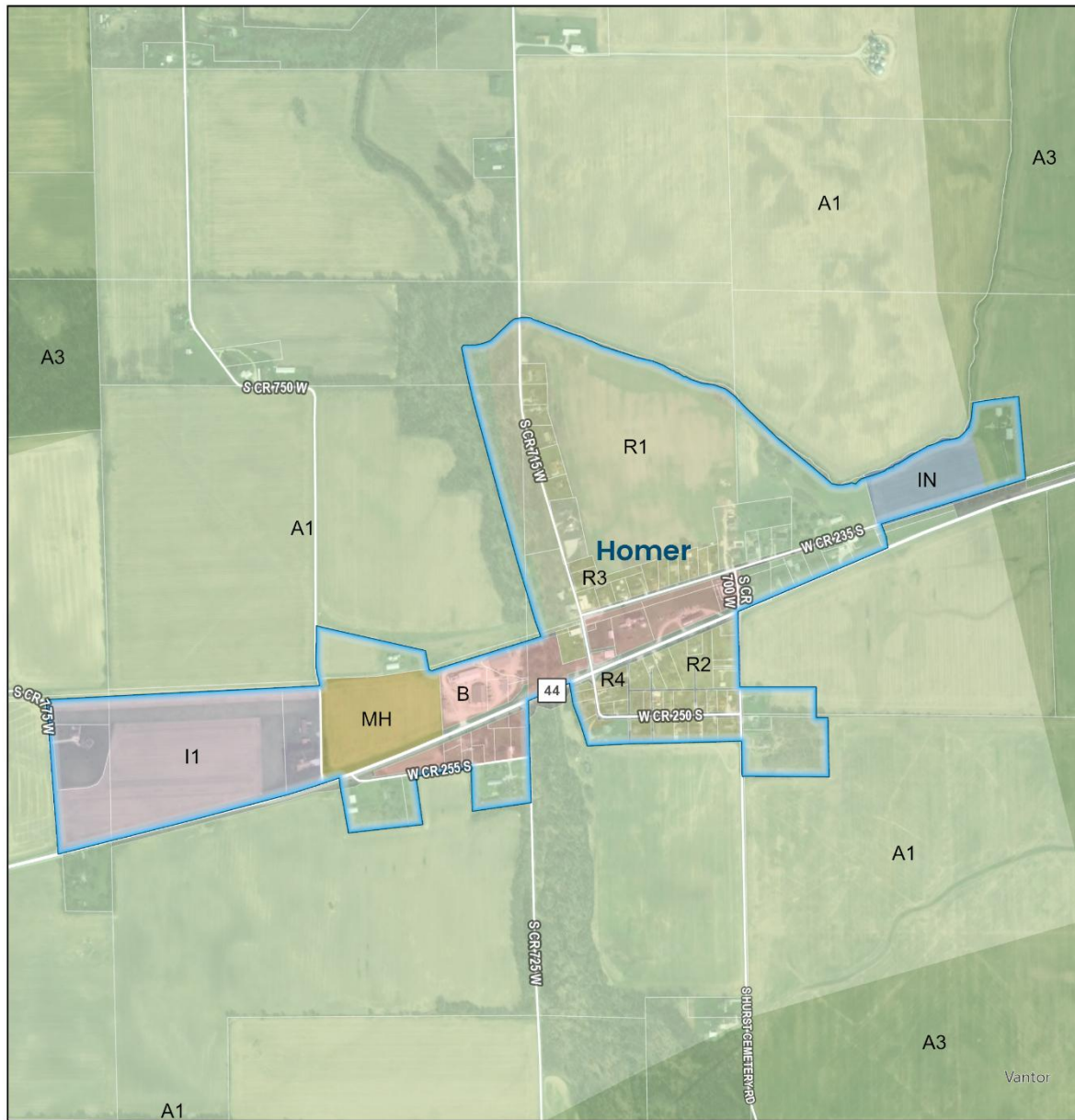
K. Henderson



Rush County Boundary	A1-R - Transitional Agriculture	R2 - Residential	B - Business
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Rural Centers	A3 - Regulated Livestock	R4 - Residential	I1 - Light Industrial
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A1 - Rural Preservation	R1 - Residential	DT - Downtown Mixed-Use	IN - Institutional



L. Homer



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

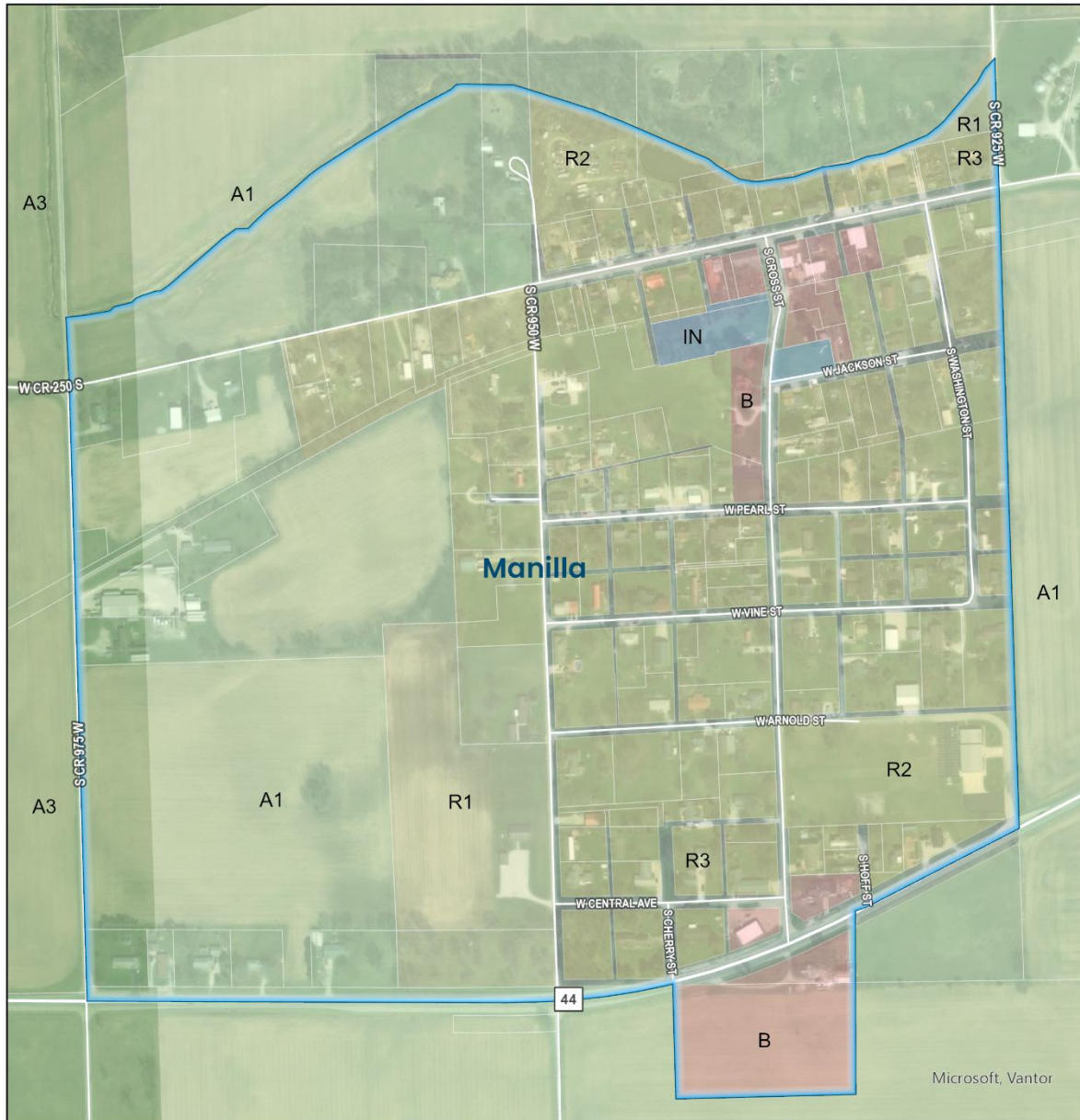
I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



M. Manilla



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

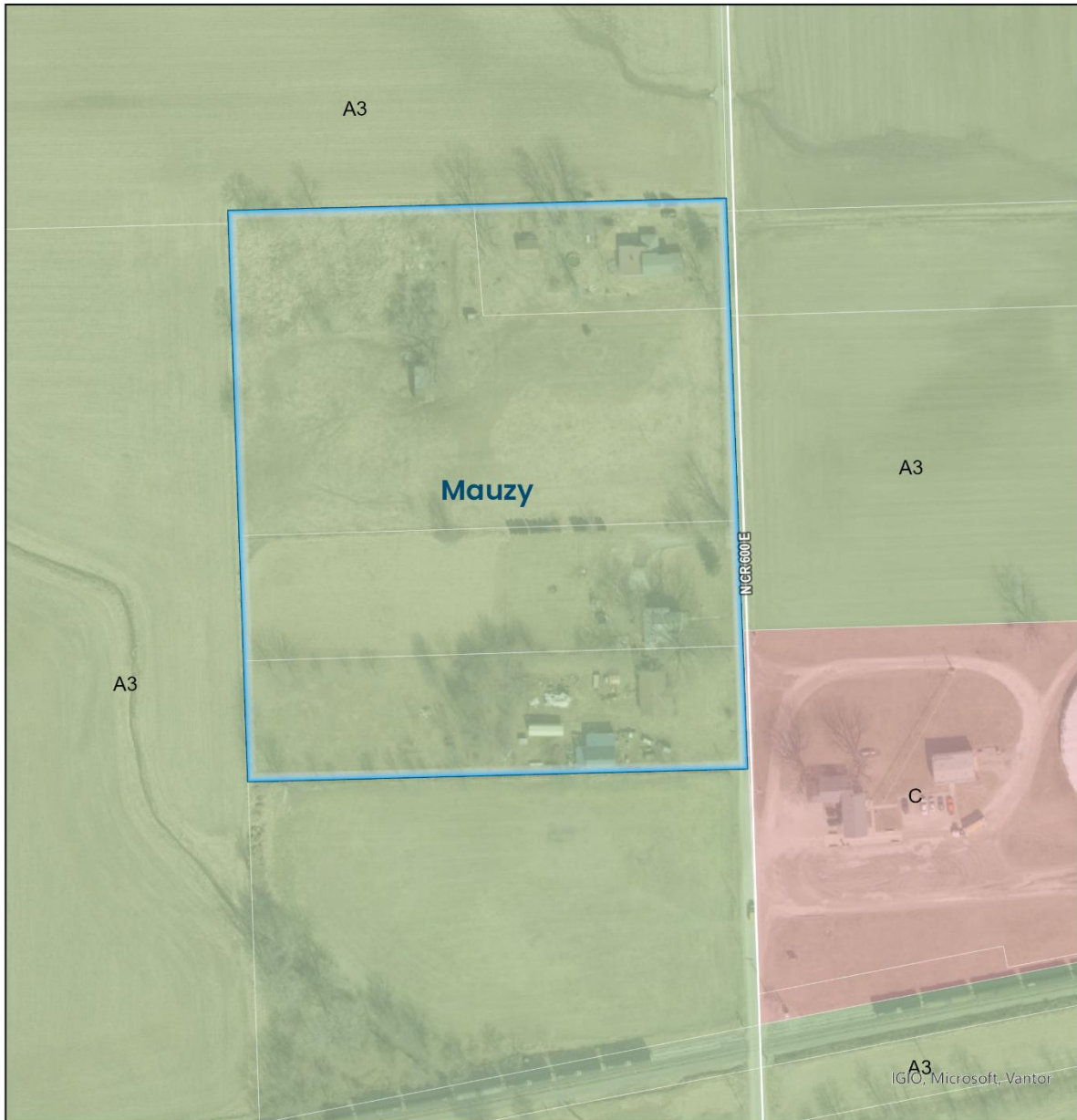
I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



N. Mauzy



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

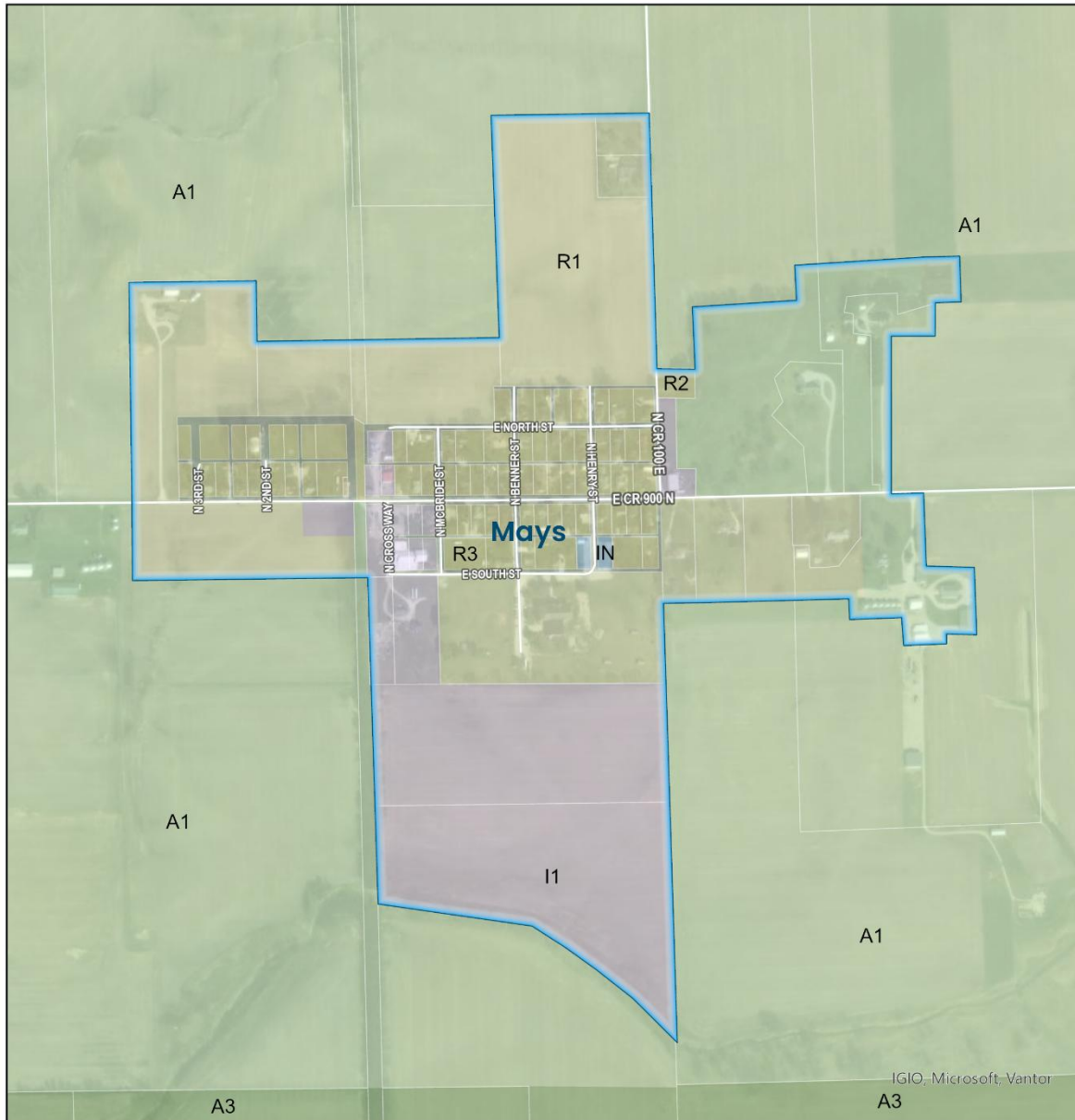
I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



O. Mays



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

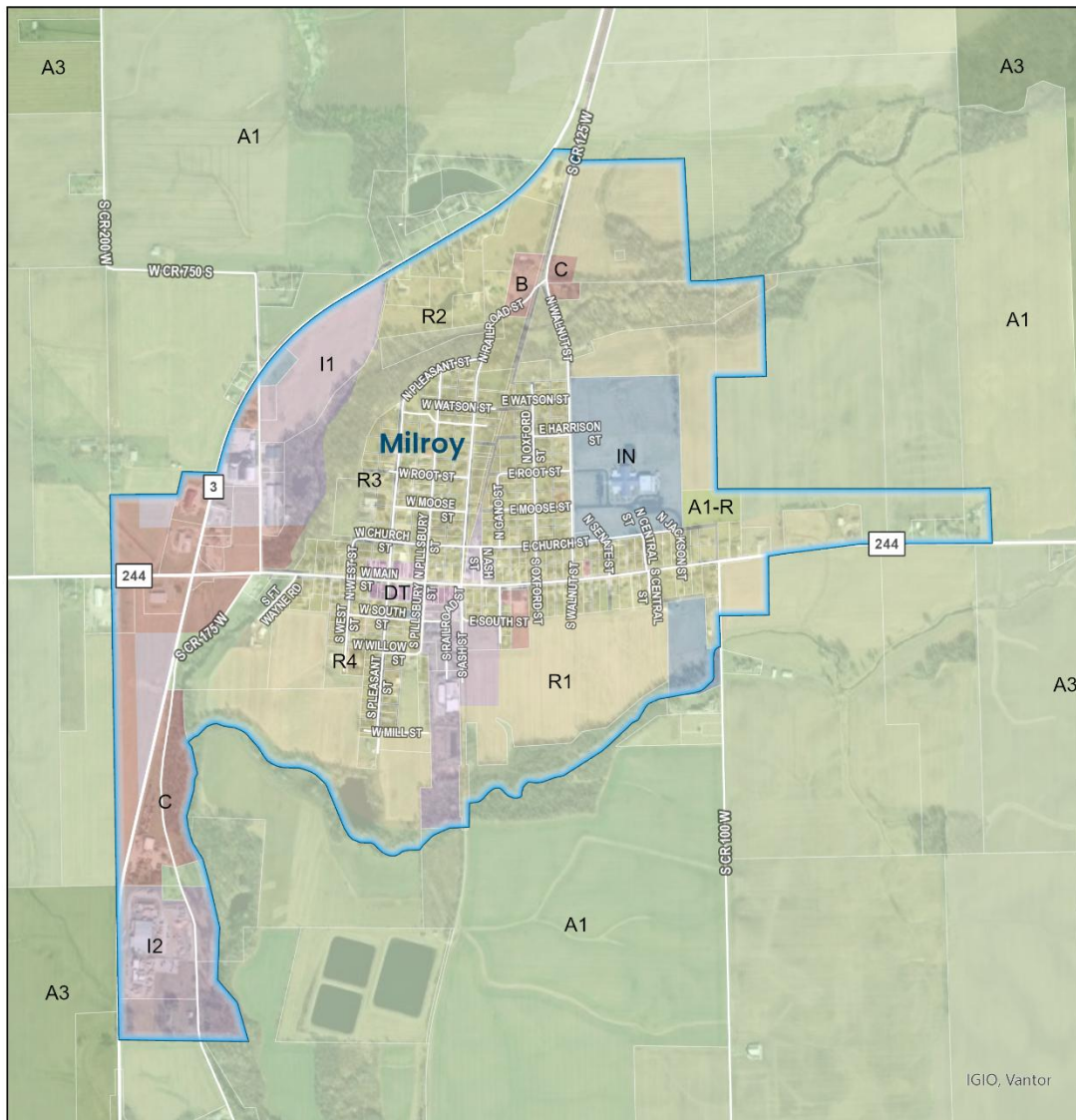
I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



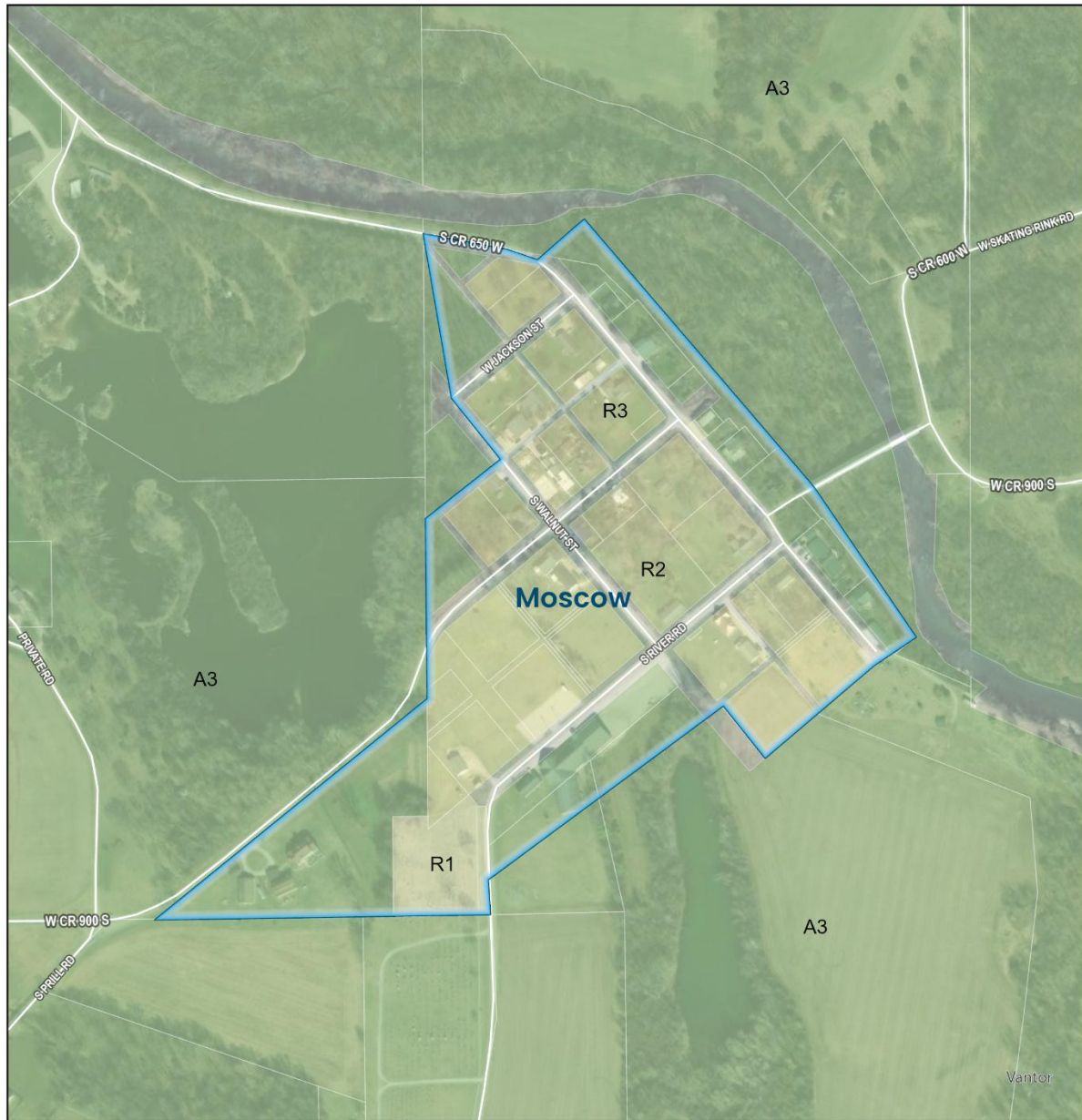
P. Milroy



Rush County Boundary	A1-R - Transitional Agriculture	R2 - Residential	B - Business
Corporate Limits	A2 - Agri-Business	R3 - Residential	C - Commercial
Rural Centers	A3 - Regulated Livestock	R4 - Residential	I1 - Light Industrial
Proposed Zoning	A4 - Agricultural Park	MH - Mobile Home	I2 - Heavy Industrial
A1 - Rural Preservation	R1 - Residential	DT - Downtown Mixed-Use	IN - Institutional



Q. Moscow



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

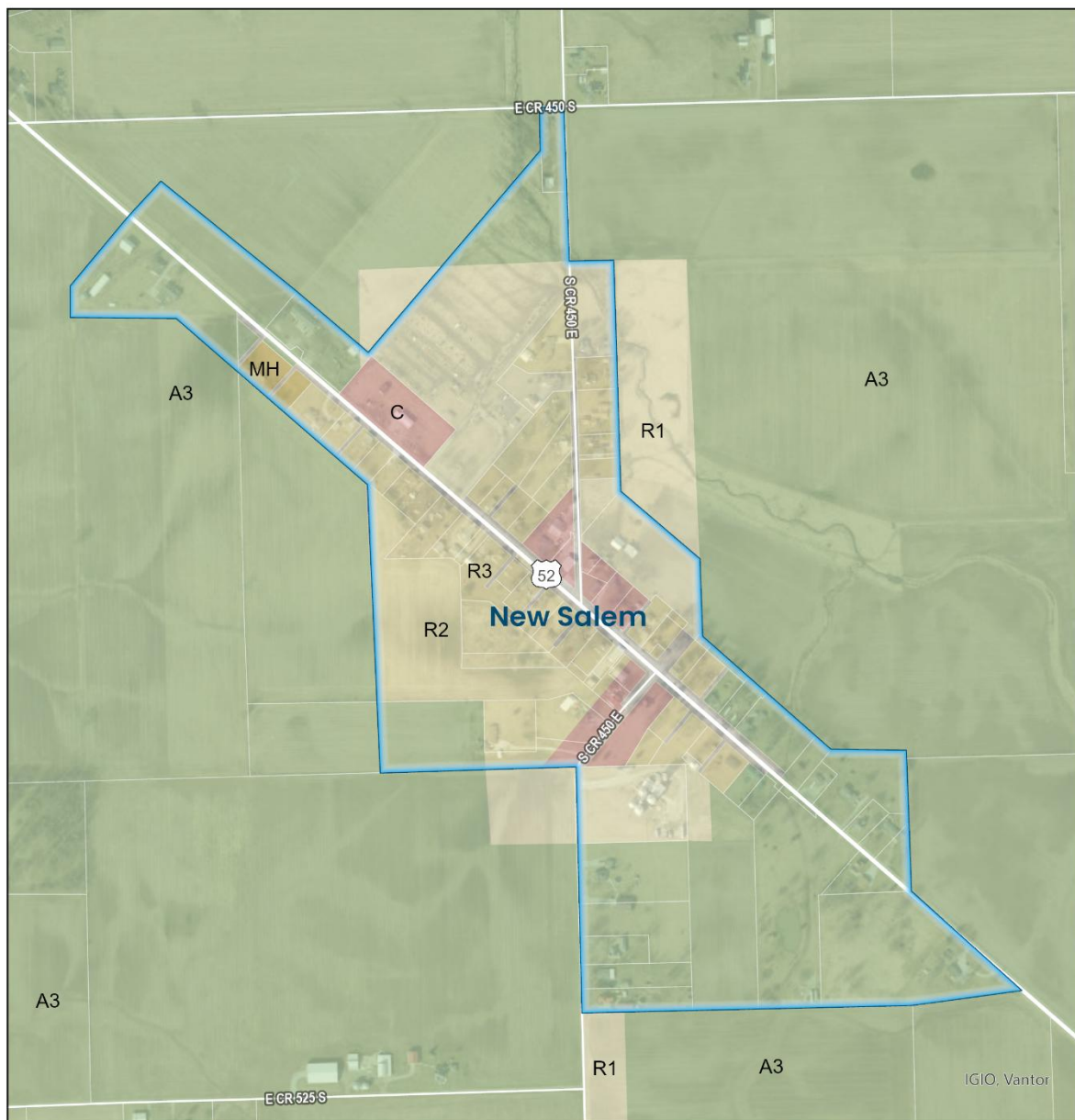
I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



R. New Salem



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



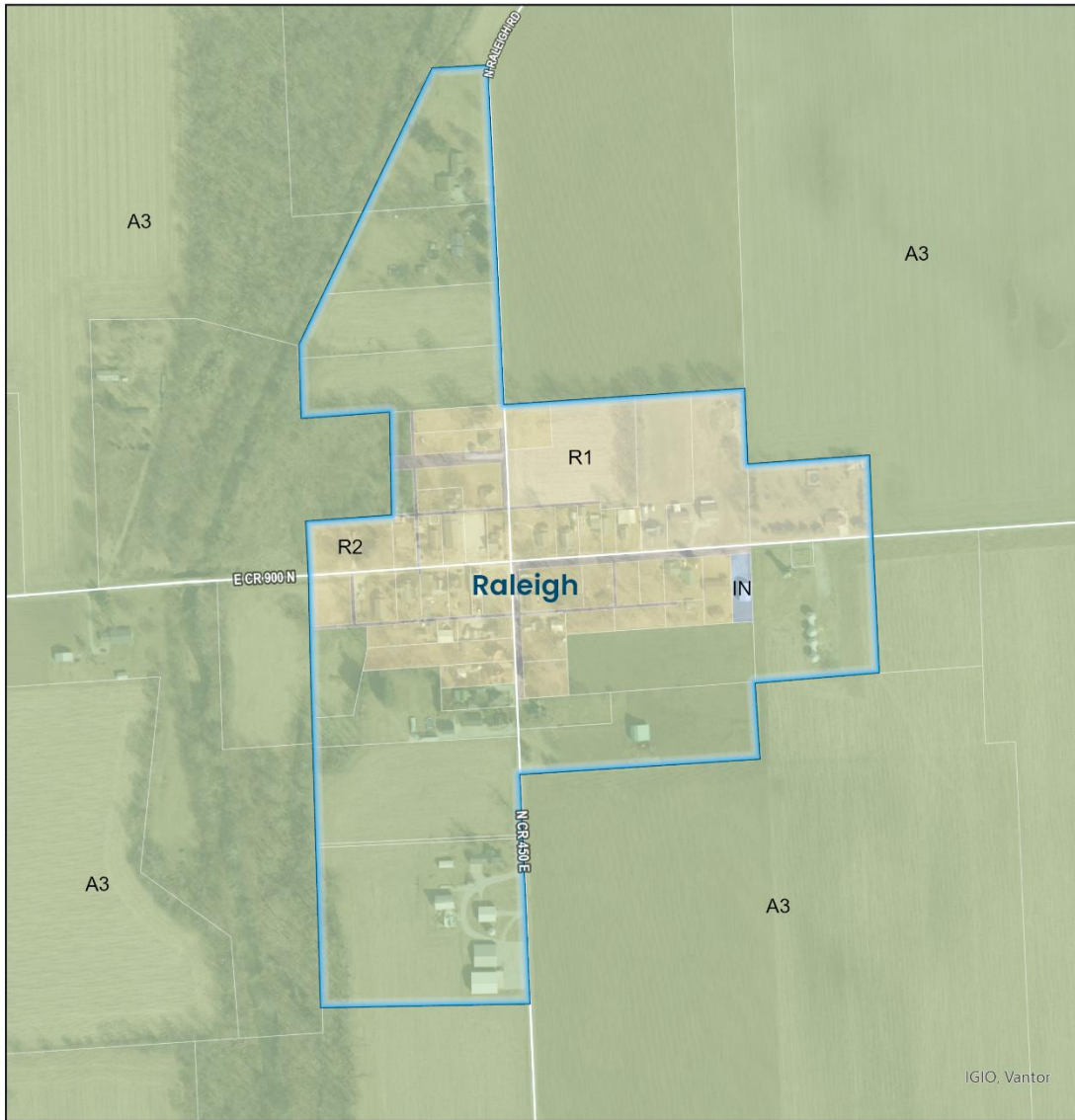
S. Occident



Rush County Boundary	A1-R - Transitional Agriculture	R2 - Residential	B - Business
Corporate Limits	A2 - Agri-Business	R3 - Residential	C - Commercial
Rural Centers	A3 - Regulated Livestock	R4 - Residential	I1 - Light Industrial
Proposed Zoning	A4 - Agricultural Park	MH - Mobile Home	I2 - Heavy Industrial
A1 - Rural Preservation	R1 - Residential	DT - Downtown Mixed-Use	IN - Institutional



T. Raleigh



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

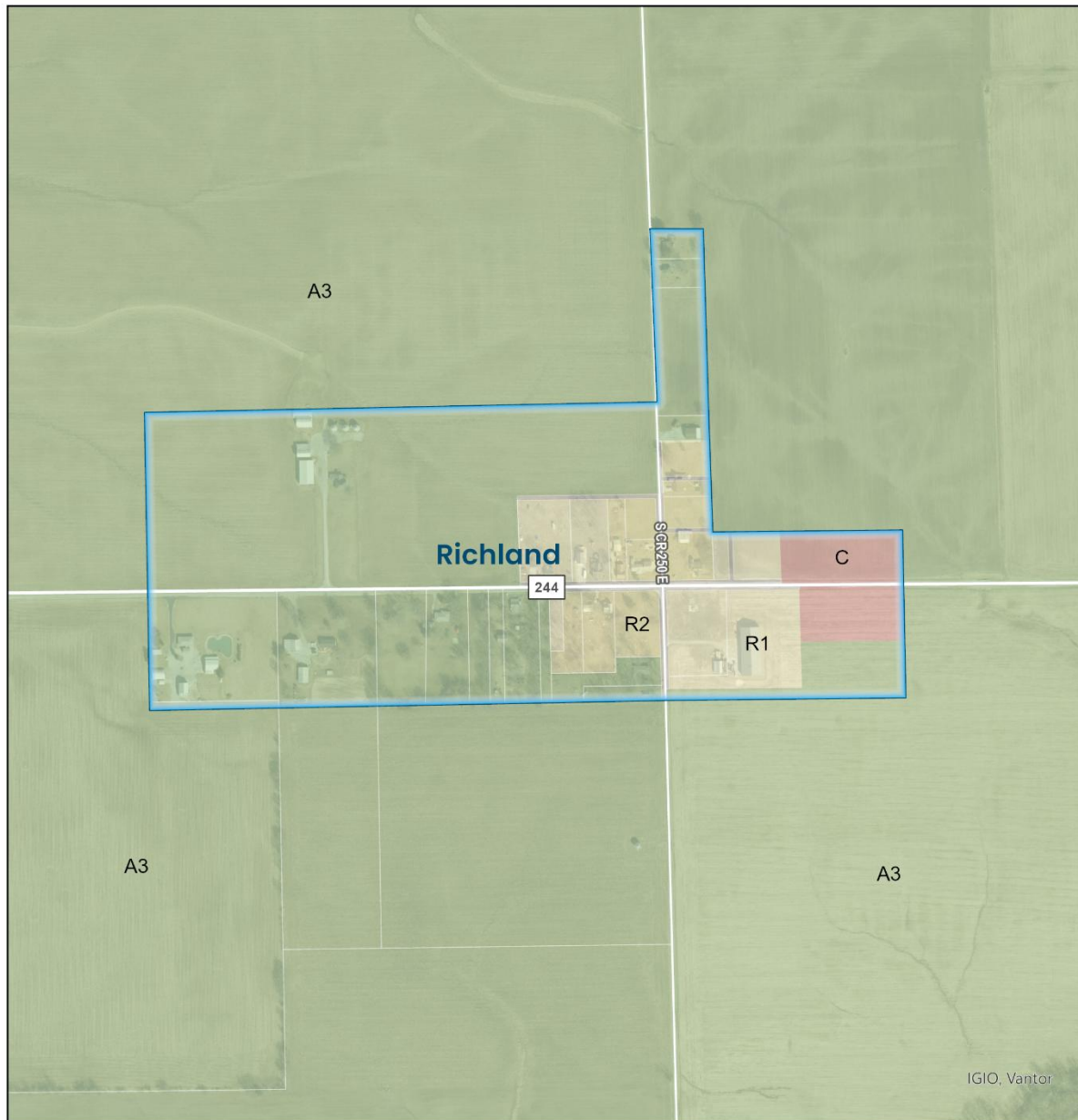
I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



U. Richland



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

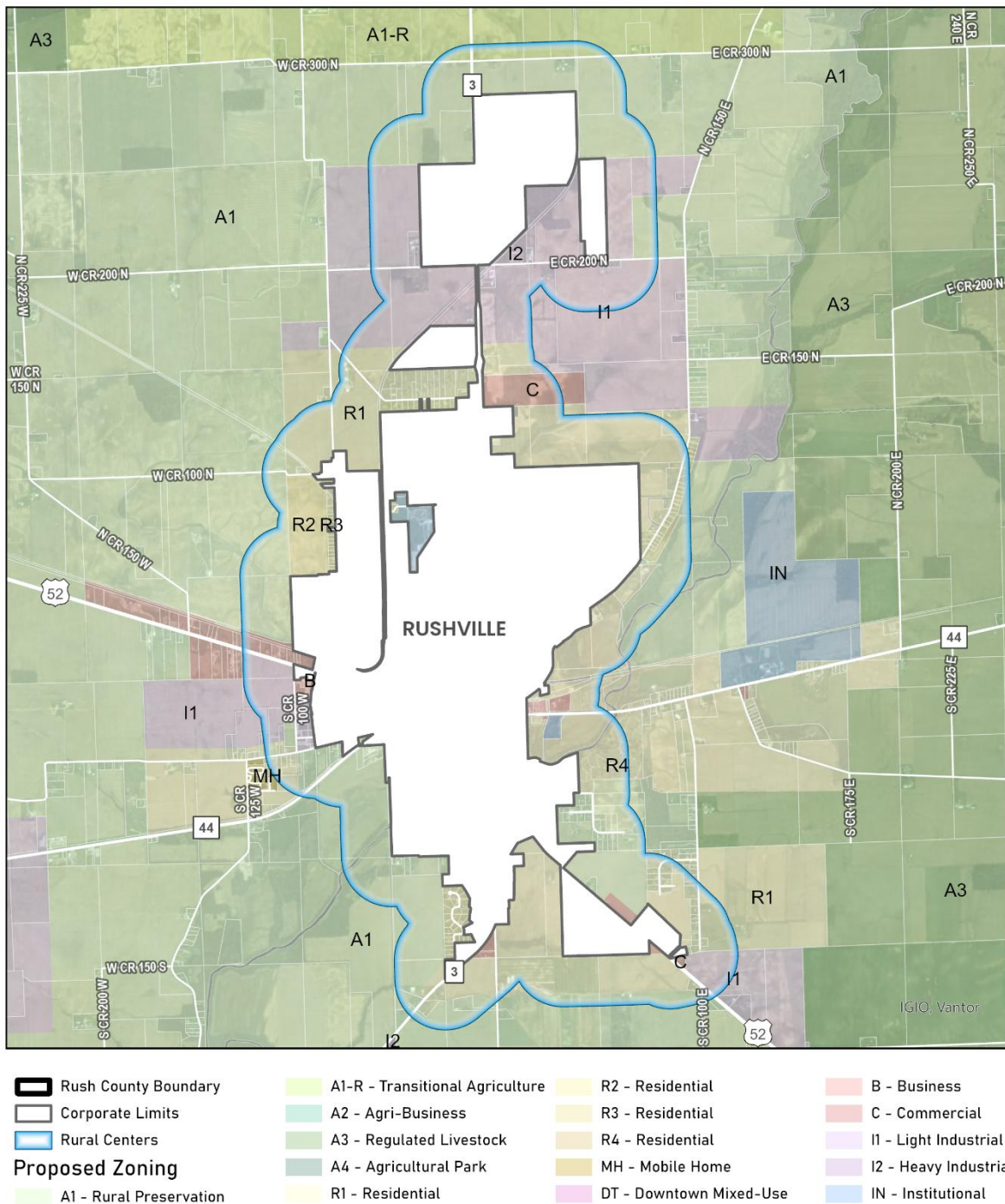
I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



V. Rushville Buffer





W. Sexton



Rush County Boundary

Corporate Limits

Rural Centers

Proposed Zoning

A1 - Rural Preservation

A1-R - Transitional Agriculture

A2 - Agri-Business

A3 - Regulated Livestock

A4 - Agricultural Park

R1 - Residential

R2 - Residential

R3 - Residential

R4 - Residential

MH - Mobile Home

DT - Downtown Mixed-Use

B - Business

C - Commercial

I1 - Light Industrial

I2 - Heavy Industrial

IN - Institutional



X. Williamstown



Rush County Boundary	A1-R - Transitional Agriculture	R2 - Residential	B - Business
Corporate Limits	A2 - Agri-Business	R3 - Residential	C - Commercial
Rural Centers	A3 - Regulated Livestock	R4 - Residential	I1 - Light Industrial
Proposed Zoning	A4 - Agricultural Park	MH - Mobile Home	I2 - Heavy Industrial
A1 - Rural Preservation	R1 - Residential	DT - Downtown Mixed-Use	IN - Institutional



Chapter 7

SUBDIVISION REGULATIONS

Standards applying to the division of land

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7.1 Establishment of Controls

Subdivision plats, replats, amendments or corrections to a recorded plat cannot be recorded until approved according to this Chapter. Approval must be in writing on the plat by the Administrator. Amendments or corrections to a recorded plat must be cited as an addendum to the approved plat.

7.2 Subdivision Types

This article establishes the process for subdividing land to ensure conformity to the standards of this Chapter. Subdivision applications are generally considered favorably by the Plan Commission and Administrator. There are three types of subdivisions: administrative subdivisions, minor subdivisions, and major subdivisions. Subdivisions of all types are permitted in all zoning districts unless otherwise specified in **CHAPTER 2: ZONING DISTRICTS**.

The following types of land divisions are exempt from these subdivision regulations:

- A division of land into tracts or lots, with each lot having an area of at least 10 acres and all lots meeting the development standards of the zoning district in which the property is located.
- A division of land for the sale or exchange of tracts to correct errors in an existing legal description, provided that no additional lots are created by the division.
- A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property.
- A division of land for the acquisition of street right-of-way or easement.
- A division of land for the sale or exchange of tracts between adjoining landowners, provided no additional lots are created by the division and the lots meet the minimum standards of the zoning district of the land's location.
- A division of land into cemetery plots for the purpose of burial of corpses.
- Combining common ownership lots to lessen the total number of buildable lots.

A. **Administrative Subdivisions.** An Administrative Subdivision applies to proposed adjustments of property lines when no new lots are created or when parcels are merged. The following situations qualify:

1. Adjusting lot lines where the resulting lots conform to the standards of this Ordinance. When the existing lots currently do not conform, the adjustment should not increase nonconformance.
2. Adjusting lot lines to address issues of property line encroachment or buildings across property boundaries.

B. **Minor Subdivisions.** A minor subdivision results in four or fewer lots (including the parent parcel) and does not involve the creation of new interior streets, adjustments to design standards, or the creation of common areas. Dedication of right-of-way along existing public streets is required within Rural Centers.

C. **Major Subdivisions.** A major subdivision is any subdivision other than an administrative subdivision or a minor subdivision.



7.3 Approval Process Overview

- A. The approval process varies based upon the type of subdivision.

APPROVAL PROCESS BY SUBDIVISION TYPE

1. Administrative Subdivision. Approval of an administrative subdivision is a one-step process involving the approval of a secondary plat. The approval or disapproval of an administrative subdivision is delegated to the Administrator.

ADMINISTRATIVE

Secondary Plat

2. Minor Subdivision. Approval of a minor subdivision is a one-step process involving the approval of a secondary plat. The approval or disapproval of a minor subdivision is delegated to the Administrator. This type of subdivision may be used until the lot limitation of the minor subdivision process is reached. The creation of lots exceeding the lot limitation requires approval as a major subdivision.

MINOR

Secondary Plat

MAJOR

Sketch Plan

Primary Plat

Construction Drawings

Secondary Plat

3. Major Subdivision. Approval of a major subdivision is a two-step process including the approval of a primary plat and a secondary plat. The approval or disapproval of a primary plat is delegated to the Plan Commission. After a primary plat approval, a property is eligible for secondary plat approval. The approval or disapproval of a secondary plat is delegated to the Administrator.
4. Appeal. If the applicant does not agree with the conditions of approval or the disapproval of a plat by the Administrator, the applicant may appeal the decision to the Plan Commission. Appeals must be filed in writing at least 10 days before the next Plan Commission meeting.

- B. **Concurrent Site Plan Approval**. The primary plat application also serves as the primary site plan application. This simultaneous filing allows the Plan Commission to review and approve modifications to this Ordinance's standards as outlined in [8.16 Modifications](#). The approval or rejection of the primary plat application is also approval or rejection of the primary site plan application. Secondary plat approval will not be granted unless a detailed site plan is approved before, or simultaneously with, the secondary plat (see [8.6 Site Plan Review](#)).

7.4 Sketch Plan Review Procedure

- A. **Purpose**. The sketch plan review helps minimize development planning costs, avoid misinterpretation, identify required approvals, discuss checkpoint agency and technical reviews, identify the need for modifications or variances, and ensure compliance with the requirements of this Ordinance.



- B. **Application Requirements.** Sketch plan review is required for major subdivisions and recommended for the other types of subdivisions. The applicant files: (1) an application provided on forms provided by the Department, (2) a sketch plan, (3) all applicable fees, and (4) any supplemental information required by the Administrator.
- C. **Review Process.** Typically, the sketch plan review is a meeting between the applicant and the Administrator. For more complicated subdivisions, the Administrator may send a copy of the sketch plan to members of the Technical Advisory Committee for their review and comment. Within 20 days of the initial meeting, the Administrator reviews the proposal, assembles comments from other reviewers, and discusses with the applicant the proposed subdivision and possible modifications required to comply with the requirements of this Ordinance. If significant redesign of the proposed subdivision is necessary to meet the Ordinance requirements, the Administrator may require another sketch plan review of the revised design prior to filing a primary plat application.

7.5 Sketch Plan Submittal Requirements

- A. The Sketch Plan must include, unless waived in writing by the Administrator:
1. Location of the property, name of the subdivision, lot, section, township, range and county, graphic scale, north arrow, and date.
 2. Name, address, and telephone number of the owner and the professionals responsible for the design of the subdivision, its public improvements, and surveys. If the application is made by an owner's authorized agent, a consent form signed by the owner and notarized must accompany the application.
 3. Location of property lines drawn at a scale of no more than 1 inch = 100 feet, existing easements, pipelines, transmission lines, burial grounds, railroad rights-of-ways, water courses, floodplains, floodway, wetlands and boundaries of wooded areas, and individual trees 8 inches or more in diameter within areas to be impacted by site disturbing activities.
 4. Location, width, and names of all existing or platted streets or other public ways within or immediately adjacent to the tract.
 5. Location, sizes, elevations, and slopes of existing sewers, water mains, culverts, and other underground structures within and adjacent to the tract.
 6. Existing permanent buildings and utility poles on or adjacent to the site and utility easements.
 7. Topography at two-foot contour intervals unless otherwise approved by the Administrator.
 8. The approximate location and widths of proposed streets.
 9. The approximate location, dimensions, and areas of proposed lots and parcels proposed to be set aside for parks or other common areas.
- B. **Supplemental Information.** The Administrator may require the following information:
1. Whenever a sketch plan covers only a part of an applicant's contiguous property, the Administrator may require the applicant to submit a plan showing the future street and infrastructure layout for the remaining property.



2. An area map showing the total drainage area containing the proposed subdivision.

7.6 Primary Plat Approval Procedure

A. **Submission Dates.** Applications must be filed according to the schedule of meetings and filing deadlines.

B. **Application Requirements.** Following the sketch plan review, the applicant files: (1) an application form provided by the Department, (2) a primary plat, (3) an overall site plan, (4) all applicable fees, and (5) supplemental information required by the application or Administrator. For the purposes of this chapter, the primary plat and overall site plan are filed simultaneously and collectively referred to as the "primary plat".

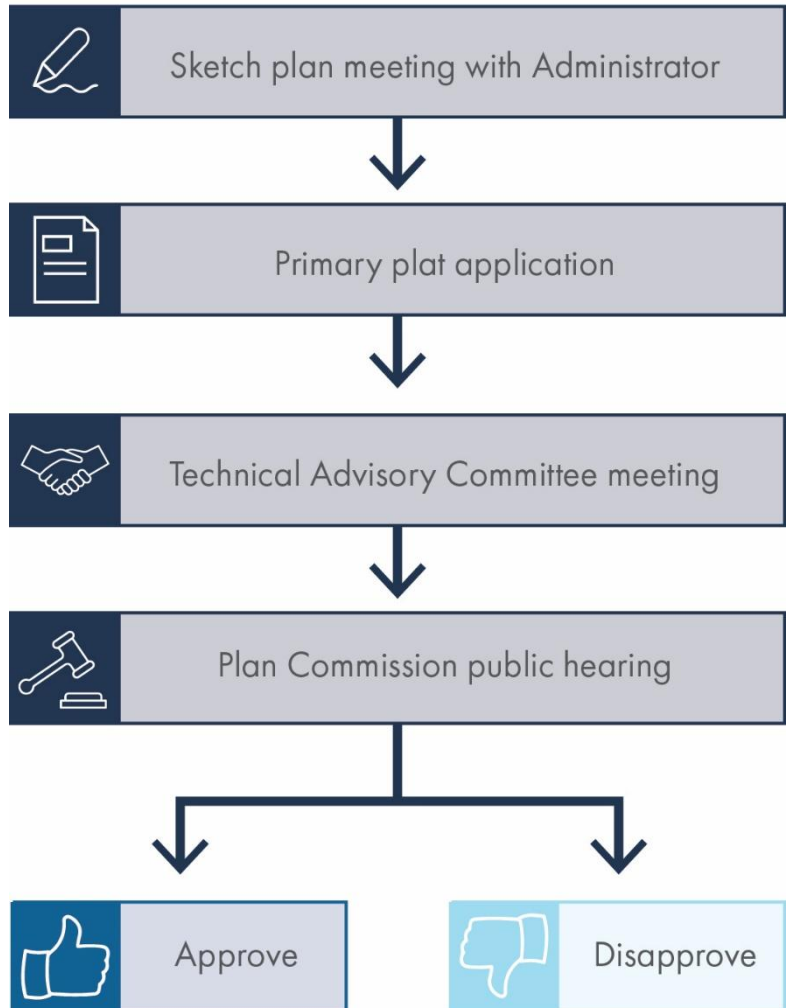
C. **Compliance.** Primary plats must be substantially similar to the sketch plan as reviewed.

D. **Phasing.** A primary plat may include all or only a part of a larger overall development. However, a primary plat must include the entire parent tract being subdivided unless otherwise deemed unnecessary by the Administrator or Plan Commission. This requirement seeks to avoid the creation of remainder parcels not complying with this Ordinance or inhibiting orderly development.

E. **Placement on the Plan Commission Agenda.** The Administrator reviews the application for completeness. Applications determined to be complete and allowing for a full review are numbered and docketed for a public hearing by the Plan Commission.

F. **Review of Complete Applications.** The Technical Advisory Committee may review any primary plat prior to the Plan Commission's consideration. The Administrator may submit a written report to the Plan Commission stating facts concerning the characteristics of the area involved in the primary plat, surrounding land uses, public facilities available to service the area, or other pertinent facts. The report may also contain the Administrator's opinions concerning the primary plat proposal and a

PRIMARY PLAT APPROVAL PROCESS





report from members of the Technical Advisory Committee. A copy of the report is made available to the applicant and the public.

- G. **Public Hearing Notice.** A public hearing by the Plan Commission is required for all primary plats. Notification of the public hearing must comply with the Plan Commission's Rules of Procedure. A certificate of mailing issued by the U.S. Postal Service is evidence notice has been given. A public notice sign is required to be posted on each road frontage of the parcel at least 10 days prior to the Plan Commission public hearing.
- H. **Public Hearing and Plan Commission Action.** The Plan Commission will hold the public hearing and review the application and supporting information and act on the application according to this Ordinance, Indiana law, and the Plan Commission's Rules of Procedure. As a condition of approval, the Plan Commission may retain the authority for final approval of the site plan for the project.
- I. **Written Commitments.** The Plan Commission or Administrator may require the applicant to prepare written commitments concerning the primary plat prior to formal action on the application. If written commitments are part of the primary plat approval, they must be recorded in the office of the County Recorder within 90 days of primary plat approval. A copy of the recorded commitments must be provided to the Department within 30 days of being recorded. The secondary plat will not be approved until the recorded written commitments are provided to the Department.
- J. **Effect of Approval.** Approval of a primary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for approvals, such as a secondary plat, construction plans, improvement location permit, building permit, or certificate of occupancy.
- K. **Effective Period of Primary Approval.** Unless extended, the approval of a primary plat is valid for a period of 3 years. At the end of this time, primary approval is null and void, and the applicant is required to resubmit a new application beginning with sketch plan review and subject to all the zoning restrictions and subdivision regulations in effect at the time of resubmission. Prior to the expiration of the approval period, the applicant may submit a written request to extend the approval period. The Plan Commission may extend the approval of a primary plat in increments of up to 12 months beyond an expiration date without further notice and public hearing.

7.7 Primary Plat Submittal Requirements

- A. **Preparation.** The primary plat is prepared by a land surveyor licensed by the State of Indiana at a scale of no more than 1 inch = 100 feet and the sheets must be numbered in sequence if more than one sheet. The Administrator may waive in writing any of the submittal requirements below the Administrator determines unnecessary to allow a complete review of the application.
- B. **General.** The primary plat includes:
 - 1. A vicinity map showing the location of the site and surrounding property and streets, the names of adjoining streets, and the names of all adjoining property owners and adjoining developments.
 - 2. Legal description of the subject property.



3. The names and addresses of: (a) the owners of the land being subdivided, (b) the applicant, if other than the owner, and (c) the consultants involved in the preparation of the plat. If the application is made by someone other than the owner, a consent form signed by the owner and notarized must accompany the application.
 4. Signature, seal, and certification of a land surveyor registered in the State of Indiana.
 5. The date of the plat, approximate true north point, and scale.
- C. **Existing Conditions.** The primary plat must show existing conditions including:
1. Topography in two-foot contour intervals unless otherwise approved by the Administrator.
 2. The location, bearings, and dimensions of all boundary lines of the property to be expressed in feet and tenths of a foot with references to section, township, and range lines or corners.
 3. The location of existing streets, walkways, easements, pipelines, transmission lines, water bodies, streams, and other pertinent features such as swamps, jurisdictional wetlands, flood plains, floodways, railroads, buildings, parks, cemeteries, drainage ditches, bridges, boundaries of wooded areas, and individual trees 8 inches or more in diameter within areas to be impacted by site disturbing activities.
 4. Location and size of existing water, storm water, and sanitary sewer systems.
 5. The location and width of all existing rights-of-ways.
 6. The locations, dimensions, and areas of all existing lots.
 7. Designated wetland areas.
 8. A soil survey map showing the soil limitations based upon the intended usage of the development land.
- D. **Site Improvements.** The primary plat application must show all proposed site improvements including:
1. Names of the subdivision and all new streets.
 2. Indication of the use of any lot (single-family, two-family, multifamily, townhouse) and all non-residential uses proposed by the applicant.
 3. The location and width of proposed streets, alleys, other public ways, rights-of-ways, easements, and building setback lines.
 4. Proposed changes in streams, lakes, floodplains, etc.
 5. Proposed location of surface and subsurface drains.
 6. Proposed location of storm sewers, storm water management facilities, and sanitary sewers. For private sewage systems, a statement from the County Health Department confirming private septic system can be used on the property.
 7. A statement concerning the location and size or capacity of utilities to be installed.
 8. Building and structures to be removed or relocated.



9. The locations, dimensions, and areas of all proposed lots.
 10. Building setback line with dimensions.
 11. Legends and notes.
 12. Blocks must be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name must be numbered or lettered consecutively throughout the several additions.
 13. All lots in each block must be consecutively numbered and the area of each lot indicated. Outlots must be lettered in alphabetical order. The location and dimensions of all property proposed set aside for common areas, park, or playground use, or other public or private reservation including conditions of the dedication.
 14. Topography in two-foot contour intervals unless otherwise approved by the Administrator.
 15. Sufficient data acceptable to the County Surveyor determining the location, bearing, and length of all lines and the location of all proposed monuments.
- E. **Supplemental Information.** The Plan Commission or Administrator may require the following information:
1. Landscape Plan.
 2. Traffic Impact Analysis.
 3. Sanitary Sewer Analysis.
 4. Building elevations.
 5. Existing covenants or zoning commitments recorded on the property.
 6. Proposed covenants and restrictions if they are cross-referenced or incorporated on the plat or if they establish or grant rights related to the plat (e.g., easements).
 7. Recorded deed, instrument number, and date recorded.
 8. Additional information necessary to evaluate the proposal.

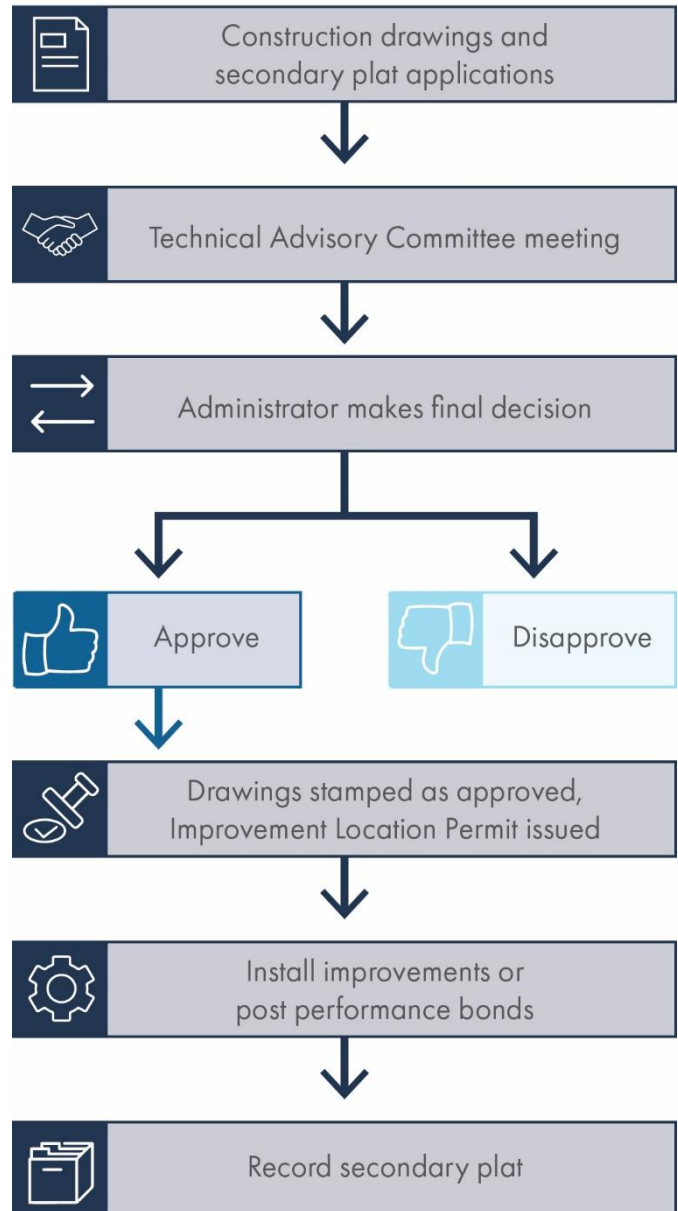
7.8 Secondary Plat Approval Procedure

- A. **Submission Dates.** Secondary plat approval occurs after approval of the primary plat and site plans. Applications must be filed according to the schedule of meetings and filing deadlines. Applications for secondary plat approval and site plan approval may be filed concurrently. Secondary plat applications may be submitted within the time provided for appeal under [*IC 36-7-4-708*](#). However, approval of a secondary plat will not be granted until 30 days after the approval of a primary plat.
- B. **Submission Procedure and Requirements.** The applicant files: (1) an application on forms provided by the Department, (2) a secondary plat, (3) all applicable fees, and (4) supplemental information required by the Administrator.
- C. **Compliance.** The secondary plat must be substantially similar to the approved primary plat.



- D. **Review of Complete Applications.** The Administrator reviews the application for completeness. The Technical Advisory Committee may review any secondary plat prior to approval. The Administrator reviews the secondary plat and notifies the applicant in writing of revisions or changes needed for approval.
- E. **Approval.** The applicant revises the secondary plat as needed and resubmits it to the Administrator. The Administrator determines if the revised plat needs reviewed by any of the Technical Advisory Committee members. When the Administrator determines the plat complies with the requirements of this Ordinance, the plat is approved by the Administrator.
- F. **Effect of Approval.** Approval of a secondary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for permits including an improvement location permit, building permit, and a certificate of occupancy.
- G. **Signing of Plat.** Unless otherwise approved by the Administrator, a secondary plat will not be signed until: (i) streets, curbs, gutters, sanitary sewers, fire hydrants, storm sewers and like infrastructure are constructed per the applicable construction standards, and maintenance sureties for public improvements are secured according to this Ordinance; or (ii) performance sureties are secured assuring the installation of public improvements ([5.6 Sureties](#)).
- H. **Recording of Secondary Plat.** No secondary plat or amendment of a subdivision will be recorded until the plat is approved and signed according to this Ordinance. Upon approval, the applicant must record the signed secondary plat within 90 days of plat approval. The applicant must record the plat, covenants, and any applicable homeowner association documents in the County Recorder office within 30 days of receiving the fully signed plat. The applicant must provide hard and electronic copies of the recorded plat and associated documents to the Department within 30 days of being recorded.

CONSTRUCTION DRAWING* AND SECONDARY PLAT APPROVAL PROCESS



* For administrative and minor subdivisions, construction drawings are not required.



7.9 Secondary Plat Submittal Requirements

- A. **Preparation.** The secondary plat is prepared by a land surveyor licensed by the State of Indiana at a scale of no more than 1 inch = 50 feet. A scale of 1 inch=100 feet may be used to make the drawing no larger than 13 inches x19 inches so the plat may be inserted in the plat books of the County Recorder without folding.
- B. **General.** The secondary plat includes, unless waived in writing by the Administrator:
1. Proposed name of the subdivision.
 2. Names and addresses of the owners and consultants involved in the preparation of the plat.
 3. Title, scale, north arrow, and date.
 4. Accurate boundary lines, with dimensions and angles, to provide a survey of the tract, closing with an error of not more than one foot in 5,000 feet.
 5. Accurate distances and direction to the nearest established street corners or official monuments. Reference corners must be accurately described on the plan.
 6. Accurate locations and names of all existing and recorded streets intersecting the boundaries of the tract.
 7. Accurate metes and bounds description of the boundary.
 8. Source of title to the land to be subdivided as shown by the books of the County Recorder office.
 9. Complete curve notes for all curves included in the plan.
 10. Street lines and street names with accurate dimensions in feet and hundredths of feet, with angles to street and lot lines.
 11. Lot and block numbers and dimensions.
 12. Accurate locations and limitations of easements.
 13. Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use.
 14. Building setback lines and dimensions.
 15. Location, type, material, and size of all monuments and lot markers.
 16. Plat certificates and deeds of dedication, as set forth `
 17. Notation of any self-imposed restrictions and locations of proposed setback lines if required by the Plan Commission, according to this Ordinance.
 18. Monuments erected or to be erected, corner, and other points are noted by representation or by legend; metal monuments must indicate type of metal, and diameter, length, and weight per lineal foot of the monuments.
 19. Contain a statement to the effect that the Legislative Body may enforce subdivision covenants unless otherwise noted.



C. **Supplemental Information.** The Administrator may require the following information:

1. A financial surety for public improvements according to this Ordinance.
2. A copy of the covenants and restrictions if they are cross-referenced or incorporated on the plat or if they establish or grant rights related to the plat (e.g., easements).

7.10 As-Built Drawings Submittal Requirements

A. **Preparation.** After improvements installed on a site are approved by the County or Town, as-built drawings must be prepared and certified by a surveyor or engineer licensed by the State of Indiana. Hard and electronic copies must be provided to the Administrator.

B. **As-Built Plan Contents.** As-built plans must contain, unless waived in writing by the Administrator:

1. Grades for the following locations:
 - a. Major drainage swales and percent of slope.
 - b. Lot corner and grade brakes.
 - c. Pad grades.
 - d. Street grades along the centerline and curb if street is bituminous pavement with concrete curb. Centerline only if streets are concrete and placed with electronic control (Maximum 50 ft. spacing).
 - e. Street sag and crest points.
 - f. Paved swales, if any, at 50 ft. intervals.
 - g. Lakes or ponds at the top of bank, normal pool, safety ledge, bottom, and spillway.
 - h. Locations of sidewalk ramps.
2. Sanitary sewer system plans and profiles, including:
 - a. Invert elevations and percent of slope.
 - b. Top of casting elevations.
 - c. Lateral locations based on distances along main from manholes.
 - d. Locations of each manhole or structure (to make sure they are sufficiently within designated easements to permit future excavation to system if needed).
 - e. Designate any material changes from approved construction plans. Where plans show alternates, indicate the alternate constructed.
3. Storm sewer plans and profiles, including:
 - a. Invert elevations and percent of slope.
 - b. Top of casting elevations.
 - c. Location of pipe and structure (to make sure they are within designated easements).



- d. Designate any material change from design plans. Where plans show alternates, indicate the alternate constructed.
- 4. Street plans and profiles, including:
 - a. Grades.
 - b. All low and high points.
 - c. All percent of slope.
 - d. Any deviation of alignment.
 - e. Grades and dimensions on accel and decel lanes, if applicable.

7.11 Commercial and Industrial Subdivisions

- A. **Review.** It is recognized that commercial and industrial subdivisions face unique considerations of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis when reviewing non-residential subdivisions is on the street layout, block arrangement, and infrastructure design.
- B. **Process.** The initial secondary plat is expected to show the street and block layout. Then, as prospective buyers express interest in lots sized to their required specifications, the applicant submits for approval to amend the recorded secondary plat. Approval of the re-plat follows the procedural requirements for a secondary plat. Improvements built following an approved set of site plans associated with a previously approved secondary plat do not have to be rebuilt if changes in design standards and specifications have been adopted by the applicable Legislative Body.

7.12 Rural Subdivision Standards

- A. **Special Standards for Rural Subdivisions.** In order to meet the goals of protecting agricultural land in the county, the following standards apply to residential subdivisions in the Agriculture Districts. The intent of these regulations is to conserve agricultural land by providing flexibility in subdivision regulations so residential lots in agricultural areas may be made as small as possible and located on less productive portions of the property and without stripping out county roads. The standards of this article supersede the standards in this Ordinance.
- B. **Lot Standards.** To provide flexibility in locating residential lots in Agriculture Districts, new residential lots are not required to have lot frontage if they meet the requirements of **Access Standards** in this article.
- C. **Access Standards.** The following standards are intended to maintain safe access to residential dwelling units and minimize the number of access points on public roads.
 - 1. Flag lots are permitted to minimize the amount of agricultural land lost to residential uses. Where site conditions do not allow flag lots, an access easement may be used to provide access to new residential lots. Access easements must meet the requirements of **5.3(D) Cross-Access Easements**.



2. Shared driveways are encouraged to minimize the number of access points on public roads. Shared driveways must meet the requirements of ***5.3(F) Shared Driveway Easements***.
3. Lots that meet the definition of flag lot as defined in this article must meet the standards below. The Plan Commission or Administrator is authorized to modify the requirements for flag lots if the Plan Commission or Administrator determines the modification will result in an improved project design that better protects public health, safety, and welfare and the natural environment.
 - a. The access to the flag lot must be derived from a driveway placed within the flagpole or panhandle portion of the lot or parcel, as recorded.
 - b. Only that portion of the lot having adequate width to meet the minimum lot width requirements and allow for provision of meeting the minimum yard and setback requirements of the district are counted as part of the minimum lot area. The accessway (i.e., the flagpole or panhandle) is not included in the calculation of minimum lot area.
 - c. The accessway must have a minimum width of 20 feet.
 - d. The flagpole cannot cross a flowing or intermittent stream, ravine, or similar topographic feature without provision of an adequate structure or fill and culvert to carry traffic.
 - e. In no event can a flag lot be used to access a private road.
 - f. The flagpole must be conveyed with the ownership of the rear lot or parcel and is a permanent part of the lot or parcel, never to be separated or conveyed separately from the lot or parcel to which it provides access.
 - g. A flag lot or parcel cannot be approved that creates a flagpole that is generally parallel to a public street, unless the flagpole is separated from the public street by a distance of at least 200 feet.
 - h. Adjoining flag lots are prohibited. The minimum distance between driveways serving individual flag lots must be at least 200 feet measured along the public road frontage.
 - i. Flag lots are permitted in both major and minor subdivisions. Flag lots must meet all area, yard, and bulk requirements for the district in which the lot is located.
 - j. Flag lots must be designed to provide suitable all-weather access for passenger vehicles and emergency vehicles.
 - k. The length of the flagpole or panhandle, measured from the edge of the right-of-way or edge of pavement, cannot be less than 200 feet.
 - l. A pre-existing flag lot cannot be divided into an additional flag lot.
 - m. A flag lot is only permitted for a lot used for a single-family dwelling.
- D. **Rural Subdivision Plats.** A rural subdivision in an Agriculture District is created using the Minor Subdivision process (see ***7.2(B) Minor Subdivisions***). Rural subdivision plat applications must meet the following requirements:



1. In addition to regular plat requirements, the plat must show the entire parent parcel, the approved septic system location, any access easements, and any shared driveway easements.
2. Soil test results proving viable primary field location must be submitted with the plat application.

7.13 Re-Subdivision of Land

Any change affecting the street layout, area reserved for public use, or a lot line of an approved secondary plat must be approved by the Plan Commission as a major subdivision unless the proposed change qualifies as an administrative subdivision, or minor subdivision. The Administrator may refer any case to the Plan Commission for review and approval.

7.14 Vacation of Plats

The procedure to vacate a recorded secondary plat follows the requirements of Indiana Code ([IC 36-7-4-711](#)). The vacation of a secondary plat cannot be used to vacate rights-of-way or easements. Rights-of-way are vacated following the requirements of [IC 36-7-3-12](#). Easements are vacated following the requirements of [IC 36-7-3-16](#).

7.15 Modifications of Subdivision Regulations

The Plan Commission may modify or waive submittal requirements or subdivision standards in this chapter per [8.16 Modifications](#).





Chapter 8

PROCESS AND PERMITS

The review and approval of each process

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8.1 General Provisions

- A. **Description.** This chapter outlines the procedure for approvals and permits as required by this Ordinance.
- B. **Application.** Application and informational packets may be obtained through the Department and/or online.
- C. **Fees.** A schedule of fees for applications, permits, and other purposes required by this Ordinance is established by the Legislative Body and kept in the office of the Administrator.
 - 1. Until all applicable fees, charges and expenses have been paid in full, no final action can be taken on any application or permit. This requirement applies not only to fees due for the specific application or permit, but also to fees and fines owed relative to any previously issued permit or violation of this Ordinance.
 - 2. Any person initiating construction of a structure before obtaining an improvement location permit or other required permit must pay twice the amount of the current permit fee.
 - 3. Agricultural buildings are exempt from permit fees but are still subject to the other requirements of this Ordinance.
- D. **Public Meetings.** Applications requiring public meetings are filed according to the adopted schedule of meeting and filing dates and subject to the rules of procedure of the applicable hearing body.
- E. **Permits and Licenses Void if in Conflict.** Any permit or license issued in conflict with the provisions of this Ordinance are considered null and void from the date of issue.
- F. **Meeting Schedule.** The Administrator maintains an annual schedule of meetings and filing dates for the Technical Advisory Committee, Plan Commission, and BZA. Modifications of filing dates are considered if determined reasonable by the Administrator. The existence of this calendar does not prohibit special meetings or changes of meeting dates by the Technical Advisory Committee, Plan Commission, or BZA. The schedule of meeting and filing dates is available in the Department office.
- G. **Fee Schedule.** Filing fees for applications and petitions are set in a fee schedule established by a resolution of the Legislative Body. Copies of the Fee Schedule are available in the office of the Department.

Approvals Granted by the Legislative Body

8.2 Rezones (Zoning Map Amendments)

- A. **Applicability.** This article applies to applications requesting to amend the Zoning Map.
- B. **Initiation.** Proposals to amend the Zoning Map may be initiated by the Plan Commission, the Legislative Body, or through an application signed by property owners of at least 50% of the land involved.



1. Legislative Body Initiation. The Administrator prepares the application for Zoning Map amendment if the Plan Commission or Legislative Body initiates the application. The Administrator serves as the representative of the applicant for such proposals.
2. Property Owner Initiation. Property owners requesting a Zoning Map amendment are the applicants and are responsible for preparing the application.

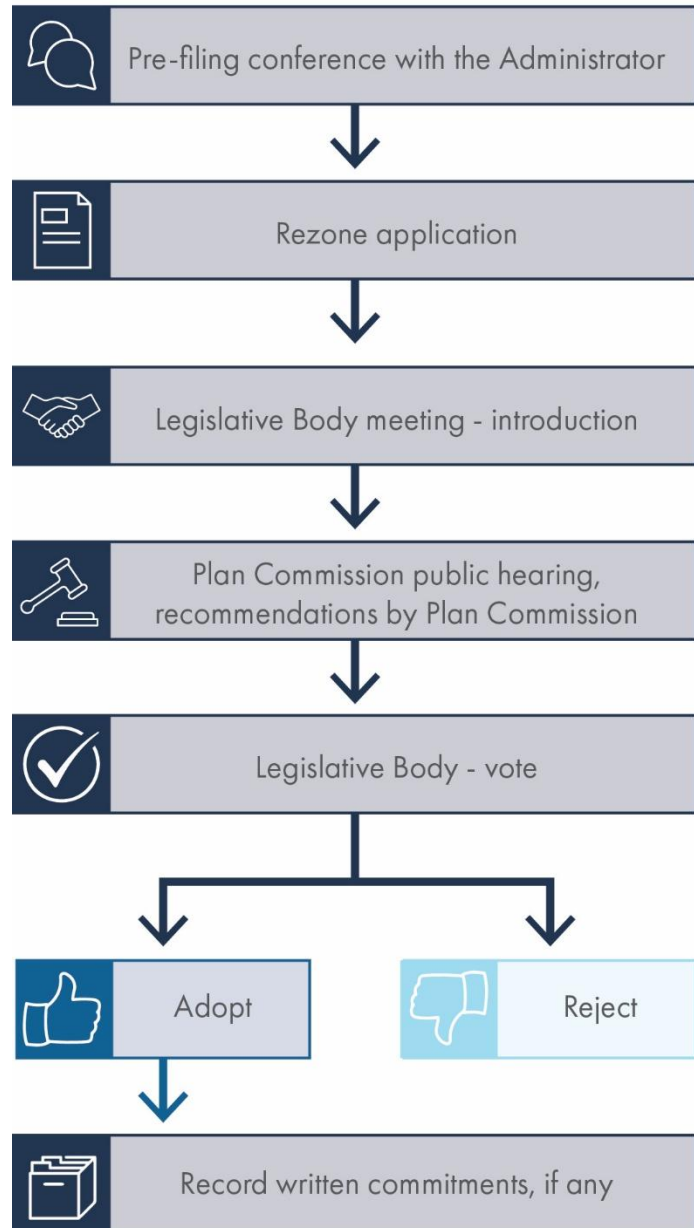
C. Application Procedures

1. Pre-Filing Conference. A pre-filing conference with the Administrator is required prior to filing an application. The applicant is encouraged to incorporate the Administrator's comments into the application before filing.
2. Filing Deadline. Applications are filed according to the schedule of meeting and filing deadlines. The applicant may be responsible for distributing a copy of the application to members of the Technical Advisory Committee if the Administrator determines such a review is necessary.
3. Forms of Filing. The applicant submits a completed application to the Administrator on forms provided by the Department with supporting information and the application fee. The Administrator establishes the number of copies of the application required for filing.

4. Application Requirements for Property Owner Initiated Applications

- a. If an application is filed by a property owner's authorized agent, a consent form signed by the property owner must accompany the application.
- b. A copy of the most current property deed.
- c. A list obtained from the County of adjoining property owners required to be served public notice according to the Plan Commission Rules of Procedure.

REZONE APPROVAL PROCESS





d. Supporting Information

- i. A conceptual site plan showing all features relevant to the application.
- ii. A vicinity map showing the use and zoning of all properties within 500 feet of the proposed Zoning Map amendment.
- iii. A narrative stating the reasons for the zoning change, including a detailed description of any proposed development. The narrative should include any written commitments made by the applicant.

D. **Public Notice.** Notification for the public hearing must be completed consistent with the requirements of the Plan Commission's Rules of Procedure.

E. **Legislative Body Informational Appearance**

1. The proposed zoning map amendment appears before the Legislative Body for an informational presentation of the proposal.
2. The informational appearance is conducted at a regularly scheduled Legislative Body meeting.
3. The informational meeting is not the required public hearing for the proposed zoning map amendment.
4. The informational meeting is administered by the Administrator.
5. No action may be taken on any proposed zoning map amendment at an informational meeting, and comments, proposed changes, or requested changes are not considered binding.

F. **Plan Commission Public Hearing.** At a public hearing, the Plan Commission reviews the application and supporting information.

1. Representation. The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any Plan Commission questions.
2. Testimony. The Plan Commission considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
3. Procedures. The conduct of the public hearing follows the requirements of the Plan Commission's Rules and Procedure.
4. Possible Action. Following the public hearing, the Plan Commission may either forward the application to the Legislative Body with a favorable recommendation, an unfavorable recommendation, or no recommendation according to Indiana Code; or continue the request to a subsequent Plan Commission meeting. As a condition of approval, the Plan Commission may retain the authority for final approval of the site plan for a project.

G. **Continuances.** The application may be continued by: the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Plan Commission that additional information is required prior to acting on the request. The continuing of applications and any potential additional legal notice must be consistent with the Plan Commission's Rules and Procedure.



- H. **Certification.** The Plan Commission certifies its recommendation to the Legislative Body according to Indiana Code. The Administrator forwards the Plan Commission certification, the application and supporting information, any Department reports regarding the application, and an ordinance to the Legislative Body for consideration.
- I. **Legislative Body Action.** The Legislative Body reviews the rezoning application and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the Legislative Body fails to act within 90 days of the Plan Commission's certification, and the applicant has not otherwise withdrawn the request or requested additional consideration by the Plan Commission, the rezone ordinance becomes effective or defeated per [*IC 36-7-4-608*](#). The Legislative Body may also seek modifications or additions to any written commitments permitted by this Ordinance.
- J. **Decision Criteria.** In reviewing the change of zoning application, the Plan Commission and Legislative Body consider:
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; and
 5. Responsible development and growth.

8.3 Planned Unit Developments

- A. **Applicability.** These regulations apply to Planned Unit Development District (PUD) proposals and to any proposed amendment to an existing Planned Unit Development that would affect either the text of the PUD Ordinance or the Ordinance's referenced exhibits.
- B. **Intent.** The Planned Unit Development zoning district provides for the development of mixed zoning classifications, densities, and uses under a common classification when presented to the Plan Commission in a well-prepared, organized, and documented plan. This zoning district is intended to:
- Encourage large-scale, identity-building developments that mix uses, building types, and building arrangements;
 - Provide greater flexibility for sites with natural constraints to conserve natural resources; and
 - Allow a review process for creative building types that do not fit well into other zoning districts.
- C. **Required Approvals.** A Planned Unit Development District requires the following approvals:
1. Ordinance and Concept Plan (collectively, "PUD Ordinance")
 2. Site Plan (see also [*8.6 Site Plan Review*](#))
 3. Approval of Primary Plat and Secondary Plat, if applicable.

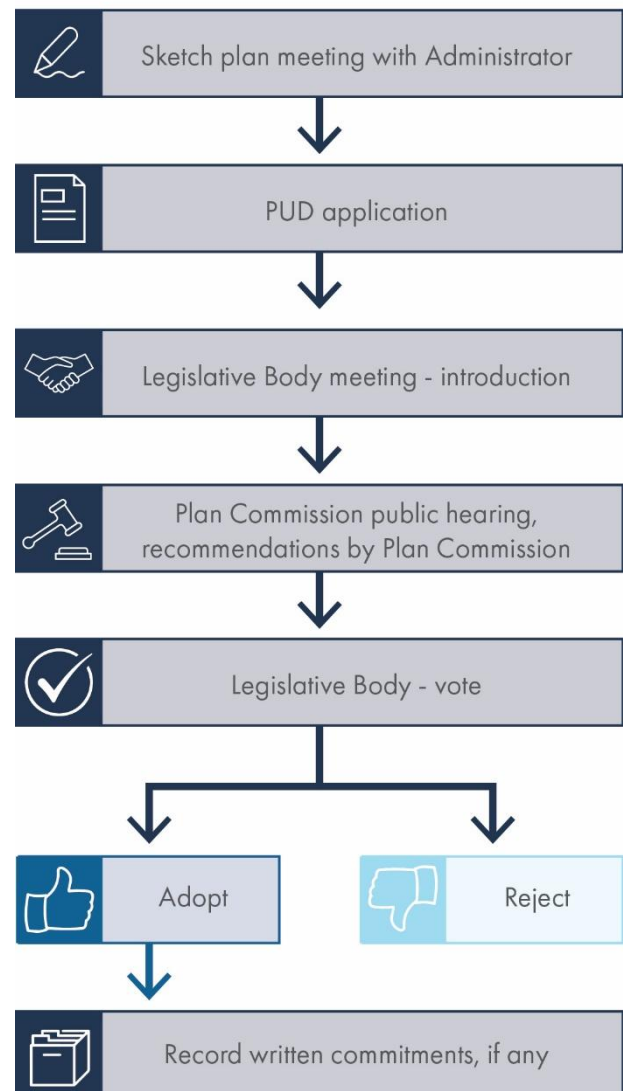


D. PUD Ordinance

1. Application Procedures:

- a. Sketch Plan Conference: A sketch plan conference with the Administrator is required before the filing of any PUD application. This conference is held to allow the applicant to discuss characteristics of the development in relation to adopted Comprehensive Plan policies. The conference allows the Administrator to review PUD procedures, development standards, and policies with the applicant. A draft of the proposed PUD Ordinance is required for the Sketch Plan conference. The applicant is encouraged to incorporate the Administrator's comments into the proposal prior to filing the application. The Sketch Plan conference is intended only for discussion purposes; neither the applicant nor the Plan Commission is bound by any decision made during the conference.
- b. Who May File: Applications may be filed by a petition signed by the Property owners of the real estate involved in the petition, or the property owner's authorized agent. If an authorized agent, then a consent form signed by the property owner must accompany the application.
- c. Filing Deadline: Applications must be filed according to the schedule of meeting and filing deadlines.
- d. Forms of Filing: An applicant submits a completed application to the Administrator on forms provided by the Department with documentation and required supporting information. The Administrator establishes the number of copies of complete applications and supporting documentation required to be filed.
- e. Docketing by Administrator: Each filed application is reviewed for completeness. Applications determined to be in proper form according to the guidelines established are numbered and docketed by the Administrator.
- f. Neighbor Meeting: Applicants requesting approval of a PUD Ordinance, or amendments to a previously approved PUD ordinance, are encouraged to host a neighbors' meeting and submit a written report to the Administrator summarizing the meeting prior to the Plan Commission public hearing. Applicants must invite to the neighbor meeting at least

PLANNED UNIT DEVELOPMENT (PUD) APPROVAL PROCESS





the interested parties required to receive mailed notice of the Plan Commission public hearing.

- g. Review and Approval: After docketing, an application is reviewed and considered by the Plan Commission and Legislative Body according to **8.2 Rezones (Zoning Map Amendments)**.
- h. When considering a PUD Ordinance, the Administrator, Plan Commission, and Legislative Body consider the extent to which the proposed PUD:
 - i. Meets the requirements, standards, and stated purpose of the PUD regulations;
 - ii. Departs from the zoning and subdivision regulations applicable to the property and why such departures are in the public interest;
 - iii. Meets the purposes of the Comprehensive Plan and other policies and objectives of the Municipality;
 - iv. Provides public services, manages circulation and traffic, establishes common open space, and enhances the community as a whole;
 - v. Is compatible with adjacent properties and does not diminish their value;
 - vi. Enhances the physical development, tax base, and economic well-being of the County or Town;
 - vii. Preserves ecological, natural, historical, architectural, and human-made resources to the extent possible; and
 - viii. Will not damage the public health, safety, and general welfare.
- i. Decision Criteria. In reviewing the change of zoning application, the Plan Commission and Legislative Body consider:
 - i. The Comprehensive Plan;
 - ii. Current conditions and the character of current structures and uses in each district;
 - iii. The most desirable use for which the land in each district is adapted;
 - iv. The conservation of property values throughout the jurisdiction; and
 - v. Responsible development and growth.

2. Effect of Approvals of PUD Ordinance: A PUD Ordinance becomes effective after its approval by the Legislative Body and is recorded by the County or Town in the Office of the County Recorder. The Zoning Map is amended accordingly. The use and development of the property are then governed by the PUD Ordinance, subject to review and approval of subsequent permits and approvals as required by this Article and Ordinance, and any other regulatory processes which may be required prior to beginning construction within the PUD.

- E. **Site Plan Approval**. Site plan approval, as set forth in **8.6 Site Plan Review**, is required for all PUDs. Site plans must conform to the approved PUD Ordinance and this Ordinance. An application for site plan approval must be filed within 18 months of PUD Ordinance approval. If needed, applicants may seek a time extension of up to 18 months from the Legislative Body.



- F. **Permits.** No permit of any kind will be issued within a PUD except according to the approved site plan, and after acceptance by the County or Town of all required guarantees for improvements according to this Ordinance.
- G. **PUD Ordinance Requirements.** PUD Ordinances and supporting data must include the following documentation. The Administrator in writing may waive or relax any of the requirements listed which are irrelevant or unnecessary for a thorough review of the development.
1. PUD Ordinance: The PUD Ordinance must follow a standard format adopted by the Legislative Body for PUD Ordinances.
 2. Concept Plan: A drawing of the PUD ("Concept Plan") must be included at a scale at least 1 inches = 100 feet, or at a scale the Administrator considers appropriate.
 - a. General Concepts: The concept plan must show in general terms the following: major circulation; location and dimensions of buildings, structures, and parking facilities; open space areas; recreation facilities; and other details indicating the character of the proposed development.
 - b. Detailed Concepts: The concept plan must include in detailed terms the following:
 - i. A site location map showing the project location and other development projects in the vicinity.
 - ii. The name of the development, with the words "Concept Plan".
 - iii. Boundary lines and acreage of each land use component.
 - iv. Existing easements, including location, width, and purpose.
 - v. Existing land use on abutting properties.
 - vi. Other conditions on the site and adjoining land: topography (at two-foot contours) including any embankments or retaining walls; use and location of buildings, railroads, power lines, towers, and other influences; name of any adjoining subdivision.
 - vii. Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, pathways and bridges and other drainage structures.
 - viii. Proposed public improvements: collector and arterial streets and other major improvements planned by the public for future construction on or adjacent to the tract.
 - ix. Existing utilities on the tract.
 - x. Any land on the tract within the floodway and floodway fringe as shown on the Flood Insurance Rate Maps.
 - xi. Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, existing structures, and other significant features such as significant isolated trees.



- xii. Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.
 - xiii. Map data such as north point, graphic scale, and date of preparation.
3. Written Statement of Character. A written statement of character of the PUD must provide an explanation of the character of the PUD and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement must include:
- a. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies affecting the land in question.
 - b. Development phasing indicating building phases, including the area, use, public facilities, and open space to be developed with each phase, and projected dates for beginning and completion of each phase. Each phase must be described and mapped.
 - c. General details of the proposed uses:
 - i. Residential uses must indicate gross area, architectural concepts (narrative, sketch, or representative photo), and number of dwelling units for each residential component;
 - ii. Nonresidential uses must indicate specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.
4. Development Amenities and Open Space. The PUD Ordinance must include a statement of recreational amenities and open space. Such statements must designate and convey active and/or passive recreational areas according to the following:
- a. Recreational amenities and open space must be allocated to the property in proportion to the uses assigned in the PUD and be located within reasonable walking distance to those uses; however, when preserving existing features, the recreational amenities do not need to be in proximity to the use.
 - b. If the PUD Ordinance provides for development in stages, then amenities and open space must be provided in each stage in proportion to that stage, unless otherwise indicated and approved in the PUD Ordinance.
 - c. Amenities must be conveyed in one of the following forms:
 - i. To a municipal or public corporation;
 - ii. To a not-for-profit corporation or entity established to benefit the owners and tenants of the PUD. All conveyances must be structured to ensure the grantee has the obligation and the right to effect maintenance and improvement of the amenities and the duty of maintenance and improvement is enforced by the owners and tenants of the PUD; or
 - iii. To owners other than those specified in subsections (i) and (ii) above, and subject to restrictive covenants describing and guaranteeing the amenities, its maintenance and improvement, running with the land for the benefit of residents of the PUD or adjoining property owners or the community.



5. Traffic Impact Study: A Traffic Impact Study may be required at the discretion of the Administrator, the County or Town Engineer, the Plan Commission, or Legislative Body. If a Traffic Impact Study is required, it must be prepared by a registered professional engineer and must evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to beginning the study, an applicant meets with the Administrator to determine the appropriate scope for the study.
6. Additional Materials: The Administrator informs the applicant in writing of any additional information, documents, or data necessary to support a thorough review of the proposed development.

G. **PUD Ordinance Amendments**

1. Changes requiring an amendment to a PUD Ordinance include altering the concept or intent of the initial PUD, as determined by the Administrator, which include:
 - a. Increases in density or intensity.
 - b. Changes in the proportion or allocation of land uses.
 - c. Changes in the list of approved uses.
 - d. Changes in the locations of uses outside of the parameters set forth by the PUD Ordinance.
 - e. Changes in functional uses of open space constituting an intensification of use of the open space.
 - f. Changes in the final governing agreements which conflict with the concept plan approval.
2. The procedure for amending an approved PUD Ordinance ("text amendment") is the same as the procedure for the adoption of the initial PUD Ordinance.

8.4 Zoning Text Amendments

- A. **Applicability.** This article applies to applications requesting to amend the text of this Ordinance.
- B. **Initiation.** Proposals to amend the text of this Ordinance may be initiated by the Plan Commission or submitted to the Plan Commission by the Legislative Body. The Administrator prepares the amendment application and serves as the representative of the applicant.
- C. **Application Procedures.** Applications are filed according to the schedule of meeting and filing deadlines.
- D. **Public Notice.** Notification for the public hearing must be completed consistent with the requirements of the Plan Commission's Rules of Procedure.
- E. **Plan Commission Public Hearing.** At a public hearing, the Plan Commission reviews the application and supporting information.
 1. Representation. At the public hearing the Administrator presents the application and addresses any Plan Commission questions.



2. Testimony. The Plan Commission considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
 3. Procedures. The conduct of the public hearing follows the requirements of the Plan Commission's Rules and Procedure.
 4. Possible Action. Following the public hearing, the Plan Commission may either forward the application to the Legislative Body with a favorable recommendation, an unfavorable recommendation, or no recommendation according to Indiana Code; or continue the request to a subsequent Plan Commission meeting.
- F. **Continuances**. The application may be continued by the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to acting on the request. The continuing of applications and any potential additional legal notice must be consistent with the Plan Commission's Rules and Procedure.
- G. **Certification**. The Plan Commission certifies its recommendation to the Legislative Body according to Indiana Code. The Administrator forwards the Plan Commission certification, the application and supporting information, any Department reports regarding the application, and an ordinance to the Legislative Body for consideration.
- H. **Legislative Body Action**. The Legislative Body reviews the application and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the Legislative Body fails to act within 90 days of the Plan Commission's certification, the ordinance becomes effective or defeated per [IC 36-7-4-607](#).
- I. **Decision Criteria**. In reviewing the text amendment application, the Plan Commission and Legislative Body consider:
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; and
 5. Responsible development and growth.

Approvals Granted by the Plan Commission

8.5 Subdivisions

For subdivision approval, refer to [CHAPTER 7: SUBDIVISION REGULATIONS](#).

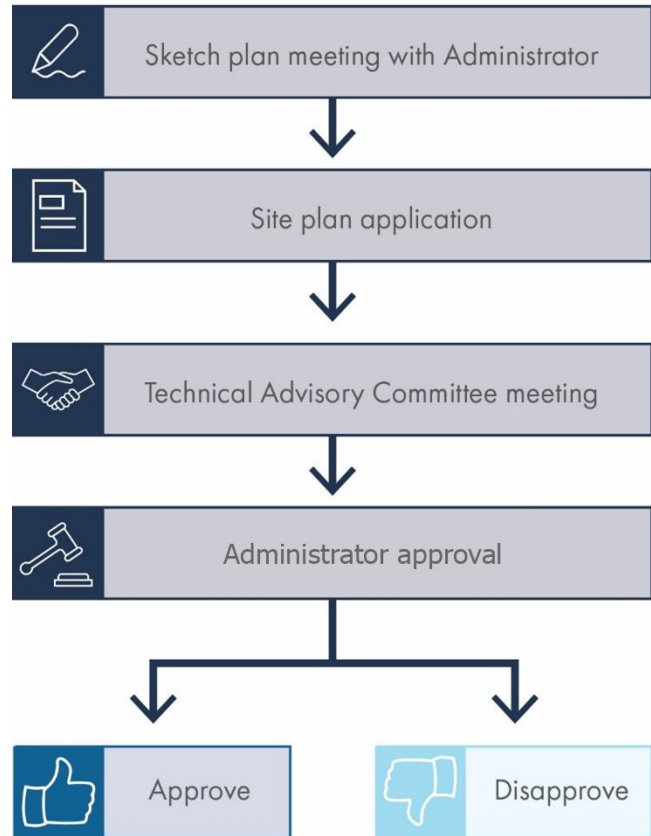


8.6 Site Plan Review

A. Site Plan Approval Procedure

1. Submission Dates. Site plan approval occurs after primary plat approval and prior to secondary plat approval. Applications must be filed according to the schedule of meetings and filing deadlines in the format specified by the Department. Applications for site plan approval may be filed concurrently with applications for secondary plat approval.
2. Submission Procedure and Requirements. The applicant submits in the format specified by the Administrator:
 - a. An application provided on forms provided by the Department,
 - b. Detailed site plans and specifications,
 - c. All applicable fees, and
 - d. Supplemental information required by the Administrator.
3. Compliance. Site plans must be substantially similar to the approved primary plat.
4. Review of Complete Applications. The Administrator reviews the application for completeness. Applications determined to be in proper form are docketed for review by the Technical Advisory Committee. The Technical Advisory Committee members review the plans and provide comments on modifications needed for the plans to comply with the requirements of this Ordinance, written commitments made regarding the property, and any other development requirements. These comments are provided to the Administrator and the applicant and are made available to the public.
5. Revised Plans. The applicant revises the plans as needed and resubmits them to the Administrator. The Administrator determines if the revised plans need to go to any of the Technical Advisory Committee members for review.
6. Site Plan Approval. Site plan approval is required prior to starting work on any improvements. When the Administrator determines the plans comply with the Technical Advisory Committee comments and all applicable development standards, the plans and specifications may be approved by the Administrator unless the Plan Commission retained site plan approval

SITE PLAN REVIEW PROCESS





authority for a specific project. The Administrator reserves the right to forward a site plan to the Plan Commission for final approval.

7. Plan Commission Action. For site plans requiring Plan Commission approval, the Plan Commission will hold a public hearing and review the application and supporting information. The Plan Commission will act on the application according to this Ordinance, Indiana law, and the Plan Commission's Rules of Procedure. Notification of the public hearing must comply with the Plan Commission's Rules of Procedure. Public notice is required including the posting of a public notice sign on each road frontage of the parcel at least 10 days prior to the Plan Commission public hearing. A certificate of mailing issued by the U.S. Postal Service is evidence notice has been given.
8. Written Commitments. The Plan Commission or Administrator may require the applicant to prepare written commitments concerning the site plans prior to formal action on the application. If written commitments are part of the plan approval, they must be recorded per **8.17(C) Recording**.
9. Approved Plans. After approval of site plans and before the installation of improvements, a preconstruction meeting is scheduled with the Administrator. Three sets of approved site plans and specifications are stamped "APPROVED." The stamped plans are the only official plans approved for construction.

B. **Site Plan Submittal Requirements**. All applications for site plan review must include the documentation and supporting information identified in this article. Other information necessary to support a thorough review of the project may be requested in writing by the Plan Commission or Administrator. The Administrator may waive or relax any of the required documentation the Administrator deems unnecessary for a thorough review of the application. The Administrator must identify in writing the elements being waived or relaxed. Site plans must show:

1. Profiles showing existing and proposed elevations along centerlines of all streets at 50-foot intervals including low points. Exact radii of all curves, lengths of tangents, and central angles of all streets. Where steep slopes exist, the Administrator may require cross-sections of all proposed streets at 100-foot stations.
2. Plans and profiles showing the locations and typical cross-section of street pavements including curbs and gutters, sidewalks, drainage facilities and easements, rights-of-ways, manholes, and catch basins; the locations of street trees, street lighting standards, and street and traffic signage; the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas, or other underground utilities or structures.
3. Location, size elevation, and other appropriate description of any existing facilities or utilities including existing streets, sewers, drains, water mains, easements, water bodies, streams, wetlands, flood plains, and other pertinent features such as railroads, buildings, or features noted on the Official Map or Comprehensive Plan, at the point of connection to proposed facilities and utilities within the subdivision, and each tree with a diameter of 8 inches or more within areas of land disturbing activity.



4. The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high and low water elevations of such lakes or streams. All elevations are referred to the United States Coast and Geodetic Survey datum plane. If the subdivision borders a lake, river or stream, the distances and bearings of a meander line established at least 20 feet back from the ordinary high-water mark of such waterways.
5. Topography in one-foot contour intervals unless otherwise approved by the Administrator. All data provided is the latest applicable United States Coast and Geodetic Survey data.
6. A landscape plan according to [6.5 Landscape](#), is required as part of any site plan and must detail perimeter areas, buffer yards, common areas, entryways, and any other open space as considered appropriate by the Plan Commission or Administrator. Landscape plans for a detailed site plan must be site or lot specific showing compliance with parking area, buffer yard, and on-site or foundation requirements.
7. A statement of the nature and extent of all existing and proposed open space and amenities must be provided either on the submitted landscape plan or in writing, along with any necessary explanatory materials or graphics, as part of any site plan.
8. A lighting plan according to [6.6 Lighting](#), is required as part of any site plan.
9. All signs are subject to approval and obtaining a sign permit before erection ([4.8\(F\) Sign Permits](#)).
10. Drawings or images of proposed building elevations drawn to scale and including:
 - Elevations for each building facade (360 degree).
 - Specifications or samples of the type and color of exterior materials to be used for all wall, window, roof, and other architectural features.
 - A separate true color rendering, or other realistic depiction, of the proposed building, including any areas designated for signage.
 - Details of any exterior architectural lighting.
11. All specifications and references required by the applicable construction standards, including a site grading plan for the entire subdivision.
12. Title, name, address, and signature of the professional engineer, architect, and/or surveyor, and date, including revision dates.



Approvals Granted by the Board of Zoning Appeals

8.7 Special Exceptions

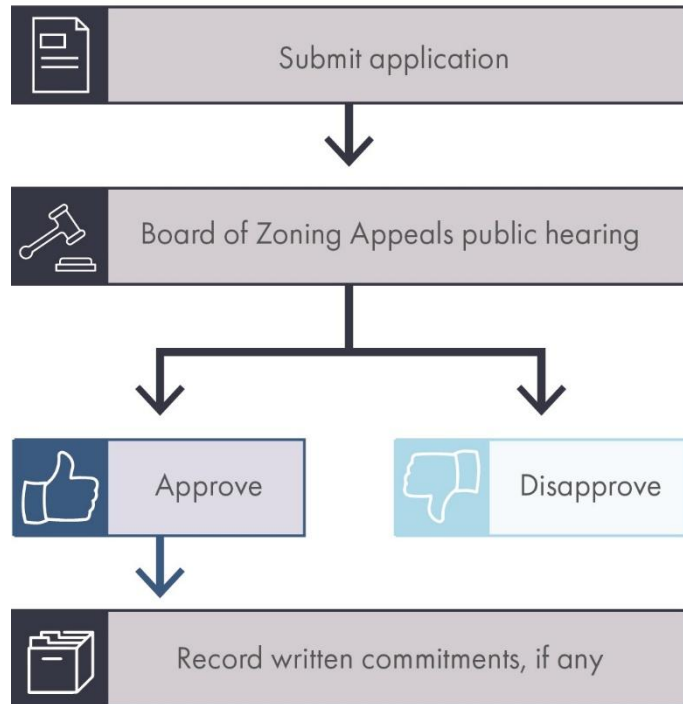
A. **Permitted.** The BZA may approve a use listed as a special exception in **CHAPTER 3: PERMITTED USES**, and their accessory buildings and uses, according to the procedures in this article, and other regulations of the zoning district where the subject property is located. This article establishes the review procedure for special exceptions and the statutory criteria that must be met for all special exceptions. More specific requirements are established for certain uses to mitigate their potential negative impacts.

B. **Purpose.** A special exception is a use that requires more review because of its potential adverse impact upon the immediate neighborhood and the community. The BZA reviews a special exception, its characteristics, and impacts to determine its suitability for the zoning district. These uses are generally consistent with the purpose of the zoning district in which they are permitted but, due to unique operational characteristics, may not be desirable or compatible in all locations within the district. Factors such as traffic, hours of operation, noise, odor, or similar potential impacts require that the special exception be evaluated relative to its appropriateness on a case-by-case basis.

C. Procedures

1. **Application:** Applications must be filed according to the schedule of meeting and filing deadlines. An applicant submits a completed application to the Administrator on forms provided by the Department with the filing fee and the required supporting information. The application must include proposed findings of fact showing how the proposed use meets the criteria of **8.7(D) Review Criteria**. The Administrator establishes the number of copies of complete applications and supporting documentation required to be filed.
2. **Action by the Administrator:** The Administrator reviews a filed application for completeness. Applications determined complete are docketed for a hearing by the BZA.
3. **Investigation of Application:** At the Administrator's discretion, the Technical Advisory Committee may review an application for special exception prior to the BZA's consideration.
4. **Public Notice:** Notification for the scheduled public hearing regarding the application must be completed consistent with the BZA's Rules of Procedure.

SPECIAL EXCEPTION PROCESS





5. **Public Hearing:** At a public hearing, the BZA reviews the facts and circumstances of each application and supporting information. The applicant or applicant's representative must appear at the public hearing.
- D. **Review Criteria.** The BZA may approve a special exception upon a determination in writing that the proposed use:
1. Is consistent with the vision, goals, and objectives of the Comprehensive Plan;
 2. Complies with the requirements of this Ordinance;
 3. Is compatible with the character of the general vicinity;
 4. Can be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage systems, refuse disposal, water and sewers, and schools;
 5. Does not create circumstances detrimental to people, property, or the general welfare by producing excessive traffic, noise, smoke, fumes, glare, odor, or other conditions incompatible with the uses permitted in the zoning district; and
 6. Allows orderly development of the surrounding property for uses permitted in the district.
- E. **No Presumption of Approval.** The listing of a special exception on the Permitted Use Table does not constitute a presumption of approval. Each special exception is evaluated on an individual basis regarding compliance with the standards and whether the use is appropriate at the location and in the manner proposed.
- F. **Resubmittal of Special Exception Application.** A special exception application denied by the BZA cannot be resubmitted for 12 months from the date of the denial, except when new evidence or information regarding changing circumstances or other relevant factors is submitted that might alter the decision. The Administrator determines if the new information constitutes a substantive change.
- G. **Conditions of Approval.** Reasonable conditions may be imposed on the approval of a special exception to protect the public health, safety, and general welfare, ensure adequate public services can be provided, enhance compatibility with adjacent conforming land uses or activities, and protect natural resources.
- H. **Limitations of Approval.** Approval only authorizes the special exception at the premises where the approval was granted. It is not conditioned upon the property owner or operator of the approved use.
- I. **Effect of Approval.** The approval of a special exception does not authorize the development, construction, alteration, or moving of any building or structure. The approval authorizes the filing and processing of applications for permits or approvals required, such as approval of a site plan, improvement location permit, building permit, and certificate of occupancy.
- J. **Acknowledgement of Special Exception.** Approval of a special exception may be recorded in an acknowledgement of special exception instrument prepared by the Administrator. The instrument must specify the granted special exception and any commitments made or conditions imposed in granting the approval. The applicant must record the instrument in the Office of the County Recorder within 14 days of the approval. The applicant must return a copy of the recorded



instrument to the Department within 14 days of recording. New applications for approvals or permits for the property will not be processed until a copy of the recorded instrument is provided to the Department.

- K. **Existing Use.** An existing use in a zoning district where such use is listed as a special exception may be permitted is considered a conforming use if the use meets the minimum lot area requirements of the zoning district. Any expansion of the special exception involving the enlargement of buildings, structures, and land area requires a new special exception approval.
- L. **Commitments.** The BZA may require the property owner to make written commitments concerning the use or development of the property per [8.17 Written Commitments](#).
- M. **Expiration.** Approval of a special exception expires 36 months after it is granted unless construction is complete, or commencement of the use has occurred. Prior to the expiration of the initial approval, the applicant may request in writing to the Administrator an extension of the approval period. The BZA may extend the approval 12 months or more upon finding there are no new conditions requiring reconsideration of the special exception.
- N. **Revocation.** Violations of any conditions or commitments imposed on a special exception approval are subject to enforcement procedures.

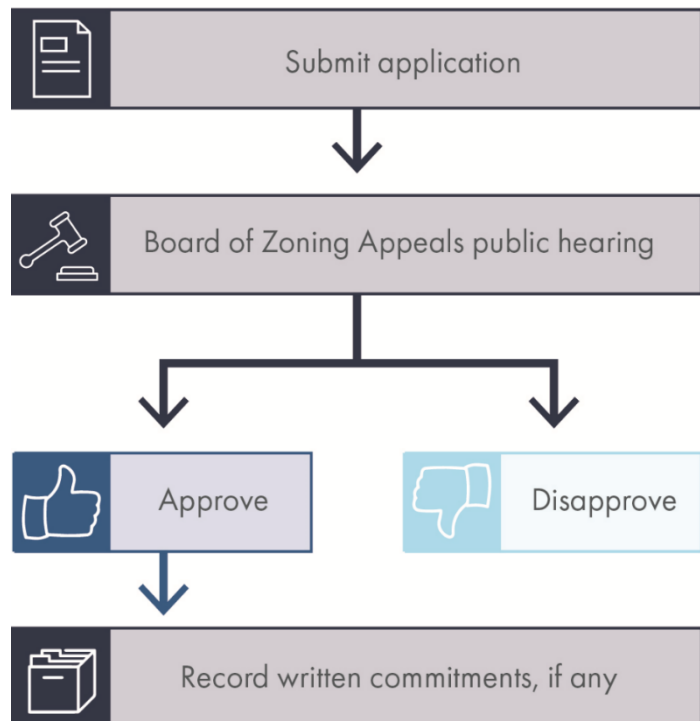
8.8 Development Standards Variance

- A. **Description.** A development standards variance allows relief from the provisions of this Ordinance, other than use provisions, due to special circumstances applicable to the property.

- B. **Application.** The applicant files:

1. A development standards variance application,
2. Property owner consent if the applicant is someone other than the property owner,
3. The applicable filing fee,
4. A site plan drawn to scale showing the layout of the property and all features relevant to the request,
5. A statement of intent describing the details of the variance being requested, including any written commitments being made by the applicant,
6. Proposed findings of fact stating how the request is consistent with **8.8(F) Review Criteria**, and

VARIANCE PROCESS





7. A copy of the most current property deed.
- C. **Review.** The Administrator reviews a filed application for completeness. Applications determined complete are docketed for a hearing by the BZA. At the Administrator's discretion, the Technical Advisory Committee may review an application for variance prior to the BZA's consideration.
- D. **Public Notice.** Notification for the scheduled public hearing regarding the variance request must be completed consistent with the schedule of meeting and filing dates and the BZA's Rules of Procedure.
- E. **Public Hearing.** At a public hearing scheduled consistent with the schedule of meeting and filing dates, the BZA reviews the development standards variance application and required supporting information. The applicant and/or applicant's representative must be present at the public hearing to present the complete application and address the decision criteria. The presentation of reports and testimony and all other aspects of the public hearing must be consistent with the BZA's Rules of Procedure.
- F. **Review Criteria.** A development standards variance may be approved upon determining:
1. The use will not be injurious to the public health, safety, morals, and general welfare of the community.
 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 3. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property.
- G. **Possible Action.** The BZA may approve, approve with conditions, deny, or continue the application according to [IC 36-7-4-918.5](#).
- H. **Conditions of Approval.** Reasonable conditions may be imposed on the approval of a development standards variance to protect the public health, safety, and general welfare, ensure adequate public services can be provided, enhance compatibility with adjacent conforming land uses or activities, and protect natural resources.
- I. **Commitments.** The BZA may require the property owner to make written commitments concerning the use or development of the property ([8.17 Written Commitments](#)).
- J. **Resubmittal of Development Standards Variance Application.** The BZA will not consider an application that is substantially similar to a development standards variance application denied within the prior 12 months. The Administrator determines if the new information constitutes a substantive change.
- K. **Effect of Approval.** Approval of a development standards variance does not authorize the development, construction, alteration or moving of any building or structure. The approval authorizes the filing and processing of applications for permits or approvals required, such as approval of a site plan, improvement location permit, building permit, and certificate of occupancy.
- L. **Acknowledgement of Variance.** Approval of a development standards variance may be recorded in an acknowledgement of variance instrument prepared by the Administrator. The



instrument must specify the granted variance and any commitments made or conditions imposed in granting the approval. The applicant must record the instrument in the Office of the County Recorder within 14 days of the approval. The applicant must return a copy of the recorded instrument to the Department within 14 days of recording. New applications for approvals or permits for the property will not be processed until a copy of the recorded instrument is provided to the Department.

- M. **Compliance and Violations.** A permit will not be issued unless it complies with an approved development standards variance, conditions of approval, and commitments. Violations of an approved variance, conditions of approval, and commitments are subject to enforcement procedures.

8.9 Appeals of Administrative Decisions

- A. **Description.** There may be situations where a property owner or another party believes the Administrator made an error in administering this Ordinance. The BZA reviews alleged administrative errors, unless otherwise required by local or Indiana law.

- B. **Initiation.** Anyone disagreeing with a final decision of the Administrator may file an appeal to the BZA. If an appeal filed according to this Article, the Administrator takes no further enforcement action on the matter pending the Board's decision, except for unsafe circumstances presenting an immediate danger to the public.

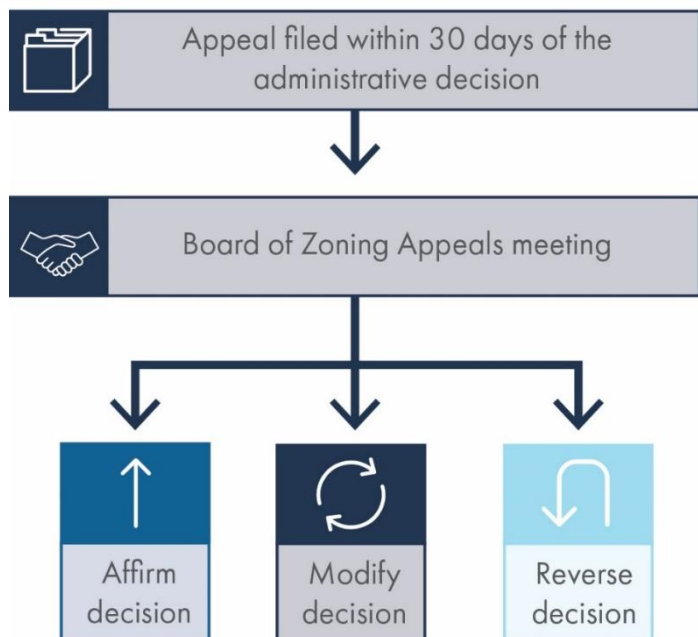
- C. **Decision-makers.** The Board of Zoning Appeals (BZA).

- D. **Submittal Deadline.** Within 30 days of the decision being appealed.

E. Review Process

1. Submittal of Appeal. The applicant submits an Administrative Appeal within 30 days of the decision, along with supporting information, including:
 - a. Original Submittals: Copies of all materials on which the decision being appealed was based.
 - b. Written Decisions: Copies of any written decisions that are the subject of the appeal.
 - c. Appeal Basis: A letter describing the reasons for the appeal noting specific sections of this Ordinance or other applicable standards upon which the appeal is based.

APPEAL OF ADMINISTRATIVE DECISIONS PROCESS





2. **BZA Review.** At a regularly scheduled meeting, the BZA reviews the administrative appeal application and supporting information.
 - a. **Representation:** The applicant or applicant's representative must be present at the meeting to present the appeal.
 - b. **Testimony:** At the meeting, the BZA will consider a report from the Administrator and enforcing party, testimony from the applicant, and testimony from witnesses and interested parties.
 - c. **Procedures:** The conduct of the hearing follows the Rules and Procedures of the BZA.
3. **Decision.** The BZA may affirm, affirm with modifications, reverse, or continue the appeal.
 - a. **Affirm:** If the BZA finds the administrative decision was consistent with the provisions of this Ordinance, the BZA affirms the determination in writing.
 - b. **Affirm with Modifications:** If the BZA determines the proper interpretation is not consistent with the administrative decision nor the interpretation requested by the applicant, the BZA will affirm the determination with modifications in writing.
 - c. **Reverse:** If the BZA finds the administrative decision was inconsistent with the provisions of this Ordinance, the BZA reverses the determination in writing.
 - d. **Continuances:** The appeal may be continued based on a request by the Administrator or applicant, an indecisive vote, or a determination by the BZA that additional information is required before action is taken on the request. The continuing of applications follows Rules and Procedures of the Board.

Approvals Granted by the Administrator

8.10 Administrative Determination

- A. **Description.** The interpretation authority established by this Ordinance recognizes that the provisions of this Ordinance, though detailed, cannot address every specific situation to which they may have to be applied. Many such situations can be addressed by an interpretation of the specific provisions of this Ordinance considering the general and specific purposes for which those provisions have been enacted. The interpretation authority established is an administrative, not legislative, authority. It is not intended to add to or change the essential content of this Ordinance. It is intended only to allow authoritative application of content to specific cases.
- B. **Authority.** The Administrator may render interpretations of the provisions of this Ordinance and of any rule or regulation issued according to it ("Administrative Interpretation" or "Administrative Determination") by written order, subject to the procedures, standards, and limitations of this Ordinance.
- C. **Parties Entitled to Seek Interpretations.** Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation. Interpretations based on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion will not be entertained.
- D. **Procedure for Review and Decision**



1. Application: Applications for interpretations of this Ordinance are filed according to the requirements of this Article.
 2. Action on Application: Within 10 working days of the submission of a completed application, the Administrator provides the applicant a determination in writing, stating the specific precedent, reasons, and analysis upon which the determination is based. Failure of the Administrator to act within 10 working days is deemed a decision denying the application.
 3. Records: Records of all applications for determinations are kept on file in the office of the Administrator and may be recorded in the Office of the County Recorder at the Administrator's discretion.
 4. Appeal: Appeals of interpretations rendered by the Administrator are made according to **8.9 Appeals of Administrative Decisions**.
- E. **Standards for Interpretations.** The following standards are considered when issuing determinations:
1. A use will not be permitted in a zoning district unless evidence is presented that demonstrates:
 - a. The use is consistent with the purpose and intent of the zoning district;
 - b. The use will comply with the general regulations established for the zoning district; and
 - c. The use is like other uses permitted in the zoning district and is more similar to those uses than to uses permitted in a more restrictive zoning district.
 2. If a proposed use is most like a use permitted only as a special exception in the zoning district where it is proposed to be located, the use requires special exception approval according to **8.7 Special Exceptions**.
 3. Effect of Favorable Interpretations. A determination permitting a proposed use does not authorize the establishment of a use nor the development, construction, alteration, or moving of any building or structure, but only authorizes the preparation, filing, and processing of applications for any permits and approvals that may be required by this Ordinance and other ordinances such as a building permit, a certificate of occupancy, a primary or secondary plats, or site plan approval.
 4. Limitations on Interpretations. A determination is limited to the circumstance for which it was issued. It does not authorize any allegedly similar circumstance for which a separate determination is needed, unless otherwise provided for in the determination.

8.11 Improvement Location Permit

An Improvement Location Permit issued by the Administrator is required prior to beginning construction on structures or establishing a use on any land.

- A. Except for variances approved by the Board of Zoning Appeals or an order of a court, an improvement location permit will not be issued for the erection, alteration, or use of any building or structure, or for the use of any land unless it complies with all provisions of this Ordinance and any conditions of approval imposed on the building, structure, or use.
- B. A record of all improvement location permits is kept on file in the office of the Administrator.



- C. Vacant land cannot be used and existing uses of land or buildings cannot be changed to a different class of use unless an improvement location permit is first obtained for the new or changed use. Uses resulting in an increase in parking spaces require an Improvement Location Permit.

8.12 Certificate of Occupancy

No building or structure erected or altered after the date of adoption of this Ordinance can be occupied or used unless a certificate of occupancy has been issued for that building or structure upon completion of construction. A certificate of occupancy constitutes certification that the building, structure, use, parking, landscaping, and all other required improvements fully comply with the provisions of the Ordinance and any conditions imposed on the approval.

8.13 Certificate of Compliance

- A. **Applicability.** An application for a Certificate of Compliance ("CofC") may be filed according to this Article. A CofC may: (i) be required by this Ordinance; (ii) serve as written confirmation by the Administrator that a property or use complies with this Ordinance; or (iii) serve as a written verification of a property's zoning. The Administrator may provide a CofC for:
1. A change in use (e.g., change from residential to commercial use).
 2. Exterior building or site improvements that would not otherwise require an Improvement Location Permit or site plan approval.
 3. Conditions of approval associated with an approval of the BZA, Plan Commission or Legislative Body.
 4. Other similar circumstances as determined by the Administrator.
- B. **Application.** An applicant submits a completed application on forms provided by the Department, or a detailed written request to the Administrator with supporting information. Within 5 days, applications, requests, plans, and specifications filed by an applicant must be checked by the Administrator for compliance with this Ordinance. If the Administrator is satisfied that the property, plans, and information provided in the application conforms to the requirements of this Ordinance and other applicable laws and ordinances, the Administrator issues a Certificate of Compliance to the applicant.
- C. **Effect.** A CofC does not authorize the establishment of a use nor the development, construction, alteration, or moving of any building or structure. A CofC certifies compliance of an existing property, use and/or improvements made according to an approved permit on the date issued. The filing and processing of applications for any permits and approvals may be required by this Ordinance and other ordinances including, a building permit, a certificate of occupancy, primary and secondary plats, or site plan approval, for proposed improvements or uses.
- D. **Limitations.** A CofC is limited only to the circumstance for which it was issued and at the time it was issued. The CofC does not authorize any allegedly similar circumstance requiring a separate review or certificate or a change in circumstances, unless otherwise provided for in the CofC.



- E. **Records of Certificate of Compliance.** Every CofC issued according to this Article is kept on file in the office of the Department. Copies are provided upon request to anyone who has a proprietary or tenancy interest in the building or land affected.

8.14 Sign Permits and Applications

Refer to [4.8\(F\) Sign Permits](#) for sign permit requirements.

8.15 Temporary Use and Events Permits

Refer to [3.8\(E\) Temporary Use Permits](#) for temporary use permit requirements.

Modifications and Commitments

8.16 Modifications

- A. **General.** The Plan Commission or Legislative Body may approve modifications if they do not conflict with the intent and purpose of this Ordinance.
- B. **Authority.**
1. Legislative Body. The Legislative Body may modify or waive construction standards and utility standards under the control of the Legislative Body.
 2. Plan Commission. In connection with a primary plat, secondary plat, or site plan, the Plan Commission may modify or waive the provisions in [CHAPTER 5: DESIGN STANDARDS](#), [CHAPTER 6: RURAL CENTER IMPROVEMENT STANDARDS](#), and [CHAPTER 7: SUBDIVISION REGULATIONS](#).
 3. Board of Zoning Appeals. The Board of Zoning Appeals may grant a development standards variance ([8.8 Development Standards Variance](#)) for the standards prescribed in this Ordinance other than [CHAPTER 7: SUBDIVISION REGULATIONS](#).
- C. **Procedures**
1. The applicant submits a written petition for modification with the plat or site plan application. The petition must clearly state the conditions requiring the modification and provide proposed findings of fact for the approval.
 2. If modifications are required for administrative, or minor subdivisions, the modification must be approved by the Plan Commission prior to approval of the subdivision. If modifications require Legislative Body approval, the modification must be approved by the Legislative Body prior to subdivision approval.
 3. For items where final approval has been delegated to staff, the Administrator has the authority to grant modifications. In all other circumstances, the Plan Commission may grant a modification after a public hearing.



4. In granting the modification, the Plan Commission or Administrator may impose conditions of approval necessary to secure the purposes of this article. The applicant retains the right to petition the Board of Zoning Appeals for a development standards variance as provided in [8.8 Development Standards Variance](#).

D. **Decision Criteria.** When evaluating petitions for modifications, the Plan Commission or Legislative Body consider whether:

1. The proposed modification is not injurious to the public safety, health, or welfare,
2. The proposed modification results in a development that enhances the use or value of area properties,
3. The strict application of the Ordinance standard results in a development less desirable when compared to the proposed development,
4. The proposed development is consistent or compatible with other development located in the area, and
5. The modification is consistent with the purpose and intent of the Comprehensive Plan and this Ordinance.

E. **Conditional Approval**

In approving a modification, the Plan Commission or Legislative Body may require conditions of approval to comply with requirements of this Ordinance. The Plan Commission or Legislative Body may require written commitments ([8.17 Written Commitments](#)) before taking formal action on the application. If written commitments are part of the approval, they must be recorded per [8.17\(C\) Recording](#). Further approvals or permits for the project will not be granted until the recorded written commitments are provided to the Department.

8.17 Written Commitments

- A. **Applicability.** An applicant may be required to make a commitment to the Plan Commission, BZA, or Administrator as a condition of approval of a rezoning proposal, a primary plat, a site plan, a plat vacation, special exception, or variance.
- B. **Form. Commitments must be in writing, in a recordable form approved by the Legislative Body, and signed by the owners of the real estate.**
- C. **Expiration.** A commitment may contain terms stating the commitment automatically terminates: (i) if the property's zoning classification is changed; (ii) if the commitment's use is changed; or (iii) otherwise according to the rules of procedure of the Plan Commission or BZA. If not otherwise provided, commitments remain in effect until otherwise modified or terminated per [8.16 Modifications](#).
- D. **Recording.** The applicant must record the commitments in Office of the County Recorder within 14 days of the approval of the application. The applicant must return a copy of the recorded commitments to the Department within 14 days of recording. New applications for approvals or



permits for the property will not be processed until a copy of the recorded commitments is provided to the Department.

- E. **Enforcement.** The Plan Commission, BZA, Legislative Body, owners of real estate adjoining the subject real estate, all owners of real estate within the area included in the application who were not applicants for approval, and others specifically designated in the commitments are entitled to enforce the commitments according to [IC 36-7-4-1015](#), or as otherwise provided by applicable law.
- F. **Modification of Commitments.** A commitment may be modified or terminated only by a decision of the Plan Commission, BZA, or Legislative Body to which the commitment was made. The decision is made at a public hearing by the Plan Commission, BZA, or Legislative Body after notice has been provided according to the Rules of Procedure. The modification or termination of the commitments is not effective until:
1. Written in a form approved by the County or Town Attorney, as applicable;
 2. Approved by the Plan Commission, BZA, or Legislative Body;
 3. Executed by the current property owner of the real estate; and,
 4. Recorded in Office of the County Recorder. The applicant is responsible for recording the commitments per [8.17\(C\) Recording](#) above.



Chapter 9

ENFORCEMENT

Actions taken for violations of this Ordinance

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9.1 Enforcement Authority

The Administrator, Legislative Body, Plan Commission, BZA, Building Administrator, and their delegates are designated to enforce the provisions, regulations, and intent of this Ordinance, according to ***IC 36-7-4-100***, et. seq., as amended.

9.2 Complaints Regarding Violations

When the Administrator receives a complaint alleging a violation of this Ordinance or has reason to suspect a violation is occurring, the Administrator investigates the complaint or suspicion and acts as warranted.

9.3 Persons Liable

The owner or occupant of any building, structure, land, or other person creating or maintaining a situation contrary to the requirements of this Ordinance is responsible for the violation, the penalties, and is subject to enforcement.

9.4 Right of Entry

The Administrator may enter any premises at a reasonable time to inspect all buildings, structures, or premises located within the jurisdiction of this Ordinance to determine compliance with the provisions of this Ordinance. All inspections are subject to the following standards and conditions.

- A. The Administrator must furnish the owner, tenant, or occupant of the building, structure, or premises under inspection enough identification and information to demonstrate the person is a representative of the County and the purpose of the inspection.
- B. The Administrator may apply to any court of competent jurisdiction for a research warrant or other legal process for the purpose of securing entry to any premises if the owner, tenant, or occupant refuses to grant entry.

9.5 Violation

- A. Failure to comply with the terms and provisions of the Rush County Unified Development Ordinance or any decision or ruling of the Plan Commission, Board of Zoning Appeals, or Legislative Body on any zoning matter is a violation under this chapter.
- B. Violation of any of the provisions of this Ordinance is considered a common nuisance and may be abated as nuisances are abated under existing law. Violations may include:
 - 1. The erection, demolition, or conversion of any structure, building, or sign without the required approvals,
 - 2. The use of any land or premises used in violation of any provisions of this Ordinance, or
 - 3. Failure to comply with any condition, requirement, or commitment established with the approval of a variance, special exception, site plan, planned unit development, certificate of compliance, or other development approval under this Ordinance.



- C. Any person who violates or resists the enforcement of any provisions of this Ordinance is subject to judgment for each offense. Each day a violation exists constitutes a separate offense. A violation exists until corrected. Correction may include:
1. Stopping an unlawful practice;
 2. Removal of a building, structure, or improvement;
 3. Faithful or otherwise-approved restoration or replacement of a building, structure, site, or natural feature;
 4. Any other remedy specified in this Ordinance; and/or
 5. Other remedy acceptable to the County or Town.

9.6 Enforcement Options

- A. **Options for Enforcement.** The following options are available to enforce this Ordinance:

1. Issue a citation to a person alleged to have committed a violation of this Ordinance. The citation may be processed through the County Circuit Court, according to [IC 33-36](#) and [9.8 Citations for Zoning Violations](#).
2. Issue a stop work order under [9.9 Stop Work Orders](#).
3. Enter onto property and take action to bring that property into compliance with this Ordinance, according to [IC 36-1-6-2](#) and [9.10 Municipal Action to Enforce Compliance](#) or [9.11 Correcting Immediate Public Risk Violations](#).
4. Initiate enforcement through an administrative proceeding before the BZA, according to [IC 36-1-6-9](#) and [9.11 Correcting Immediate Public Risk Violations](#).
5. To bring a civil action in the Rush County Circuit Court, according to [IC 34-28-5-1](#) and [9.12 Administrative Enforcement](#).

ORDINANCE ENFORCEMENT OPTIONS



Issue Citation

OR



Issue Stop Work Order

OR



Municipal Action to Enforce Compliance

OR



Correct Immediate Public Risk

OR



Initiate Administrative Proceeding with BZA

OR



Civil Action

- B. **Exercise of Options.** The exercise of the options specified in this chapter, including the imposition of any penalties for an Ordinance violation, are not prerequisites for taking any other action against an alleged violator of this Ordinance, nor do they prohibit the County or Town from taking any further action.



- C. **Warnings.** Before exercising any of the options under this section, the Administrator may issue a warning to a person alleged to be in violation of this Ordinance and give the person at least 10 days but not more than 60 days to remedy the alleged violation.

9.7 Penalty Schedule

- A. **Maximum Penalties.** According to [IC 36-1-3-8](#) and [IC 36-7-4-1018](#), the maximum civil penalty for the first violation of a provision of this Ordinance is a fine of \$2,500. The maximum civil penalty for the second or subsequent violation of a provision of this Ordinance (other than a provision that regulates parking) is a fine of \$7,500.
- B. **Penalty Schedule.** According to [IC 33-36-3-1\(a\)](#), the Legislative Body designates the following schedule of Ordinance provisions subject to the jurisdiction of the County Circuit Court. The first and second (or subsequent) admission of the same violation within a 12-month period is subject to the fixed civil penalty described in this section.

Ordinance Violation	Fine for First violation	Fine for Subsequent violation
Illegal land use	\$1,000	\$2,000
Alteration of land without ILP	\$200	\$400
Failure to comply with written commitments	\$500	\$1,000
Failure to comply with certificate of compliance	\$250	\$500
Failure to comply with development standards	\$100	\$200
Alteration of construction drawings, methods, and/or material without notification to the Administrator	\$100	\$250
Construction without a permit	\$300	\$500
Failure to comply with stop work order	\$2,500	\$5,000
Continuing to work without inspection or approvals	\$100	\$250
Failure to allow entry per <u>9.4 Right-of-Entry</u>	\$100	\$250
Occupying dwelling (or portion under construction) without inspection and approval	\$250	\$500
Using a non-licensed plumber (except for homeowner performing work)	\$250	\$500
Using swimming pool without inspection or approvals	\$250	\$500
Work not ready for scheduled inspections	\$50	\$100
Construction of driveway without a driveway permit	\$50	\$100
Permanent signage without permit	\$250	\$500
Parking on an unimproved surface	\$50	\$100
Temporary use without permit	\$500	\$1,000
Any other violation of this Ordinance	\$100	\$200



- C. **Subsequent Violations.** The penalties listed above for subsequent violations apply whenever the responsible party commits an additional violation of the same provision within 12 months of the first violation, regardless of whether the additional violation is on the same property as the first violation.

9.8 Citations for Zoning Violations

- A. **Notice to Alleged Violator.** An enforcement official may issue a notice citation for a violation of this Ordinance. The enforcement official must advise the alleged violator that the violation may be admitted and, if admitted, is subject to payment of the fixed civil penalty listed in 9.7(B). A copy of the citation must be filed with the County Circuit Court no later than the next business day following its issuance. Failure to file a copy of the citation does not affect its validity or the alleged violator's option to admit the violation and pay the fixed civil penalty.
- B. **Form of Citation.** Citations must be numbered and contain the following information:
1. The date and time issued;
 2. The specific Ordinance violation for which the citation is issued;
 3. The amount of the civil penalty fixed for that violation under 9.7(B);
 4. The date and location of the violation;
 5. The name and address of the person alleged to have committed the violation, if known or readily obtainable;
 6. The signature of the enforcement official issuing the citation or the enforcement official's name (and badge number, if any) in computer generated form; and
 7. The duty of the alleged violator to appear.
- C. **Service of Citation.** A citation is served by the enforcement official upon the alleged violator. If the alleged violator is present, the citation must be delivered personally to the alleged violator. If the alleged violator is not present and the violation involves specific premises, it must be served on the owner or other person in possession of the premises either in person or by first class mail.
- D. **Duty to Appear.** Any person receiving a citation must appear in person or by attorney at the County Circuit Court, to admit or deny the alleged violation at the time prescribed by the County Circuit Court Administrator. Payment of the civil penalty fixed under 9.7(B) within 10 days of the issue date of the citation fulfills the duty to appear in person or by attorney and is deemed an admission of the violation.
- E. **Procedure on Admission of Violation.** If a violation is admitted to the County Circuit Court, the civil penalty fixed under 9.7(B) for the violation must be paid to the County or Town in a manner authorized by the violations clerk. Whenever a person assessed a civil penalty fails to mail or deliver payment to the County Court within 10 days of the date the citation is issued, the violations clerk adds a late charge in the amount of \$25. Late payments are accepted by the violations clerk only with the consent of the Administrator if the violation has been referred to the Administrator under subsection (F).



F. **Procedure on Denial of Violation, Failure to Appear, or Failure to Pay.** If a person served a citation:

- Appears at the County Circuit Court and denies the alleged violation;
 - Fails to appear and admit or deny the alleged violation within 10 days of the issuance of the citation; or
 - Fails to pay the fixed civil penalty within 10 days after admitting the violation;
1. The violations clerk reports the circumstances to the Administrator to begin appropriate administrative or judicial proceedings against the person.
 2. Limitations. The fixed civil penalties specified in **9.7(B)** apply only to violations admitted as provided in this section and are considered offers in compromise. If administrative or judicial proceedings are initiated for an alleged violation, the maximum penalty specified for the violation in **9.7(A)** is applicable to the violation.

9.9 Stop Work Orders

- A. **Occurrence of Violation.** If the Administrator finds that a violation is occurring or has occurred on a construction site, the Administrator may place a stop work order on any land/property improvement process.
- B. **Procedure.** Stop work orders must be a written letter stating the nature of the violation and requiring the work and any other illegal activity to stop immediately until the matter is resolved. If someone other than the property owner occupies the property, a copy of the stop work order must be provided to the occupant. This letter must be posted in a conspicuous place and be delivered or mailed to the property owner.
- C. **Reasons.** Reasons for a stop work order may include:
1. Not complying with any element of the development standards or any regulation of the Ordinance.
 2. Not obtaining a permit or approval prior to the construction or installation of any improvement requiring a permit or approval by this Ordinance.
 3. Not completing structures or other site improvements consistent with any approved improvement location permit, variance, special exception, site plan, or other approval.
 4. Not meeting the commitments imposed upon the approval of a special exception, variance, rezoning, site plan, subdivision plat, or other approval, whether recorded or not.
 5. Not meeting the conditions of a PUD Ordinance or other rezoning, or any written commitment imposed upon an approval, whether recorded or not.
 6. Illegal use or expansion of use of structures, or structures and land in combination.
- D. **Appeals.** Any stop work order may be appealed to the BZA. Upon the resolution of the violations to the satisfaction of the Administrator or the BZA, the stop work order is lifted and construction activity may resume.



9.10 Action to Enforce Compliance

- A. **Entry into Property.** According to IC 36-1-6-2(a), if violation of a provision of this Ordinance exists on real property, the Administrator may have employees or contractors of the County or Town enter the property and take appropriate action to bring the property into compliance with the Ordinance.
- B. **Notice Requirement.** Before taking action to bring a property into compliance, anyone holding a substantial interest in the property must be given at least 10 days but not more than 60 days to bring the property into compliance. Notice must be served on such persons in person or by first class mail. In addition, continuous enforcement orders (as defined in IC 36-7-9-2) may be enforced, and liens may be assessed, without the need for additional notice.
- C. **Expenses Constitute a Lien.** Whenever the Administrator takes action to bring compliance under this section, the resulting expenses incurred by the County or Town constitute a lien against the property. The lien attaches when notice of the lien is recorded in the Office of the Rush County Recorder. The lien is superior to all other liens except liens for taxes and does not exceed:
1. \$10,000 for real property that: (a) contains one or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings, or (b) is unimproved; or
 2. \$20,000 for all other real property not described in subsection (1).
- D. **Issuance of Bill to Owner.** According to IC 36-1-6-2(b), the Administrator may issue a bill to the owner of the real property for all expenses incurred by the County or Town in bringing the property into compliance, including administrative costs and removal costs. According to IC 36-1-6-2(c), a bill issued under this section is delinquent if the owner of the property fails to pay the bill to the County Clerk or Administrator within 30 days after the bill is issued.
- E. **Collection of Fees and Penalties.** According to IC 36-1-6-2(d), the County Clerk or Administrator's office may prepare a list of delinquent fees and penalties enforceable under this section, including:
1. The names of the owners of each lot or parcel of real property on which fees or penalties are delinquent;
 2. A description of the premises, as shown on the records of the Rush County Auditor; and
 3. The amount of the delinquent fees or penalties.
- F. **Preparation and Recording of Instrument.** The County Clerk or Administrator's office may then prepare an instrument for each lot or parcel of real property on which fees or penalties are delinquent. The instrument is recorded with the Rush County Recorder, who charges a recording fee under the fee schedule established in IC 36-7-2-10.
- G. **Placement of Lien on Tax Duplicate.** According to IC 36-1-6-2(f), the amount of a lien is placed on the tax duplicate by the Rush County Auditor. The total amount, including any accrued interest, is collected in the same manner as delinquent taxes are collected and is disbursed to the general fund of the County or Town.



- H. **Enforcement of Lien against Subsequent Owner.** According to IC 36-1-6-2(g), a fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the County must notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than 15 days after the date of the notice. If payment is not received within 180 days after the date of the notice, the amount may be considered a bad debt loss.
- I. **Release of Lien.** According to IC 36-1-6-2(h), the County or Town releases:
1. Liens filed with the Rush County Recorder after the recorded date of conveyance of the property; and
 2. Delinquent fees incurred by the seller; upon receipt of a written demand from the purchaser or a representative of the title insurance company or agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.
- J. **Removal of Lien from Tax Duplicate.** According to IC 36-1-6-2(i), the Rush County Auditor removes the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner, upon receipt of a copy of the written demand under Section I.

9.11 Correcting Immediate Public Risk Violations

- A. **General Requirements.** According to IC 36-1-6-2(a), if a condition violating a provision of this Ordinance presents an immediate risk to public health, safety, or welfare or to property, the Administrator may opt to have employees or contractors of the County or Town enter the property and take immediate action to bring the property into compliance. The Administrator is not required to provide prior notice to the property owner or other person responsible for the violation.
- B. **Immediate Public Risks.** Immediate public risk violations may include:
1. Obstructions. Signs, structures, landscaping, or other materials placed in an easement, sight visibility triangle, or rights-of-way in violation of this Ordinance;
 2. Distractions. Any sign, structure, landscaping, or other material located on private property that serves to distract or inhibit operators of motor vehicles on adjacent public ways, pedestrians, or other members of the public; and
 3. Other Threats. Any other immediate threat to public welfare as determined by the Administrator or the BZA.
- C. **Seizure of Materials.** Any sign, structure, landscaping, or other material constituting an immediate public risk violation may be seized by the Administrator in a manner resulting in the least damage to the material or the property on which it is located.
- D. **Notice of Violation.** The Administrator provides notice to the owner of the property, as listed in the records of the Rush County Auditor, where the violation was located, or any discernible



appropriate owner of materials placed within a public way in violation of this Ordinance, by placing a notice in a conspicuous place on the property and mailing a letter to that property owner. All notice letters are sent to the property owner via certified mail within 24 hours of the seizure. Any notice posted on the property must be posted at the time the material is seized. The letter and posted notice must include:

1. A description of the materials seized;
 2. A citation of the sections of this Ordinance that were violated and the characteristics of the violation that posed an immediate threat to public welfare;
 3. The address and phone number of the Administrator and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized items; and
 4. Instructions describing how, where, and when the seized items may be claimed.
- E. **Storage and Retrieval of Seized Materials.** The Administrator stores any sign, structure, landscape materials or other items seized in a secure location for a period of no less than 30 days from the date notice was mailed to the property owner. The property owner may claim the seized property following its seizure upon the payment of the fine specified in [*9.7 Penalty Schedule*](#) and the establishment of a Memorandum of Agreement between the property owner and Administrator regarding the future use of the item in a manner consistent with this Ordinance.
- F. **Liability.** Neither the Administrator, the County or Town, nor any other official or entity involved in the seizure is liable for any damage to the seized materials or the property from which they were taken.

9.12 Administrative Enforcement

- A. **Provisions that Restrict or Prohibit Actions Harmful to the Land, Air, or Water.** According to [*IC 36-1-6-9*](#), the County or Town may opt to enforce any provision of this Ordinance that restricts or prohibits actions harmful to the land, air, or water, through an administrative proceeding before the BZA. The BZA must find that the violation has been proved by a preponderance of the evidence. Upon finding a violation, the BZA may assess a civil penalty within the limits in [*9.7 Penalty Schedule*](#).
- B. **Appeal to Court.** According to [*IC 36-1-6-9\(e\)*](#), a person who is assessed a civil penalty under this section may appeal the BZA's order imposing the penalty to the Rush Circuit or Superior Court. An appeal under this section must be filed not more than 60 days after the date on which the BZA enters the order.
- C. **Payment of Civil Penalty.** Unless a person who is assessed a civil penalty under this section files an appeal, the person must pay the penalty to the County or Town in a manner authorized by the County Clerk or Administrator. Whenever a person liable for a civil penalty under this section fails to deliver payment to the County or Town within 75 days after the date on which the administrative body enters the order imposing the penalty, the County Clerk reports the circumstances to the Administrator for the initiation of appropriate judicial proceedings against the person.



- D. **Effect of Administrative Process.** An Ordinance violation processed under this section does not constitute a judgment for the purposes of IC 33-37. An ordinance violation costs fee may not be collected from the defendant under IC 33-37-4.

9.13 Enforcement through Judicial Proceedings

- A. **Initiation.** According to IC 36-7-4-1014, the Administrator or the BZA may bring a civil action to enforce a provision of this Ordinance, or any conditions imposed by the Plan Commission or BZA under the Area Planning Law. The action is brought in the name of the Administrator or the BZA as plaintiff. According to IC 34-28-5-1, the plaintiff need not prove this Ordinance is valid, unless its validity is controverted by affidavit. The plaintiff may invoke any legal, equitable, or special remedy in an action brought under this section. Actions must be filed in the Rush County Circuit Court.
- B. **Procedure in General.** An action to enforce a provision of this Ordinance must be brought within 2 years after the alleged violation occurred. Proceedings initiated under this section are conducted according to the Indiana Rules of Trial Procedure. The plaintiff must prove the commission of a violation by a preponderance of the evidence. The complaint and summons described in IC 9-30-3-6 (without the provisions relating to the operation of a vehicle) may be used in any Ordinance enforcement case.
- C. **Right to Trial.** A person charged with an Ordinance violation is entitled to a court trial as provided by law unless the person waives the right to trial and enters an admission of the violation.
- D. **Judgment.** A judgment may be entered against the defendant upon a finding by the court that the defendant violated this Ordinance. A judgment up to the amount requested in the complaint may be entered for the violation. A defendant against whom a judgment for a violation is entered is liable for costs. Costs are part of the judgment and may not be suspended; however, whenever a judgment is entered against a person for the commission of 2 or more ordinance violations, the court may waive the person's liability for costs for all but one of the violations, as specified by the court.

9.14 Revocation of Development Review Approvals

A. Authority

1. The Administrator may, according to this section, revoke any approval granted by an appointed body at a previous public hearing; including, but not limited to any development review approval, variance, special exception, site plan review or any other approval, under the following circumstances:
 - a. It is determined that the approval was obtained without adhering to the applicable procedures within the appropriate section of this Ordinance, including but not limited to:
 - Failure to properly notify adjoining property owners as required by statute;
 - Failure to demonstrate consent of owners of included properties as required by statute;
 - Any other failure to satisfy a statutory provision of the applicable approval procedure as specified within this Ordinance.



- b. It is determined that the approval was obtained based on factual errors in the submittal.
 - c. It is determined that the approval was obtained based on falsified information.
- 2. The Administrator may revoke any approval granted administratively, including but not limited to any improvement location permit, sign permit, or certificate of occupancy.
- B. **Appeal.** Any party aggrieved by the revocation of any approval by the Administrator may appeal the decision.
 - 1. The board or body responsible for the applicable approval and the original hearing conducts any public hearing related to any proposed revocation according to the Rules of Procedure applicable to that board or body.
 - 2. Any revocation of an approval granted administratively may be appealed to the BZA according to ***8.9 Appeals of Administrative Decisions***.
- C. **Result of Revocation.** No person may continue to make use of land or buildings in the manner authorized by any approval after the approval has been revoked.
- D. **Records.** A record of any decision to revoke any review is added to the original petition file.

9.15 Common Nuisance

According to ***IC 36-7-4-1012 et seq.*** any structure, land, or premises found to be in violation of this Ordinance is declared to be common nuisance. Any owner or possessor of the structure, land, or premises is, in addition to any other fine or civil penalty, liable for maintaining a common nuisance.

9.16 Private Remedies Reserved

Nothing in this chapter should be interpreted to prevent any person entitled to relief in law or equity by reason of a violation of the provisions of this Ordinance from bringing an appropriate action to secure relief.



Chapter 10

DEFINITIONS

Terms used in the UDO with specific meanings

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10.1 Interpretation of Terms or Words

The language of this ordinance is interpreted according to the following relations:

- A. The word “person” includes a firm, association, organization, partnership, trust, limited liability company, corporation, or other legal entity, as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, in each case, if the context so requires.
- C. The word “must” is mandatory, the word “may” is permissive.
- D. The words “used” or “occupied” include the words “intended”, “designed”, “constructed”, “altered”, “arranged” to be used or occupied.
- E. The word “lot” includes the words “plot”, “tract”, or “parcel.”
- F. Where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, or “either/or”, the conjunction must be interpreted as follows:
 - 1. “And” indicates that all the connected items, conditions, provisions, or events must apply.
 - 2. “Or” indicates that connected items, conditions, provisions, or events may apply singly or in any combination.
 - 3. “Either/Or” indicates that all the connected items, conditions, provisions, or events must apply singly but not in combination.
- G. The terms “more intensive district” and “less intensive district” are terms used herein to describe relationships between zoning districts based on the permitted uses within each district.
 - 1. “More restrictive district” must be synonymous with the term “less intensive district” and the term “less restrictive district” must be synonymous with the term “more intensive district”.
 - 2. A “more intense district” means one which permits more uses or the same uses at a greater density, progressing from Agricultural, to Residential, to Business, to Industrial, in the sequence listed within each group of districts from least intensive to the most intensive.

10.2 Definitions

The following terms or words used in the text of this ordinance have the following meanings, unless contrary meaning is (i) required by the context of a particular sentence or phrase or (ii) specifically prescribed in a particular sentence or phrase:

Aa

ABUT: To physically touch or border upon; or to share a common property line.

ACCESS: A way or means of approach to provide physical entrance to a property.



ACCESSORY STRUCTURE, BUILDING, OR USE: A subordinate building, structure, or use that is:

1. Customarily associated with the primary structure, building, and use,
2. Appropriately and clearly incidental and subordinate in use, size, bulk, area, and height to the primary structure, building, and use, and
3. Located on the same lot as the primary building, structure, or use.

ADDITION: A structural modification to the original structure after completion of the original.

ADMINISTRATOR: The Director of the Rush County Planning Department or the Director's agent.

AGRICULTURE: The production of crops and livestock useful to man and the harvesting, storage and primary processing of agricultural products produced by the agricultural enterprise. Agriculture includes the incidental storage of farm vehicles, farm equipment, farm materials, etc., associated with the agricultural enterprise. Agricultural crop production includes plants raised for human food, fiber, animal feed and forage; tree and vine crops, and other field crops. Also included are extensive horticultural enterprises where a product is raised for sale. Agricultural livestock production includes the raising, breeding, and maintaining of food animals such as cattle, swine, sheep, goats, fowl, fish, and fur-bearing animals raised for their pelt and apiaries.

AISE: The traveled way where cars enter and depart parking spaces.

ALLEY: A public right-of-way (other than a street, road, crosswalk, or easement) that provides secondary access to abutting property.

AMENITY: A natural or man-made feature which enhances a property.

APPLICANT. Any person, firm, partnership, joint venture, association, corporation, group, or organization who may apply for any permit, approval or decision required by this Ordinance.

AWNING: A roof-like cover, often of fabric, metal, or glass which protects from the weather or is a decorative embellishment, is attached to a structure, and projects from a wall or roof of a structure over a window, walk, door, or a similar feature.

Bb

BASEMENT: That portion of a building with an interior vertical height clearance of not less than 78 inches and having one-half or more of its interior vertical height clearance below grade level.

BERM. A man-made, formed earth mound used for landscaping, screening, and buffering purposes.

BLOCK. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

BOARD: The Board of Zoning Appeals.

BUFFER. That portion of a lot set aside with adequate natural or planted vegetation to accomplish visual screening to separate a potentially incompatible use from an abutting use.

BUILDING CODE. The Indiana State Building Code, as amended.

BUILDING HEIGHT, MAXIMUM: See **MAXIMUM BUILDING HEIGHT.**

BUILDING LINE, FRONT: A line parallel to the front lot line which extends from the outside corners of the front façade of the principal building and terminates at the point of contact with any side lot line or street side lot line.



BUILDING LINE, REAR: A line parallel to any rear lot line which extends from the outside corners of the rear façade of the principal building and terminates at the point of contact with any side lot line.

BUILDING PERMIT: A permit issued by the Planning Department in compliance with the terms and provisions of the Building Code.

BUILDING, NONCONFORMING: A legally existing building which fails to comply with the regulations set forth in this Ordinance applicable to the district in which such building is located.

BUILDING: A structure built for the support, enclosure, shelter, or protection of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land.

BZA: The Board of Zoning Appeals of Rush County, Indiana.

Cc

CALIPER. A standard trunk diameter measurement for trees, taken 6 inches above the finished grade for trees with a diameter of 4 inches or less, and 12 inches above the finished grade for larger sizes.

CERTIFICATE OF COMPLIANCE. A permit issued by the Administrator indicating the use, the building, or land conforms with this Ordinance, or that a variance has been approved.

CLEAN RECORD AWARD: Points are earned by an applicant who has operated a CFO in Indiana for at least 5 years without any IDEM violations during the previous 5-year period.

COMMISSION: The Rush County Area Plan Commission.

COMMON AREA. An area held in common ownership by an owners' association, not located in rights-of-way, and not located on individually owned private property.

COMPREHENSIVE PLAN: The Comprehensive Plan approved by the Legislative Body having jurisdictional control over the subject property.

CONDITION OF APPROVAL: A condition placed on the approval of a rezone, plat, site plan, or variance by the approving body (Plan Commission, BZA, Administrator). The condition is reasonably necessary to satisfy the requirements specified in this Ordinance (for example, conditioning approval of a site plan on the modification of a landscape plan to meet the requirements of this Ordinance). Conditions of approval are not recorded and are typically satisfied by modifying the plans submitted for approval.

CONSTRUCTION STANDARDS: The standards and specifications governing the construction of improvements within the County or Town, as applicable.

CONSTRUCTION: Work done which is beyond the preparation stage and into that stage where the changes and additions are made permanent.

CONTAMINANT: Any solid, semisolid, liquid, or gaseous matter, or any odor, radioactive material, pollutant (as defined in the Federal Water Pollution Control Act (33 U.S.C. 251 et seq., as amended), hazardous waste (as defined by the Federal Solid Waste Disposal Act (42 U.S.C. 690 et seq as amended), any constituent of a hazardous waste, or any combination of the above, that (a) is injurious to human health, plant or animal life, or property; (b) interferes unreasonably with the enjoyment of life or property; or (c) is otherwise violative of [IC3-7](#) or any rules adopted thereunder. Examples of contaminants include fuels, oils, lubricants, anti-freeze, hydraulic fluids, cleaning solvents, and petroleum products.

CONTRACTOR: A person or entity that agrees and becomes obligated to furnish materials or professional services for a price.



COUNTY COMMISSIONERS: The Rush County Board of Commissioners.

COUNTY: Rush County, Indiana.

COVENANT: A private legal restriction on the use of land contained in the deed, plat, or other legal documents pertaining to the property.

CUL-DE-SAC: See **STREET, CUL-DE-SAC.**

Dd

DECK: An open structure at least 12 inches above the ground which may be attached to a building and is commonly used for outdoor leisure activities.

DENSITY: A unit of measurement representing the number of units per acre of land on the aggregate total land to be developed.

DENSITY, GROSS: A unit of measurement representing the number of units per acre of land on the aggregate total land to be developed.

DEPARTMENT: The Rush County Planning Department.

DEVELOPER: A person improving or proposing to improve a parcel of land who may or may not be the property owner.

DEVELOPMENT: Any constructed change to improved or unimproved real estate, including, but not limited to, buildings, structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DISPOSAL: The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water that the solid waste or hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters. (see [IC 13-7-1](#)).

DISTRICT: An area within the jurisdiction of Plan Commission with uniform regulations governing the use, height, area, size, and intensity of uses, of buildings, and land.

DRIVE: For the purposes of this Ordinance, a drive is the same as street.

DRIVEWAY: A privately owned driving surface which provides access to a lot, or to a use located on such lot, from a street and runs generally perpendicular to property lines.

DWELLING UNIT: Any living unit of one room, or rooms connected together to be occupied year-round by an economically independent unit of humanity, such as a bachelor, family, etc., as a place of abode or residence. This unit usually contains a sleeping area, cooking, and sanitary facilities. Occasionally (as in boarding houses), the cooking and/or sanitary facilities are shared with other people who are not members of the same economic unit. Mobile homes are included if it has wheels and axle removed and is placed on a permanent foundation.

Ee

EASEMENT: Authorization by a property owner allowing another person use of a designated area of the property for a specified purpose.



Ff

FARM: An area used for agricultural operations, including truck gardening, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry. A farm is 10 acres or more.

FENCE: Any artificially constructed barrier of one or more materials erected to enclose or screen areas of land.

FIRE DEPARTMENT: The fire department serving the jurisdiction in which the subject property is located.

FLASHING: Operation which creates flashing light, change in light intensity, color or copy, or intermittent light impulses more frequently than one every 10 seconds. Electronic Message Centers do not constitute flashing signs; and a sign which creates intermittent light impulses which convey the time of day and/or temperature only do not constitute a flashing sign.

FLOOR AREA, GROSS: The total area, computed on a horizontal plane inclusive of finished basements, attached garages, entrances, hallways, stairways, and other enclosed areas, but exclusive of unfinished cellars and attics.

FLOOR AREA, USEABLE: The floor area within a building which is designed for occupancy and use, excluding entrances, hallways, stairways, and storage areas.

FRONTAGE: The line of contact of an abutting property with the street right-of-way along a front lot line which allows unobstructed, direct access to the property.

FRONTAGE STREET: See **STREET, FRONTAGE.**

Gg

GARBAGE: All putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials. (For reference see [*IC 13-7-1*](#)).

GRADE: The average level of the finished surface on the ground adjacent to the exterior walls of the building or structure.

GRADE, NATURAL: The elevation of the undisturbed natural surface of the ground prior to any excavation or fill.

Hh

HAZARDOUS WASTE: A solid waste that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may: (a) cause or significantly contribute to an increase in mortality or increase in serious irreversible, or incapacitating reversible, illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. (For reference see [*IC 13-7-1*](#)).

HEIGHT, BUILDING, MAXIMUM: See **MAXIMUM BUILDING HEIGHT.**

HOME BUSINESS: An occupation or business activity carried on within a legally established dwelling unit by a resident of the dwelling per [*4.2\(G\) Home Businesses.*](#)

HOUSEHOLD: One or more persons, each related to the other by blood, marriage or adoption, or a group not all related, but maintaining a common household in a dwelling unit, but excluding groups



occupying hotels, motels, clubs, or dormitories.

HOUSEHOLD PETS. Companion animals commonly kept as pets, whose primary value is personal enjoyment including, but not limited to, dogs, cats, birds, fish, turtles, rodents (bred, such as gerbils, rabbits, hamsters, or guinea pigs) and lizards (non-poisonous). Wild, vicious, or exotic animals are not considered household pets.

Ii

IMPROVEMENT: Any building, structure, parking facility, fence, wall, work of art, underground utility service, land disturbing activity, or other object constituting development, a physical alteration of real property, or any part of such alteration.

IMPROVEMENT LOCATION PERMIT (ILP): A document issued under the provisions of this Ordinance permitting a person to erect, construct, enlarge, alter, or convert any building or structure within its jurisdiction, or to change the use or condition of the land.

INCIDENTAL: A minor occurrence or condition which is customarily associated with a permitted use and is likely to ensue from normal operations.

INDIANA CODE. The latest edition with any amending supplements of the Indiana Statutes Code Edition (abbreviated as IC herein) which codifies all Indiana statutes for reference purposes.

INOPERABLE MOTOR VEHICLE: Any automobile, truck, semi trailer, school bus, or recreational vehicle that lacks a motor, drive train, wheels, axles, or a transmission.

INTEGRATED CENTER: An area of development (commercial, industrial, or mixed-use) of one or more lots, comprised of:

1. Two or more individual, non-related and separately operated uses in one building sharing common site facilities;
2. One or more buildings containing non-related and separately operated uses occupying a common site, utilizing one or more common site facilities, such as driveway entrances, parking areas, driving lanes, maintenance, and similar common services; or
3. One or more buildings containing non-related and separately operated uses occupying individual sites, which are interrelated by utilizing one or more common facilities, such as driveway entrances, internal public or private street network developed in accordance with an approved plat, parking areas, maintenance, or other services.

INTERSECTION: A crossing or meeting of 2 streets, or a street and a driveway.

Jj

Kk

Li

LAND AREA: The total horizontal area within the project boundaries.

LANE: for the purposes of this ordinance, a lane is the same as a street.



LEGISLATIVE BODY: Depending upon the jurisdictional location of the project, the legislative body is Rush County Commissioners, the Town Council of Carthage or the Town Council of Glenwood.

LOADING BERTH: The off-street area required for the receipt or distribution by vehicles of materials or merchandise.

LOT: A piece, parcel, plot, or tract of land designated by its owner or developer to be used, developed, or built upon as a unit under single ownership or control and may consist of:

1. A single lot of record; or
2. A portion of a lot of record; or
3. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

A lot may or may not coincide with a lot of record. For purpose of this definition, the ownership of a lot is further defined to include:

1. The person who holds either fee simple title to the property or is a life tenant as disclosed in the records of the County Assessor;
2. A long-term lessee (but only if the lease is recorded among the records of the County Recorder and has a term (exclusive of non-exercised extensions and renewals) of at least 25 years remaining before its expiration at the time of applying for a permit).

LOT AREA: The area bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street or easement for surface access into the subject lot or adjoining lots.

LOT DEPTH: The mean horizontal distance between a front lot line and rear lot line, measured within the lot boundaries.

LOT LINE, FRONT: In the case of an interior lot, a lot line separating the lot from a street; and in the case of a corner lot, a line separating the narrowest frontage of the lot from a street.

LOT LINE, REAR: A lot line that is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE: Any lot line not designated as a front, street side, or rear lot line.

LOT LINE, STREET SIDE: On a corner lot, a lot line other than the front lot line, that separates the lot from the street.

LOT OF RECORD: A lot that is part of a subdivision, the plat of which has been recorded in the County Recorder's office prior to adoption of this Ordinance, or a parcel of land described by metes and bounds, the deed to which was recorded in the County Recorder's office prior to adoption of this Ordinance.

LOT WIDTH: The full width of a lot measured along the required front setback line.

LOT, CORNER: A lot situated at the intersection of two or more streets.



LOT, FLAG: A lot characterized by its distinctive shape, resembling a flag on a pole. It consists of two main parts: the pole and the flag. The pole is a narrow strip of land that provides access from a public street to the main body of the lot. The flag is the main, wider portion of the lot where the primary building or use is typically located. The flag is usually situated behind other lots with direct frontage on the public street, making it less visible from the public right-of-way.

LOT, INTERIOR: A lot other than a corner lot that abuts a street on only one side and is bounded on the remaining sides by other lots or non-street rights-of-way.

LOT, THROUGH: A lot having frontage on two non-intersecting streets (as distinguished from a corner lot). Both street lines are deemed front lot lines.

Mm

MANUFACTURED HOME TYPE 1: A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it was built in compliance with the Federal Manufacturing Housing Construction and Safety Standards Law (42 U.S.C. §§ 5401 et seq.), and which also complies with the following specifications: (1) Must have been constructed after January 1, 1981, and must exceed 950 square feet of occupied space per [*IC 36-7-4-1106\(d\)*](#); (2) Is attached to a permanent foundation of masonry construction and has a permanent perimeter enclosure constructed in accordance with the One- and Two-Family Dwelling Code; (3) Has wheels, axles and towing chassis removed; (4) Has a pitched roof with a minimum rise of two to 12; and (5) Consists of two or more sections which, when joined, have a minimum width of 23 feet.

MANUFACTURED HOME TYPE 2: A dwelling unit built in a factory and bearing a seal of compliance with Federal Manufacturing Housing Construction Safety Standards or [*IC 22-12-1-5*](#), which must have a minimum of 720 square feet and is installed and anchored according to manufacturer's specifications, but which need not be anchored to a permanent foundation and perimeter wall, and which need not have a pitched roof or siding of materials customarily used for site-constructed homes.

MASONRY: All masonry construction composed of solid, cavity, faced, or veneered-wall construction, unless otherwise approved by the Plan Commission or Administrator.

MAXIMUM BUILDING HEIGHT: The vertical distance measured from the highest point of proposed finished grade at the perimeter of the building to the highest point of the roof.

MIXED USE: Two or more uses within the same building through superimposition or adjacency, or in multiple buildings by adjacency, or at a close proximity.

Nn

NONCONFORMING BUILDING OR STRUCTURE: Any continuous, lawfully established structure erected or constructed prior to the time of adoption, revision, or amendment of this Ordinance, or pursuant to a granted variance of this Ordinance, but which fails by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

NONCONFORMING LOT: A lot that was legally established and in existence at the time this Ordinance or any amendment was adopted but which does not conform to the current area and width requirements of the district in which it is located.

NONCONFORMING USE: Any continuous, lawful land use having commenced prior to the time of adoption, revision, or amendment of this Ordinance, or according to a granted variance, but which



fails by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

Oo

OFFICIAL ZONING MAP: The map showing the legally established boundaries of the zoning districts within the jurisdiction of the Plan Commission adopted by the responsible, participating legislative bodies.

OFF-STREET PARKING: The provision of parking spaces that are not located on any public right-of-way.

OPEN SPACE: In the context of a lot, open space is the outdoor or unenclosed areas of a lot designed and accessible for outdoor living, recreation, pedestrian access, or landscaping. In the context of a development not individually owned or dedicated to the public, open space is designed and intended for the common use or enjoyment of the occupants of the development. The open space may include complementary structures and improvements.

OUTLOT: That portion of land of a plat, integrated center or planned development which is:

1. Usually located adjacent to a street or frontage road; and,
2. Is intended for an additional and separate buildings in the development.

OVERLAY DISTRICT. A special purpose zoning district that encompasses all or a portion of one or more underlying zones and imposes additional requirements beyond those required by the underlying zone.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under this Ordinance.

Pp

PARENT PARCEL: See **Lot of Record**.

PARKING AREA: The hard surfaced area required for parking of automobiles, including all maneuvering areas and aisles.

PARKING SPACE: The hard surfaced area required for parking one automobile.

PERIMETER STREET. Any existing street to which the parcel of land to be subdivided abuts on only one side.

PERMANENT: Placement of a structure is permanent if it is installed in such a fashion as to not be mobile. Pouring a cement footer and installing a cement block foundation and securely attaching the structure to the foundation is permanent, when done in conjunction with the attachment to other utilities.

PERSON. Any person, firm, or corporation, public or private, the State of Indiana and its agencies or political subdivisions, and the United States of America, its agencies and instrumentality, and any agent, servant, officer, employee of any of the above.

PLAN COMMISSION: The Rush County Area Plan Commission.



PLANNED UNIT DEVELOPMENT (PUD). A tract or parcel of land developed as a unit under single ownership or unified control that is unique and incorporates one or more of the following: a variety of uses, varied density of development, dedicated open space, preservation of significant natural features, reduced lot sizes or similar attributes that typically would not be easily achieved under conventional zoning districts.

PORCH. A horizontal surface consisting of a deck, slab or other similar construction, covered and attached to a main building and designed for outdoor seating, shelter from the elements or as a means of entry to the building.

PORTABLE: Movable from one location to another, not attached to a fixed structure nor having supports embedded in the ground. The term "portable sign" includes a sign located in or on a vehicle, except where: (1) Such sign merely identifies the vehicle as belonging to such business by displaying the name, address and/or telephone number of such business and/or identifies the type of product or service offered by such business; (2) The primary use of such vehicle is for the daily transportation of products or the delivery of services in connection with such business; and (3) Such vehicle is currently licensed in the State of Indiana and is in operable condition; however, if such vehicle remains parked for longer than one week in the same parking space, it is deemed a portable sign.

PRIMARY BUILDING OR STRUCTURE: A building or structure that accommodates the principal use of the site.

PRIMARY PLAT: Any initial request for the subdivision of real estate filed before the Plan Commission according to [*IC 36-7-4-700*](#), et. seq.

PRIMARY USE: The principal use of any lot.

PRIME FARMLAND: According to the United States Department of Agriculture (USDA), prime farmland is the land best suited to food, feed, forage, fiber, and oilseed crops. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if the land is treated and managed according to acceptable farming methods.

PUBLIC IMPROVEMENT: Any drainage ditch, street, highway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Qq

Rr

RECOVERY: Obtaining materials or energy for commercial or industrial use from solid waste or hazardous waste. (For reference see [*IC 13-7-1*](#)).

RECREATIONAL VEHICLE: A portable structure designed as a temporary dwelling for travel or vacation uses in a recreational park that: (1) Is identified on the unit by the manufacturer as a travel trailer or a motor home; and (2) Of a size that is street legal: or (a) Is a structure mounted on an automobile or truck; and (b) Is designed to be used for sleeping and human habitation.



RIGHT-OF-WAY: Specific and particularly described land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare for passage of pedestrians, vehicles, or utilities, as set forth in a written grant, declaration or conveyance that is recorded in the office of the Rush County Recorder.

ROAD: For the purposes of this ordinance, a road is the same as a street.

RURAL CENTER: The portions of the county located within an incorporated town, an unincorporated community, and land within ¼ mile of the boundary of the City of Rushville. This includes the Town of Carthage, the Town of Glenwood, and the unincorporated communities of Arlington, Boyd, Charlottesville, Fairview, Falmouth, Farmers, Gings, Gowdy, Henderson, Homer, Manilla, Mauzy, Mays, Milroy, Moscow, New Salem, Occident, Raleigh, Richland, Sexton, and Williamstown. The boundaries of the Rural Centers are shown on the Official Zoning Map.

Ss

SECONDARY PLAT: Any plat approved by the Plan Commission or Staff and authorized for filing with the Rush County Auditor and for recording by the Rush County Recorder's Office according to [IC 36-7-4-710](#), formerly known as a Final Plat.

SETBACK LINE: A line that establishes the minimum distance that all or part of a structure can be located from a front lot line, street side lot line, side lot line, or rear lot line.

SIGN: A single or multi-faced structure or device, or an illustration attached to or painted on a structure or device, designed to identify, inform, or attract attention.

SOLID WASTE: Any garbage, refuse, sludge from a wastewater treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities. The term "solid waste" does not include: (1) Solid or dissolved material in a domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges, which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. B42); (2) Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); (3) Manures or crop residues returned to the soil at the part of a total farm operation; or (4) Vegetative matter at composting facilities registered under [IC 13-7-35](#). (For reference see [IC 13-7-1](#)).

SPECIAL EXCEPTION: The authorization of a use that is designated as such by this chapter as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the Board of Zoning Appeals.

STORAGE, OUTDOOR: The storage of any product, goods, equipment, machinery, vehicles, boats, supplies, building materials or commodities, including raw, semi-finished and finished materials for more than one week. This storage is not accessory to a residential use and is visible from ground level. Vehicle parking and the display of automobiles, boats, trucks, or farm equipment associated with a legally established dealership is not considered outdoor storage.

STORY: A space in a building between the surface of any floor and the surface of the next floor above. If there is no floor above, then the space between such floor and the ceiling or roof above.



Where the floor level of the first story is at least 5 feet below the adjoining finished grade, the space is considered a basement and not counted as a story.

STREET: Any public or private right-of-way, except for alleys, essentially open to the sky and open and dedicated to the public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

STREET, CUL-DE-SAC: A local street having one open end and being permanently terminated at the other by a vehicular turnaround.

STREET, FRONTAGE: A street located alongside and generally parallel with a more heavily traveled street and which provides access to abutting properties. Outlots may be located between the frontage street and the more heavily traveled street.

STREET, PRIVATE: A privately held right-of-way, essentially open to the sky and open to the public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and similar features.

STREET, PUBLIC: A publicly dedicated, accepted and maintained right-of-way, essentially open to the sky and open to the public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or is attached to something having a permanent location on the ground, except public utility, communication and electrical transmission lines, and support equipment and facilities.

SUBDIVISION: The division of a parcel of land into 2 or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon all other plans, terms, and conditions, including resubdivision. Subdivision includes the division or development of land opened for residential and non-residential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

SUBDIVISION, ADMINISTRATIVE: A subdivision of land that involves the adjustment, modification, or reconfiguration of existing property lines between adjoining parcels without creating any additional lots or parcels beyond those that existed prior to the subdivision. This type of subdivision also includes the consolidation of two or more existing parcels into fewer parcels.

SUBDIVISION, MAJOR: The subdivision of a tract of land into five or more parcels or lots, including any remainder of the original tract, or any subdivision involving the creation of new streets to an adjoining property, now or in the future.

SUBDIVISION, MINOR: The subdivision of a tract of land into four or fewer lots, including any remainder of the original tract, that does not involve the creation of new streets to an adjoining property, now or in the future.



Tt

TECHNICAL ADVISORY COMMITTEE: An advisory group that provides technical review comments on petitions per [*1.9\(F\) Technical Advisory Committee*](#).

TEMPORARY USE: A land use established for a limited and fixed time with the intent to discontinue such use upon the expiration of the period.

TOWN: The term "Town" refers to the Town of Carthage or the Town of Glenwood depending upon the jurisdiction with control over the subject property.

TOWN COUNCIL: The Town Council of Carthage or Glenwood depending upon the jurisdiction with control over the subject property.

TRAFFIC CONTROL DEVICE: Any sign, light, signal, or other device located at an intersection including, but not limited to stop signs, yield signs, caution signs, flashing lights or traffic lights, the purpose of which is to cause through traffic to slow and exercise caution when proceeding through an intersection.

TREATMENT: When used in connection with a waste that is determined to be hazardous waste under [*IC 13-7-8.5-3*](#), means any method, technique, or process designed to change the physical, chemical, or biological character or composition of the waste so as to: (1) Neutralize the waste; (2) Render it: (a) Nonhazardous or less hazardous; (b) Safer to transport, store, or dispose of; (c) Amenable to recovery or storage; or (d) Reduce in volume; or (3) Recover energy or material resources from the waste. (For reference see [*IC 13-7-1*](#)).

Uu

UNDERGROUND STORAGE TANK: A tank or a combination of tanks, including underground pipes connected to the tank or combination of tanks: (1) That is used to contain an accumulation of any toxic or hazardous materials, including without limitation, fuels, oils, lubricants, anti-freeze, hydraulic fluids, cleaning solvents, petroleum products or any other potential contaminant to the underground aquifer; and, (2) The volume of which (including the volume of the underground connected pipes) is 10% or more beneath the surface of the ground.

USE: The purpose or activity for which the land or building is designed, arranged, or intended, or for which it is occupied or maintained.

Vv

VARIANCE: A specific approval granted by the Board of Zoning Appeals in the manner prescribed by this chapter, to deviate from the development standards (such as height, bulk, area) that the chapter otherwise prescribes.

Ww

WASTE MANAGEMENT: Any business, operation, process, or function associated with the generation, storage/transportation, processing, or disposal of solid or hazardous waste.

WETLAND: (1) Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. (2) For purposes of this classification wetlands must have one or more of the following three attributes: (a) At least periodically, the land supports predominantly hydrophytes, (water plants); (b) The substrate is



predominantly undrained hydric soil; and (c) The substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year.

WRITTEN COMMITMENTS: Commitments made by a property owner as part of the approval of a rezone, plat, site plan, or variance concerning the use or development of the property. Commitments follow the requirements of [*8.17 Written Commitments*](#). Commitments are recorded in the Office of the County Recorder and run with the property.

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Yy

YARD: An open space on the same lot with a building or structure, unoccupied and unobstructed from its lowest level upward, except as otherwise permitted by this chapter.

YARD, FRONT: An open space, unobstructed to the sky, extending fully across the lot while situated between the front lot line and the established front building line.

YARD, REAR: An open space, unobstructed to the sky, extending fully across the lot while situated between the rear lot line and the established rear building line.

YARD, REQUIRED: An open space unobstructed to the sky, extended fully across the lot situated between a lot line and a setback line. Required yards may be a front yard, a side yard, a street side yard, or a rear yard depending on which lot line the required yard abuts.

YARD, SIDE: An open space, unobstructed to the sky, extending fully across the lot while situated between the side lot line and the established side building line.

YARD, STREET SIDE: An open space, unobstructed to the sky, extending fully across the lot while situated between the side lot line and the established street side building line.

Zz

ZONING ADMINISTRATOR (OR ADMINISTRATOR). The person designated by the Rush County Commissioners as the County's agent for administration of these regulations.