

ORDINANCE NUMBER 3-19-90

An ordinance to enact a comprehensive advisory zoning ordinance for those areas of Hamilton County presently not otherwise zoned, being parts of Noblesville, Adams and Wayne Townships and all of White River Township, Hamilton County, Indiana, concerning minimum standards for physical improvements to land; the regulations and guidelines for administration; standards to administer violations of the ordinance; creating a board of zoning appeals and providing for review of the decisions of such board by the courts.

Be it ordained by the Board of Commissioners of Hamilton County, Indiana, in accordance with IC 36-7-4 and all acts amendatory and supplemental thereto:

ARTICLE 1. - GENERAL PROVISIONS, ZONE DISTRICTS AND ZONE MAPS

A. - GENERAL PROVISIONS

Section 1. - Short title.

This ordinance, and ordinances supplemental or amendatory thereto, shall be known, and may be cited, as the "Hamilton County Zoning Ordinance."

Section 2. - Purposes.

The zoning regulations as herein set out are made for the purposes of:

- (1) Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- (2) Lessening or avoiding congestion in public ways;
- (3) Promoting the public health, safety, comfort, morals, convenience, and general welfare; and
- (4) Otherwise accomplishing the purposes of IC 36-7-4.

State law reference— Similar provisions, IC 36-7-4-601.

Section 3. - Interpretation.

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare and the other purposes referred to in Section 2.

Section 4. - Noninterference with greater restrictions otherwise imposed.

This ordinance is not intended to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; nor any ordinances, rules, regulations or permits previously adopted or issued, or which shall be adopted or issued. Where this ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family, than are required or imposed by such easements, covenants, or agreements between parties, or by other ordinance, rule, regulation or permit, then the provisions of this ordinance shall control. Whenever a particular subject matter is regulated by more than one provision of this ordinance and these provisions are in conflict with one another and are not able to be reconciled together, the provision which shall control shall be that provision which imposes the greater (higher) standard of performance.

B. - ZONE DISTRICTS AND ZONE MAPS

Section 1. - Establishment of districts.

The territory within the jurisdiction of the Hamilton County Plan Commission is hereby classified and divided into 16 districts and two overlay districts as follows:

District Designation	Type of District
A-1	Conservation and preservation
A-2	Agricultural
A-3	Agricultural and planned residential country
A-4	Agricultural business
R-1	Residential low density suburban

R-2	Residential medium density suburban
R-3 (P)	Residential medium-high density village/urban
R-4 (P)	Residential high density village/urban
O-1	Office development residential character
O-2	Office development
C-1	Commercial development residential character;
C-2	Commercial development—moderate community impact
C-3	Commercial development—major community impact
M-1	Manufacturing development—moderate community impact
M-2	Manufacturing development—major community impact
M-3	Manufacturing development—mineral extraction and processing
P	Planned development (additional designation to above districts) overlay district
FLP	Floodplain overlay district

Section 2. - Establishment of zone maps.

The zone maps adopted with this ordinance are hereby established as the Official Zone Maps and Zoning Districts of Hamilton County, Indiana. Such maps designate the respective zoning districts in accordance with this ordinance. In addition, special detailed maps of the incorporated and unincorporated areas for floodplain districts as prepared by the Indiana State Department of Natural Resources are also designated as part of the official zone maps.

Section 3. - Zone maps included.

The following areas are shown on four separate maps and shall be a part of this ordinance: Hamilton County Plan Commission Jurisdictional Areas of Adams Township, Noblesville Township, White River Township and Wayne Township, Hamilton County, Indiana. Such maps are kept available for public inspection in the office of the Hamilton County Plan Commission.

Section 4. - Determination and interpretation of district boundaries.

- A. In preparing and considering proposals under IC 36-7-4-600 et seq., the plan commission and the legislative body shall pay reasonable regard to:
 - 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.
- B. Where uncertainty exists as to the exact boundaries of any district as shown on the zone map, the following rules shall apply:
 - 1. In unsubdivided areas, or where a distinct boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the official aerial maps prepared by the county auditor.
 - 2. Where a zoning district boundary divides a lot, the plan commission may extend the boundaries of a zoning district to a lot boundary, provided such extension shall not exceed 40 feet.
 - 3. In the case of further uncertainty, the commission shall interpret the intent of the zone map as to the location of the boundary in question.

Section 5. - Procedure relating to vacated areas.

Whenever any street, place, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the districts adjoining each side of such street, place, alley, public way, railroad right-of-way, waterway or other similar area shall be extended automatically to the center of such vacation and all areas included in the vacation shall then and thenceforth be subject to all appropriate provisions of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

Section 6. - Zoning of streets, alleys, public ways and railroad rights-of-way.

All streets, alleys, public ways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same use district as the property immediately abutting upon these alleys, streets, public ways, and railroad rights-of-way. If the center line of a street, alley, public way, or railroad right-of-way serves as a district boundary, the zoning of those areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to that center line.

ARTICLE 2. - INTERPRETATION

Section 1. - Definitions and rules of construction.

The following terms, unless a contrary meaning is required by the context or if specifically prescribed, shall have the following meanings:

Abutting. Bordering.

Accessory building and use. A subordinate building located on the same lot with the main building, or a subordinate use of land, either of which is incident to, or customary in connection with, the main building or the principal use of the land. Accessory buildings must be subordinate in height, width, length and bulk to principal building. Buildings which are portable and do not have permanent foundations are also classified as accessory buildings. Where a substantial part of the wall of an accessory building is a part of the wall of the main building or where an accessory building is attached to the main building in a substantial manner as by a roof, such accessory building shall be counted as part of the main building. For purposes of this ordinance, a sign shall be considered an accessory use. Factory built structures initially constructed for use as a home and dwelling shall not be established or used as an accessory building in any zoned districts or for any purpose unless by variance approved by the appropriate advisory board of zoning appeals. A subordinate building other than a single family dwelling located on the same lot with a single family dwelling. A separate stand alone structure designed to be used as any type of dwelling whether temporary or permanent is not an accessory building or use.

(Ord. No. 2-12-96-D, 2-12-1996; Ord. No. 04-21-09-A, 4-27-2009)

Agricultural accessory building. Accessory buildings may include barns, equipment and animal sheds and temporary roadside sales structures for the sale of site grown produce; but accessory buildings shall not include permanent industrial or commercial operations or structures.

Agricultural use. An agricultural use shall include agricultural operations such as the growing of crops; pasturage; orchards; tree farms; the raising and keeping of all livestock (but excluding feed lot or "agricultural, confinement feeding" operations); poultry, rabbits, dogs and cats; sale of site grown produce; and including accessory buildings essential to the operation of the above uses. No agricultural building/structure can be used for living quarters.

(Ord. No. 04-21-09-A, 4-27-2009)

Agriculture. The art or science of cultivating the ground, and raising and harvesting crops, also often including feeding, breeding and management of livestock; tillage, husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man. In this broad use it includes farming, horticulture, forestry, dairying, etc.

Agriculture, confinement feeding operation. A confinement feeding operation means any confined feeding of 300 or more cattle, 600 or more swine or sheep, or 3,000 or more fowl. Same as feed lot. This use is not considered to be a permitted agricultural use under this ordinance.

Agriculture, related commercial enterprise. An operation or use inherent to or closely associated with a farm or agriculture, such as the buying, selling or distribution of livestock or farm or agricultural products or products essential to farm operation; but not including commercial industrial grain elevators, industrial mills, abattoirs, commercial hatcheries and animal or poultry processing plants, the manufacture of commercial fertilizers and similar enterprises which are of a commercial or industrial nature.

Air contaminant. Dust, fumes, gas, mist, smoke, or vapor, or any combination thereof.

Air contaminant source.

- (a) Air contaminant source means all sources of emission of air contaminants, whether privately or publicly owned or operated.
- (b) The term includes the following:
 - (1) All types of business, commercial and industrial plants, works, shops, stores, heating plants, powerplants, and power stations.
 - (2) Buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings.
 - (3) Automobiles, trucks, tractors, buses, and other motor vehicles.
 - (4) Garages.
 - (5) Vending and service locations and stations and railroad locomotives.

- (6) Ships, boats, and other watercraft.
- (7) Portable fuel-burning equipment.
- (8) Incinerators of all types, indoor and outdoor.
- (9) Refuse dumps and piles.
- (10) All stack and other chimney outlets from any of the items described in subdivisions (1) through (9). [P.L. 1-1996, § 1.]

State law reference— Similar provisions, IC 13-11-2-4.

Air pollution. Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to property, or which unreasonably interfere with the comfortable enjoyment of life and property according to standards established by the plan commission.

Airport. A use devoted to the take-off, landing, and storing and servicing of aircraft, and the related air, glide and ground space appurtenant thereto.

Alley. A permanent public service way providing a secondary means of access to abutting lands.

Alley line. A lot line bordering on an alley.

Apartment. A building or portion thereof designed for or occupied by more than two families. Also a multi-family dwelling.

Archaeological site. A location that has yielded or may yield information on history or pre-history. Archaeological sites may be found within archaeological zones, historic sites, or historic districts.

Archaeological zone. A geographically defined area, which may reasonably be expected to yield information on local history or pre-history, based on broad pre-historic or historic settlement patterns.

Basement, cellar. That portion of a building having at least seven-foot minimum height between floor and ceiling or floor system which is wholly or partly, below grade (adjacent ground elevation), and so located that the average vertical distance from grade to the floor below is equal to or greater than the average vertical distance from grade to ceiling or bottom of floor system.

Bed and breakfast inn. See "Home, tourists."

Block frontage. All the property fronting on one side of a street between intersecting or intercepting streets or between a street and street right-of-way, end of dead-end street or city boundary measured along the street line.

Board, BZA. Shall mean the Advisory Board of Zoning Appeals of the County of Hamilton, Indiana.

Building. Any structure having a roof or over head structure supported by columns or walls for the housing or enclosure of persons, animals or chattels. When any portion thereof is completely separated from every other portion thereof by a division wall without openings then each such portion shall be deemed to be a separate building.

Building, detached. A building having no party wall in common with another building.

Building, height of. The vertical distance measured from the average elevation of the proposed finished grade to the highest point of a flat roof; the deck line in a mansard roof; and to the main height level between the eaves and ridge of a gable, hip or gambrel roof.

Building line. The line nearest the front and across a lot establishing the minimum open space to be provided between the front line of buildings and structures and the front lot line. The minimum distance from which the building line must be set back from the front lot line is established in this ordinance.

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, semi-detached. A building having one party wall in common with an adjacent building.

Campgrounds, public. A parcel of land used or intended to be used for temporary occupancy by or of recreational vehicles, travel trailers, mobile homes, tents, cabins, or other temporary accommodations.

Campgrounds, temporary. A privately owned parcel of land used or intended to be used for temporary occupancy and/or temporary accommodations for people for the profit of the owner.

Cellar. See "basement."

Cemetery. Any land or structure in the county that is:

1. Dedicated to; and
2. Used for, or intended to be used for;

the interment, entombment or inurnment of human remains.

Certificate of occupancy. A certificate signed by the building commissioner, plan director, zoning administrator, or an authorized designee of one of the foregoing, stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this ordinance and all relevant building codes.

Club. Buildings and facilities owned or operated by a person for social, educational, or recreational purposes; includes uses established as "not-for-profit", as well as those customarily operated as a "for-profit" business.

Cluster housing. Dwelling units having their own ground floor entrances and open space, and joined to other dwelling units by a common party wall or other horizontally unifying structural element.

Commission. Hamilton County Advisory Plan Commission.

Commissioners. See "Legislative body."

Condominium. A form of ownership consisting of a structure having two or more dwelling units or other units for occupancy wherein provisions have been made for separate ownership of each individual dwelling unit or occupancy unit in accordance with the Horizontal Property Law (IC 32-1-6 et seq.).

Confinement feeding operation. See "Agriculture, confinement feeding operation."

Contingent use. A use which is likely or liable, but not certain, to occur and which is not inappropriate to the principal uses of the district in which it may be located. Contingent uses are listed as permitted uses in each district.

Cul-de-loop. A street that turns into and reconnects with its main axis, with the center or island used for parking or open space purposes.

Cul-de-sac. A minor street having one open end and being permanently terminated at the other by a vehicular turnaround.

Cultural resources. Sites of cultural importance to local people or social or ethnic groups, such as locations of important events in their history, historic or pre-historic cemeteries, or shrines.

Decibel. See "Sound, decibel."

Density, gross. A unit of measurement which represents the number of structures per acre of the aggregate total land to be developed, including all public rights-of-way, public easements, and other public uses.

Density, net. A unit of measurement which represents the number of structures per acre of that land which is devoted only to a specific area use, excluding public rights-of-way, public easements, and other areas dedicated to public use.

Development plan. Specific plans for the residential, commercial or industrial planned development of property in accordance with [Article 12](#) of this ordinance, which shall include that information and data specified in [Article 12](#), paragraph B, section 1, as well as any additional data or information required by other provisions of this ordinance (i.e., [Article 11](#), site plan review) or other provisions of any other ordinances pertaining to a particular development project. As differentiated from "site plan" or "plat."

Distances. Unless otherwise specified all distances shall be measured on a straight line in any direction.

District. A section of the territory within the jurisdiction of the Hamilton County Plan Commission for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land, and open spaces about buildings, are herein established.

Driveway. A private road which provides access to a lot, or to a use located on such lot, from a public way.

Dwelling. A residential building or portion thereof used temporarily or continuously as a place of abode for one or more human beings.

(Ord. No. 04-21-09-A, 4-27-2009)

Dwelling, detached. A dwelling unit which does not share a common wall with any other dwelling and is surrounded on all sides by open space located on the same lot.

Dwelling, duplex. A building designed for or occupied exclusively by two families.

Dwelling, multi-family. A building designed for or occupied exclusively by three or more families. A multi-family dwelling shall also include the terms "apartment house, town house, garden apartment, row house, group house, dormitory or condominium (if it contains more than two dwelling units)."

Dwelling, single-family. A building designed for, or occupied exclusively by, one family.

Dwelling unit. A dwelling or a portion of a dwelling used for one family for cooking, living and sleeping purposes.

Dwelling unit, efficiency. A dwelling unit within a principal structure consisting of one principal room, together with sanitary, cooking, living and sleeping facilities and/or dining alcove. There must be a door or opening between the dwelling unit and the living area of the principal structure.

Easement. Land which has been designated by lawful agreement between the owner or owners of land and a person or persons for a specified use.

Educational institution. See "School."

Family. One or more persons related by blood, marriage or adoption, or a group of not more than three persons, excluding servants, who need not be related by blood, marriage or adoption, living together and maintaining a common household, but not sororities, fraternities or other similar organizations. Distinguish from group home which addresses the needs of a particular type of occupant.

Financial institution. Any bank, trust company, corporate fiduciary, savings association, credit union, savings bank, bank of discount and deposit, or industrial loan and investment company organized or reorganized under the laws of this state, and includes a consumer finance institution licensed to make supervised or regulated loans under IC 24-4.5.

Flood or floodwater. The water of any lake or watercourse which is above its banks, outside its channel and banks, or outside of both.

Flood fringe. The area between the floodway and the boundary of the 100-year regulatory flood as identified by the Federal Flood Insurance Administration.

Flood hazard area. Any floodplain, floodway, floodway fringe or any combination of them.

Flood protection grade. The elevation of the lowest floor of a building or structure, including the basement. If a residential, commercial, or industrial building is floodproofed, the term "flood protection grade" shall apply to the surface elevation for which the building is protected.

Flood, regulatory. A flood having a peak discharge which can be expected to be equalled or exceeded on the average of once in a 100-year period as calculated by a method and procedure acceptable to and approved by the state natural resources commission. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year.

Flood, regulatory profile. A longitudinal profile along the thread of a water course showing the maximum water surface elevation attained by the regulatory flood.

Floodplain. A combination of the floodway and flood fringe areas. The floodplain is the area covered by floodwaters of the regulatory flood as identified by the Federal Flood Insurance Administration or Federal Emergency Management Agency.

Floodproofed building. A residential, commercial, or industrial building designed to exclude floodwaters from its interior. All floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year regulatory flood.

Floodway. The channel of a stream, plus any adjacent floodplain areas, as identified by the Federal Flood Insurance Administration or Federal Emergency Management Agency, that must be kept free of encroachment so that the regulatory flood may be carried without substantial increases in flood heights.

Floor area, gross ground. The square foot area of a building within its largest outside dimensions computed on a horizontal plane at the ground floor level exclusive of open porches, breezeways, terraces, garages and exterior stairways.

Floor area, total. 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.

Foundation skirting. A type of wainscoting constructed of fire and weather resistant material such as aluminum, asbestos board, treated pressed wood, or other approved materials enclosing the entire undercarriage of the manufactured or mobile home.

Frontage. All the property on one side of a street between two intersecting streets (crossing or termination) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

Frontage road. A road constructed or available with access to a major or minor road or public highway used to serve a residential, business or industrial development.

Garage, private. An accessory building or attached area designed, arranged, used or intended to be used for the storage of passenger automobiles and personal effects of the occupants of the premises.

Garage, public. Any building, except those defined herein as a private garage, used for the storage and/or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Grade. The average level of the finished surface of ground adjacent to the exterior walls of the building.

Gross leasable area of a shopping center. Gross leasable area of a shopping center shall mean the square footage of that space within the building or buildings comprising the shopping center which is primarily designed for leasing to occupancy by tenants or other occupants who trade with the public, but shall not include public areas, administrative area, entrances, general utility area, corridors and like common area even though a portion of such areas may be utilized or leased on a temporary or permanent basis.

Historic district. A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, objects or area, which are united by past events or aesthetically by plan or physical development. A district also may be comprised of individual resources which are separated geographically but are thematically linked by association or history.

Historic property or historic resource. Any pre-historic or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value. The properties may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the area.

Historic site. A single lot or portion of a lot containing an improvement, landscape feature, or archaeological site, or a historically related complex of improvements, landscape features, or archaeological sites, that may yield information on history or pre-history.

Home, boarding. A dwelling other than a single-family or two family dwelling, apartment house, hotel or restaurant where meals are provided for compensation for three or more persons, but not more than 12, who are not members of the keeper's family.

Home, group. A residential structure in which care is provided on a 24-hour basis for not more than ten children.

State law reference— Similar provisions, IC 12-7-2-98.5.

Home, lodging. A dwelling where lodging only is provided for compensation to three or more, but not exceeding 12 persons, not open to transients, in contradistinction to a hotel which is open to transients. See also "Home, boarding."

Home occupations. A gainful occupation or profession conducted only by a member of a family residing on the premises and where the business or profession is conducted totally within the living area of the building and does not exceed 400 square feet in utilized area. The following are the only permitted home occupations:

- a. *Art studios.* The conducting of one or more of the following activities: painting, sculpturing, jewelry making, weaving, photography or other similar functions defined as a fine art.
- b. *Beauty shop.* The providing of beauty culture services to members of the general public as the result of being properly licensed and inspected. The maximum number of chairs shall be two.
- c. *Clergy, lawyer, architect or accountant.* Professional services conducted in the home requiring no support services except as may be provided by other members living in the dwelling.
- d. *Dressmaking.* Alterations or the making of men's or women's clothing.
- e. *Home garage sales.* The conducting of home rummage sales for the benefit of the family or a group of families. The maximum number which a family may conduct or in which they may participate shall be three per year. The maximum duration of each sale shall be three days.
- f. *Mail order business.* The receiving of orders for purchase of goods or materials through the mail or by telephone, such as magazines, catalog sales, etc., where the goods or materials are not inventoried on the premises of the dwelling.
- g. *Repair, service or refurbishing of equipment and parts.* The conducting of repairs or renovation to small appliances, tools, furniture, electrical equipment such as saw sharpening and vacuum cleaner repair, TV or stereo or other similar activities. This activity shall be conducted totally within the principal residence and shall not be conducted in the garage, carport, open or screened porch, or in any other area outside the residence.
- h. *Teaching.* The providing of tutoring assistance to individual students as well as the offering of private lessons in music, art or other areas of the fine arts.
- i. *Typing and other office services.* Office services such as report preparation, addressing envelopes; preparation of billings and other related office-type services.

Home, tourist. A building in which one but not more than five rooms are used to provide or offer overnight accommodations to transient guests for compensation.

Hospital. An institution licensed by the state department of health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, remaining facilities, central service facilities, and staff offices which are an integral part of the facility, provided such institution is operated by, or treatment is given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer and medical or urgent care centers.

Hotel, motel, apartment hotel. A building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a boarding home, lodging home, or group home, which are herein separately defined.

IC. The Indiana Code, as now or hereafter amended.

Improvement location permit (zoning clearance). A permit certifying that the site plans of a proposed building, structure, or use of land have been examined for compliance with all requirements of this ordinance and any other pertinent regulations.

In home daycare. Nursery school, pre-school, day school, elderly care, and in home care business for children, the elderly or handicapped operated only by a member of a family residing on the premises conducted within the living area and yard of the building for not less than six nor more than 20 part-time individuals.

Industrial park. A single structure or group of structures for industrial operations forming a comprehensive arrangement of buildings, grounds, and access ways planned in accordance with harmonious principles of architectural and landscape architectural design, and industrial management.

Interested party. Person(s) required by law, ordinance or rule to either participate in, or be given notice of, an action of, or a pending matter, before a commission, board or hearing authority.

Junk yard. Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or assorted, including but not limited to, used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

Kennel. Any lot or premises or portion of it on which four or more dogs, or small animals, at least four months of age are kept, or on which more than two such animals are boarded or treated for compensation or kept for sale.

Landscaping. The improvement of a lot with grass and shrubs, trees, other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flowerbeds, fountains, and other similar natural and man-made objects designed and arranged to produce an aesthetically pleasing effect.

Legislative body, commissioners. The Board of Commissioners of Hamilton County, Indiana.

Limited agricultural related retail sales. Low intensity, small agricultural related business that will have a minimum impact on adjacent roads and surrounding properties.

Livestock. Animals and especially farm animals, raised for use, profit or enjoyment including, but not limited to, horses, ponies, cattle, sheep, goats, fowl or poultry.

Loading and unloading berths. The off-street area required for the receipt or distribution by vehicles of materials or merchandise, which in this ordinance is held to be a 12 by 45 foot paved loading space with a 14-foot height clearance.

Lodging house. See *Home, lodging.*

Lot. A parcel, tract or area of land with a legal description properly recorded, accessible by means of a public street or public street or public street right-of-way. The word "lot" includes the word "plot."

Lot, depth of. The mean horizontal distance between the front lot line and the rear lot line of a lot, measured along the general direction of the side lot line.

Lot, interior. A lot other than a corner lot or through lot.

Lot line, front. In the case of an interior or through lot, a line separating the lot from any and all streets or places. In the case of a corner lot a line separating the narrowest frontage of the lot from the street. In cases where deed restrictions in effect specify another street right-of-way line as the front lot line, they will be given effect.

Lot line, front building line. See *Building line.*

Lot line, rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side. Any lot boundary line not a front lot line or a rear lot line.

Lot, reversed interior. An interior lot, the front lot line of which is formed by a street, which street also forms the side lot line of an abutting corner lot. The corner lot is considered abutting even though separated from the interior lot line by an alley.

Lot, through. A lot having frontage on two parallel or approximately parallel streets.

Lot width. The dimension of a lot, measured between side lot lines on the front building line as established in this ordinance.

Manufactured home subdivision. A parcel of land platted for subdivision and designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes.

Manufactured home type I. A dwelling unit built in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards (42 U.S.C.A. 5401 et seq.), which is at least 23 feet in width for its entire length, has at least the minimum area of occupied space required in the district in which the unit is located and is installed and anchored on a permanent foundation and perimeter wall, according to the Indiana One and Two Family Dwelling Code, as amended, and its pitched roof and siding (to the ground) are of materials customarily used for site-construction dwellings.

Manufactured home type II. A dwelling unit built in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction Safety Standards which 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.

Mobile home. A factory assembled transportable vehicle which has at least the minimum area of occupied space required in the district in which the unit is located and is designed to be used as a year-round residential dwelling.

Mobile home park. An area of land of not less than five acres under single ownership on which two or more manufactured homes, or mobile homes, are occupied as residences and which complies with the minimum standards for a mobile home park as established by this ordinance.

Mobile home tie down. Sufficient anchorage to resist flotation, collapse or lateral movement of any mobile home; at a minimum:

1. Over-the-top ties provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only one additional tie per side;
2. Frame ties provided at each corner of the mobile home with five additional ties per side at intermediate points, with mobile homes less than 50 feet per side at intermediate points, with mobile homes less than 50 feet long requiring only four additional ties per side;
3. All components of the anchoring system capable of carrying a force of 4,800 pounds; and
4. Any additions to the mobile home to be similarly anchored.

Motel. A building or a detached building used as dwelling units containing bedroom, bathroom and closet space, and each unit having convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of transients.

Natural resources. Those resources over which The Indiana Department of Natural Resources exercises power and control.

Nonconforming use. The lawful use of land or a building or a portion thereof existing prior to the adoption of this ordinance or any amendment thereto, which use does not conform with the use regulations of the district in which it is located.

Number. The singular includes the plural and the plural the singular.

Nursing home. A facility licensed by the state department of health, which (1) provides nursing services on a continuing basis; (2) admits the majority of the occupants upon the advise of physicians as ill or infirm persons requiring nursing services; (3) provides for licensed physicians services or supervision; (4) maintains medical records. Such facility may also provide other and similar medical or health services provided that no occupant require physical restraint within the facility. Examples of nursing home facilities that provide health services may include, if they comply with all the above criteria, nursing homes, convalescent homes, maternity homes, rest homes, homes for the aged, and the retirement centers.

Octave band. A narrow range of sound frequencies which classify sounds according to pitch. In the octave band analyzer the audible sound spectrum is divided into eight octave bands.

Octave band analyzer. An electrical device used with the sound level meter that sorts a complex noise or sound into the various octave bands.

Ordinance. The Hamilton County Zoning Ordinance.

Out lot. That portion of land of a plat or planned development which is usually located adjacent to a street or frontage road and not dedicated to serving the needs of the primary development for an additional and separate building or buildings in the development.

Park. A public space and supporting facilities designed and used for a variety of recreational activities, a greater part of which take place outside of any structure.

Parking area, public. A paved and approved open area, other than on a street or alley, designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers.

Parking space or stall. The paved area required for parking one automobile, with its attendant maneuvering room. This area shall be nine feet wide and 20 feet long; however, if the space is designed for compact or subcompact cars, the space may be designed proportionately smaller.

Permanently installed swimming, wading and therapeutic pools. Swimming, wading and therapeutic pools that are constructed in the ground, on the ground, or in a building in such a manner that the pool cannot be readily disassembled for storage.

Person. A corporation, firm, partnership, association, cooperative organization or any other group acting as a unit, as well as a natural person.

Plan commission. The Hamilton County Advisory Plan Commission.

Plan director, director. The Hamilton County Plan Director is the person who manages and supervises the Hamilton County Planning Department and is authorized to administer and enforce this ordinance.

Planned unit development, P.U.D. A unit conforming to the definition of the same contained within the Indiana Code. In this ordinance such term is used synonymously with the term "planned development" as provided in [Article 12](#).

Planning department. The Hamilton County Planning Department is that administrative agency which is managed and supervised by the Hamilton County Plan Director and is authorized to administer and enforce this ordinance. The planning department also may consist of a zoning administrator, a building commissioner, or other such representatives authorized to enforce all or a portion of this ordinance or other ordinances related thereto.

Plat. A map or drawing indicating the subdivision or resubdivision of land, intended to be filed for record per the requirements of the Hamilton County Subdivision Control Ordinance.

Premises. A lot or plat including buildings thereon, if any.

Private school. See "School, private."

Professional office. Office of a member or members of a recognized profession as defined by the United States Bureau of the Census.

Professional office center. An architectural and functional grouping of professional offices and appropriate associated and accessory uses conforming to the standards and requirements of this ordinance which is composed of building area, parking area, landscaped reservation and plantation, and other land features appropriate for its use.

Public sewer system. A sanitary sewer system licensed by the State of Indiana and owned and operated by a governmental unit or by a private business which provides service to residents and business and industry as opposed to an individually owned septic sewer system.

Public utility installations. The erection, construction, alteration, or maintenance by public utilities, municipal departments, commissions, or common carriers of underground, surface or overhead gas, oil, electrical, steam, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utility or municipal departments, commissions, or common carriers, for the public health or safety or general welfare.

Public way. A highway, street, avenue, boulevard, road, lane, alley or other defined area dedicated or otherwise legally established to the public use, usually affording a means of access to abutting property. The general term "street" is often used to designate such public ways. As used in this ordinance, the following definitions shall apply:

- a. *Freeways.* Freeways are used primarily by interstate and intrastate traffic. A freeway is a divided highway designed to have full control of access with no traffic crossing the roadway at the same grade.
- b. *Expressways.* Expressways are arterial highways for through traffic whose main purpose is to move traffic rather than provide access to individual properties. An expressway is a divided highway with full or partial control of access and a limited number of at grade intersections.
- c. *Primary arterials.* Primary arterials carry both local traffic and regional traffic, link various communities, and move traffic to and from major traffic

generators. Primary arterials carry both intermediate and long distance traffic, utilizing traffic control devices to facilitate traffic flow within developed areas. Regulation of the number of curb cuts is often necessary.

- d. *Secondary arterials.* Secondary arterials are intended to collect and distribute traffic to primary arterials. Secondary arterials provide access to specific traffic destinations, allow easy movement from one neighborhood to another, and provide crosstown traffic movement. Secondary arterials serve small traffic generating sources such as community oriented commercial areas, schools, major recreation areas, and other similar land uses.
- e. *Major collector.* Major collector streets take traffic from minor collectors, carry it over a short distance and distribute it to primary and secondary arterials. A major collector street serves the primary purpose of collecting local traffic and delivering it to the next highest order street.
- f. *Minor collector.* Minor collector streets are intended to provide access to individual properties abutting the street. They also provide additional right-of-way for the placement of utility lines, drainage and sewer facilities, and on street parking.
- g. *Local.* A street or system of streets and roads which primarily provides access to residential and other abutting property.

Recreational vehicle. Any boat, boat trailer, trailer, camping trailer, travel trailer, pick-up, coach, motor home or other unit built or mounted on a vehicle or chassis, without permanent foundation, which may legally be driven or towed by a motor vehicle on a highway or street.

Ringelmann number. See "Smoke, ringelmann number."

Rural landscape. Landscapes that have been shaped by historical process of land use and retain visual and cultural characteristics indicative of such process.

Savings association. Any

- (1) Building and loan association;
- (2) Savings association;
- (3) Rural savings association; or
- (4) Guaranty savings association;

Organized and operating under the laws of the state, whether in stock or mutual form.

School. Public or parochial pre-primary, primary, grade, junior high, high, preparatory school or academy; junior college, college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization.

School, private. Any school founded or operated by or under the sponsorship of a religious or charitable organization not receiving public funds for its operation.

School, public. Any school receiving public funds for its operation.

School, trade or business. Secretarial school or college, business school or college, vocational trade school or other institution of higher education when not public and not owned or operated by or under the sponsorship of a religious or charitable organization. School conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hairdressing or for teaching industrial skills in which machinery is employed as a means of instruction.

School, with dormitories. Any school, public or private, which offers extended overnight accommodations to students for compensation.

Self-service storage facility. A building or buildings consisting of individual, small (maximum size 800 sq. ft. per individual unit) self contained units that are leased or owned for the storage of business, household goods or contractor's supplies.

Shall. The term "shall" is always mandatory.

Shopping center. An architectural and functional grouping of retail stores, generally oriented around a supermarket or department store, and appropriate associated and accessory uses, which is the central feature of a site plan or development plan composed of building areas, parking areas, access streets and circulatory ways for vehicles and pedestrians, landscape reservations and plantations and other land features appropriate for its operation as a business enterprise, designed to serve residential neighborhoods or communities and which conforms to the requirements of this ordinance.

Sign. Any advertisement identification, description, display or illustration which is affixed to, or painted, or represented directly or indirectly upon a building (or within a building, if readily visible from the exterior of said building) or other outdoor surface or structure or parcel of land, and which directs attention to an object, product, place, activity, business, person, service or interest.

Sign, advertising. A sign which directs attention to an object, product, place, activity, business, person, service or interest.

Sign, facing. The surface of the sign upon, against or through which the message of the sign is exhibited.

Sign, free-standing or ground. Any sign attached to a self-supporting sign structure which is essentially unattached to any other structure.

Sign, incidental. A nameplate, temporary sign, or sign relating to the lot or use thereof and designating accessory uses, direction, identification, information, or real estate for sale, rent or lease.

Sign, projecting. Any sign suspended from or supported by a building and extending outward therefrom more than 18 inches.

Sign, surface. The entire area within a single continuous perimeter enclosing all elements of the sign which form an integral part of the sign and which are organized, related and composed to form a single unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

Site plan. Specific plans for any construction, alteration, relocation, occupancy or change of use with respect to all property except that specifically exempt under [Article 11](#) of this ordinance.

Smoke, ringelmann number. The number of the area on the Ringelmann Chart that most nearly matches the light-obscuring capacity of smoke. *Ringelmann chart* is a chart published in the United States Review of Mine Information Circular No. IC8333 (May 1967), revision of IC7718, consisting of a series of shaded illustrations used:

- (1) To measure the opacity of air pollution emissions, ranging from light grey through black; and
- (2) To set and enforce emissions standards.

Smoke below the density of Ringelmann No. 1 shall be considered no smoke, or Ringelmann 0.

Smoke unit. The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed. The various products are then added together to give the total number of smoke units observed during the entire observation period.

Sound, decibel. A unit of measurement of the intensity of loudness of sound. Sound level meters are used to measure such intensities and are calibrated in decibels.

Sound, octave band. See "Octave band."

Sound, octave band analyzer. See "Octave band analyzer."

Sound, vibration. Oscillatory motion transmitted through the ground.

Special uses. Uses publicly or municipally operated and those uses traditionally affected with a public interest and those uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property and public facilities.

Storable swimming or wading pool. A swimming or wading pool with a maximum dimension of 18 feet (5.49 m) and a maximum wall height of 42 inches (1.07 m) and so constructed that it may be readily disassembled for storage and reassembled to its original integrity. A swimming or wading pool with nonmetallic inflatable walls regardless of dimensions is considered to be a storable swimming or wading pool.

Story. That portion of a building, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between such floor and the ceiling next shall be the story.

Story, half. That portion of a building under a sloping gable, hip, or gambrel roof, the wall plates on at least two opposite exterior walls of which are not more than three feet above the floor level of such half-story.

Street. See "Public way."

Structural alteration. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any other substantial change in the exterior walls or the roof.

Structure. Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

Subdivide. The subdivision of a parcel of land into two or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development upon any and all plans, terms, and conditions.

Subdivision. The division or development of land zoned for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument, into two or more lots in a form suitable for recordation and in conformance with the terms and conditions of the Hamilton County Subdivision Control Ordinance.

Swimming pool. A pool, pond, lake, or open tank containing at least 18 inches of water at any point and maintained or allowed to exist by the owner or his agent; includes hot tubs or spas.

Swimming pool, private. A swimming pool used only by the owner of the pool or guests, invitees or permittees; not operated for compensation. This use is considered accessory to that principal use with which it is associated.

Swimming pool, public. A swimming pool for the benefit of, and accessible to, the general public; usually operated with a charge for admission. A public swimming pool is considered a principal use in this ordinance.

Tense. Words used in the present tense include the future.

Tourist home. See "Home, tourist."

Urgent care center. See "Hospital."

Use. The employment or occupation of a building, structure of land for a person's service, benefit or enjoyment.

Used. The word "used" includes "designed" or "intended to be used."

Variance. A modification of the specific requirements of this ordinance which may be granted by the board in accordance with the terms of this ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

Vibration. See "Sound, vibration."

Vision clearance on corner lots. A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of three and 12 feet above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting street pavements, and the triangular space is determined by a diagonal line connecting two points measured 15 feet along each of the street property lines equidistant from the intersection of the property lines of the property lines extended, at the corner of the lot.

Yard. A landscaped space on the same lot with a principal building, open, unoccupied and unobstructed by structures, parallel roads, drives and parking lots, except as otherwise provided by this ordinance.

Yard, front. A yard extending across the full width of the lot unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the front lot line and the building line.

Yard, rear. A yard extending across the full width of the lot between the rear of the principal building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than 30 percent of the required space, and steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the rear lot line and the rear of such principal building.

Yard, side. A yard between the principal building and the side lot line, extending from the front yard or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally at 90 degrees with the side lot line, from the nearest part of the principal building, except in cases where irregular or pie-shaped lots are located, then the width of the required side yard shall be the shortest width of the area between the side lot line and the principal building measured horizontally at 90 degrees with the side lot line.

Yard width and depth. The shortest horizontal distance from a lot line to the main building.

(Ord. No. 6-13-94-B, § 1, 6-13-1994; Ord. No. 6-13-94-C, § 1, 6-13-1994; Ord. No. 01-09-95-A, 1-23-1995; Ord. No. 2-12-96-D, 2-12-1996; Ord. No. 9-22-03A, 9-22-2003; Ord. No. 04-21-09-A, 4-27-2009)

ARTICLE 3. - AGRICULTURAL DISTRICTS

A. - AGRICULTURAL DISTRICTS ESTABLISHED

Agricultural zoning districts established in this ordinance for Hamilton County, Indiana, are as follows:

1.	A-1	Conservation and preservation
2.	A-2	Agricultural
3.	A-3	Agricultural and planned residential country
4.	A-4	Agricultural business

Section 1. - A-1 conservation and preservation district.

- a. *Purpose.* It is the purpose of this district to protect floodplains, wetlands, forests, wildlife refuges and similar conservation and environmentally sensitive areas and thus protect public health, safety and welfare, while at the same time encouraging the protection of those areas with unique land characteristics.
- b. *Permitted uses:*
 - 1. Agricultural uses where the existing tillable tract of land is three acres or more.
 - 2. Structures for wildlife, forest, and similar non-commercial preserves, and structures for any other agricultural uses allowed only by special use as provided in Article 15 Special Uses.
 - 3. Archaeological or historic sites, building, or properties.
- c. *Subdivision.* A subdivision of land is prohibited in A-1 district.

- d. *Development standards.* Inasmuch as there is no building or development permitted in A-1 district, there are no development standards necessary for this c
- e. *Use specifications:*
 - 1. No structures or buildings are permitted in A-1 district.
 - 2. Prohibited acts and uses in this district include the filling in with waste or foreign materials, the construction and use of commercial, industrial and residential structures, and the industrial and commercial use of open ground.

Section 2. - A-2 agricultural district.

- a. *Purpose.* It is the purpose of this district to permit the full range of agricultural activities as well as certain planned, large lot residential development with development standards which protect the full range of agricultural uses as determined by the plan commission, and other uses customarily conducted in agricultural areas.
- b. *Permitted uses:*
 - 1. Farms and farm buildings for dairy animals, poultry, livestock and crops.
 - 2. One single family dwelling per lot or parcel.
 - 3. Greenhouse/wholesale only plant nursery with all uses and accessory uses located within enclosed or screened structures.
 - 4. Public schools.
 - 5. Public parks.
 - 6. Accessory buildings as related to agriculture or single family residential use.
 - 7. Fire stations.
 - 8. Home occupation.
 - 9. Temporary buildings for construction purposes for a period not to exceed such construction or 18 months, whichever shall first occur.
 - 10. Signs as permitted by Article 9
 - 11. Temporary campgrounds are allowed in all A-2 and A-2P districts only.
 - 12. Utilities - Public utilities uses for all public utilities service and operation, except those uses listed as Special Uses.
 - 13. Uses approved as Special Uses as provided in Article 15
 - 14. In home day care facility.
 - 15. Limited agricultural related retail sales. Road side sales stands, Christmas tree sales, long term storage use of existing agriculture buildings, retail sales of home grown and/or processed agricultural produce. (Off-site products limited to 30 percent of total products offered for sale.) These particular uses are restricted to A-2 and A-2P districts only.
- c. *Subdivision.* A subdivision of land is prohibited in A-2 district; however, a subdivision is allowed if such district is designated for planned development [A-2(P) on the zone map]. See use specifications which follow in paragraph C of this article.
- d. *Development standards.* Development standards for A-2 district are as provided under paragraph B of this article.
- e. *Use specifications.* Use specifications for A-2 district are as provided under paragraph C of this article.

(Ord. No. 6-13-94-A, 6-13-1994; Ord. No. 6-13-94-B, 6-13-1994; Ord. No. 6-13-94-C, § 2, 6-13-1994; Ord. No. 04-21-09-A, 4-27-2009)

Section 3. - A-3 agricultural and planned residential country district.

- a. *Purpose.* It is the purpose of this district to allow planned residential uses within designated agricultural areas normally in close proximity to existing residential development and existing agricultural uses.
- b. *Permitted uses:*
 - 1. Uses permitted in the A-2 agricultural district, except the commercial raising of livestock.
 - 2. Municipal or government office building.
 - 3. Manufactured home type I provided they have wheels, axles and hitch mechanisms removed and are anchored to the ground in accordance with approved installation standards.
 - 4. Off-street parking in accordance with Article 13
 - 5. Signs as permitted by Article 9
 - 6. Accessory buildings and uses customarily incidental to any of the above uses.
 - 7. Uses approved as Special Uses as provided in Article 15
 - 8. Any use otherwise allowed in this district may be developed as a planned development in accordance with Article 12
- c. *Subdivision.* Subdivision of land is permitted in A-3 district. See "Subdivision" under use specifications which follow in paragraph C of this article.
- d. *Development standards.* Development standards for A-3 district are as provided under paragraph B of this article.
- e. *Use specifications.* Use specifications for A-3 district are as provided under paragraph C of this article.

Section 4. - A-4 agricultural business district.

- a. *Purpose.* It is the purpose of this district to provide areas for business or commercial activities which are related to agricultural business.
- b. *Permitted uses:*
 1. Permitted uses in the A-3 agricultural residential country district.
 2. Commercial processing of agricultural products, except livestock, including industrial grain elevators and mills.
 3. Raising animals for biological purposes.
 4. Commercial grain storage elevators.
 5. Raising animals for furs or pets.
 6. Uses approved as Special Uses as provided in Article 15
 7. Landscape nursery, provided at least 25 percent of land area used for growing landscape plant material and all equipment and storage material within enclosed structures or screened.
- c. *Subdivision.* Subdivision of land is permitted in A-4 district, except that residential subdivision of land is specifically prohibited. See "Subdivisions" under use specifications which follow in paragraph C of this article.
- d. *Development standards.* Development standards for A-4 district are as provided under paragraph B of this article.
- e. *Use specifications.* Use specifications for A-4 district are as provided under paragraph C of this article.

B. - DEVELOPMENT STANDARDS

Section 1. - Minimum lot area (gross density).

1. Not less than ten acres for individual lots.
2. As an exception to the ten acre minimum area requirement specified in subsection 1. above, lots of less than ten acres may be created by the owner of a parcel of property at the time of enactment of this ordinance, without an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance, if the following requirements are met:
 - (a) Up to three new lots may be created from the entire parcel of property owned (the singular term "parcel" including all contiguous properties in common ownership); and
 - (b) The new lot(s) may be directly adjacent to another lot(s); however, in the event such new lot(s) does not share a common boundary line with another lot, such new lot(s) shall be at least 750 feet from the boundary of any other lot(s) at its closest point; and
 - (c) Neither the new lot(s) nor the remainder of the original parcel from which the new lot(s) were created shall be less than:
 - (1) Three acres in area in A-2 districts;
 - (2) One and one-half acres in area in A-3 districts; or
 - (3) Thirty thousand sq. ft. in area in A-4 districts.
3. Lots of less than ten acres may be permitted in an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance if such lots are equal to or greater than:
 - (a) Three acres in area in A-2 districts; or
 - (b) One and one-half acres in area in A-3 districts; or
 - (c) Thirty thousand sq. ft. in area in A-4 districts.
4. Not less than five acres for limited agricultural related retail sales uses.
5. Where an existing single family residential structure along with its accessory buildings have existed since before May 15, 1990, a new parcel may be created (split/subdivided) for these structures per the following standards being met before the parcel is recorded by the Hamilton County Recorders Office and the Hamilton County Auditors Office.
 - a. The minimum new parcel size shall be not less than one acre.
 - b. The minimum remaining parcel size shall be no less than 37 acres.
 - c. The new parcel shall have a septic/sewage system approved by the Hamilton County Health Department.
 - d. The new parcel shall be reviewed by the Hamilton County Surveyor's Office.
 - e. The existing primary structure shall be in habitable condition at the present time and shall have been occupied within the past 18 months.
 - f. The existing structure shall not be classified as an unsafe building per the standards listed in the Hamilton County Unsafe Building Law (Ord. No. 11-23-93).
 - g. All other requirements of the zoned district in which the structure is located shall be met.

(Ord. No. 6-13-94-C, § 3, 6-13-1994; Ord. No. 2-12-96-C, 2-12-1996)

Section 2. - Minimum lot frontage on road.

1. Ten or greater acre lots - 330 feet.
2. Lots in subdivisions or other lots in A-2 districts:

- (a) Eighty feet on cul-de-sac.
 - (b) One hundred fifty feet on other lots.
3. Lots in subdivisions or other lots in A-3 districts:
- (a) Seventy feet on cul-de-sac.
 - (b) One hundred twenty-five feet on other lots.
4. Lots in subdivisions or other lots in A-4 districts:
- (a) Sixty feet on cul-de-sac.
 - (b) One hundred feet on other lots.

Section 3. - Minimum set back lines.

1. *Front yard:*

- (a) Ten acres (or greater) lots not less than 120 feet on designated primary and secondary arterials; not less than 80 feet on major or minor collectors and not less than 60 feet on other public roads.
- (b) Lots in subdivisions or other lots in A-2 district - 60 feet.
- (c) Lots in subdivisions or other lots in A-3 district - 60 feet.
- (d) Lots in subdivisions or other lots in A-4 districts - 60 feet.
- (e) Temporary campground - 50 feet.
- (f) Limited agricultural related retail sales uses (new buildings) - Ten feet from the existing road right-of-way.
- (g) Where there is not a sufficient front yard setback per Articles 3-B, Section 3-1.(a), (b), (c), (d) and 18-C Section 1-r. and where allowed by other sections of the zoning ordinance a portable accessory building without a permanent foundation (in-ground concrete, concrete blocks, posts) with or without tie down ground anchors may be placed no closer to the road centerline than the rear building line established by the existing building on the property closest to the frontage road.

2. *Side yard:*

- (a) Ten acres (or greater) lots - 50 feet;
- (b) Lots in subdivisions or other lots in A-2 district - 25 feet; 50 feet for side yard on corner lot.
- (c) Lots in subdivisions or other lots in A-3 district - 20 feet; 40 feet for side yard on corner lot.
- (d) Lots in subdivisions or other lots in A-4 districts - 12 feet; 30 feet for side yard on corner lot.
- (e) Temporary campground - 50 feet.
- (f) Limited agricultural related retail sales uses (new buildings and product storage or displays) - 100 feet.

3. *Rear yard:*

- (a) Ten acres (or greater) lots - 80 feet.
- (b) Lots in subdivisions or other lots in A-2 district - 60 feet.
- (c) Lots in subdivisions or other lots in A-3 district - 45 feet.
- (d) Lots in subdivisions or other lots in A-4 districts - 30 feet.
- (e) Temporary campground - 50 feet.
- (f) Limited agricultural related retail sales uses (new buildings and product storage or displays) - 100 feet.

4. *Minimum lot width at building line:*

- (a) Ten acres (or greater) lots - 330 feet.
- (b) Lots in subdivisions or other lots in A-2 district - 150 feet.
- (c) Lots in subdivisions or other lots in A-3 district - 150 feet.
- (d) Lots in subdivisions or other lots in A-4 districts - 150 feet.

(Ord. No. 6-13-94-A, 6-13-1994; Ord. No. 6-13-94-C, §§ 4—6, 6-13-1994; Ord. No. 5-24-10-B, 5-24-2010)

Section 4. - Maximum building height.

Not to exceed two and one-half stories or 35 feet whichever is lower.

Section 5. - Minimum ground level square footage exclusive of porches, terraces and garages.

1. Single family: (All A districts)

Single story - 1,350 square feet. This area represents the minimum square footage required for all manufactured or mobile homes otherwise allowed in any agricultural district.

Two-story - 900 square feet (ground floor).

Tri-level - 900 square feet (basement and 1st level).

Story and one-half - 900 square feet (ground floor).

Section 6. - Parking.

Off-street parking shall be provided in accordance with the provisions set forth in Article 13.

Section 7. - Time of operation.

Time that business is open to the public shall be displayed on allowed sign (refer to Article 9 Signs) limited agricultural related retail sales operations only.

(Ord. No. 6-13-94-C, § 10, 6-13-1994)

Section 8. - Display of products.

Outside display of products for sale shall be approved by director of plan commission as shown on site development plan.

(Ord. No. 6-13-94-C, § 11, 6-13-1994)

C. - USE SPECIFICATIONS

Section 1. - Location permitted.

Agricultural uses shall be permitted in A-1, A-2, A-3 and A-4 agricultural districts on a tract of land containing three acres or more; by Special Uses on a tract of land containing less than three acres in these districts and by Special Uses in all other districts regardless of tract size.

(Ord. No. 5-24-10-B, 5-24-2010)

Section 2. - Subdivision.

Subdivision is not permitted in Conservation and Preservation (A-1) or in Agricultural (A-2); however, it is permitted in Agricultural Planned Development (A-2(P)), Agricultural Residential Country (A-3) and Agricultural Business (A-4). A particular area may be restricted by being designated for development only through the planned development procedure established under Article 12 (as indicated by the designation "(P)" after the zoning district on the zone map). In such event, subdivision within this area shall be done in conjunction with development plan or P.U.D. approval under Article 12.

Section 3. - Planned development.

Any agricultural district (except conservation and preservation A-1) and A-4 shall be restricted by being designated for development only through the planned development procedure established under Article 12 (as indicated by the designation "(P)" after the zoning district on the zone map). If such designation exists, all development in this area shall include a development plan or P.U.D. filed and approved in accordance with Article 12.

Nothing in this ordinance should be construed to preclude any developer from requesting development plan or P.U.D. status with respect to a particular project, irrespective of whether the land in question actually lies in a designated planned development district, notwithstanding the mandatory requirement that all development in an area designated for planned development as hereinabove specified be done through development plan or P.U.D. approval.

Section 4. - Approval of site plan.

No building or structure shall be erected; or land site or lot altered; or land used; unless and until a site plan for such building, structure, or use has been presented to, and approved by, the plan director pursuant to Article 11, if required.

Section 5. - Accessory building and uses.

- a. Accessory buildings are permitted in all districts, but not prior to the erection of the principal building.
- b. Accessory uses such as public utility installation, walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, bird baths and structures of a like nature are permitted in any required front, side or rear yard, and without the issuance of any permit.
- c. Accessories such as ground microwave antenna dishes are not permitted in front or side yards through the full depth of the lot. A ground microwave antenna dish, or other such accessory use, must be located at least ten feet from the rear property line or easement interior boundary plus three feet.
- d. Windmills for generating electric power and antennas in excess of 50 feet in height are not permitted in any residential district without receiving approval as a special use.
- e. Maximum size of accessory building is 5,000 sq. ft. Accessory buildings shall not be located within any required front yard setback. Accessory building side and rear yard setbacks:

Size of Building	Required setback
0— 1,600 sq. ft.	5.0 ft. or easement plus 3.0 ft., whichever is greater
1,601— 2,400	8.0 ft. or easement plus 3.0 ft., whichever is greater
2,401— 3,600	12.0 ft. or easement plus 3.0 ft., whichever is greater
3,601— 5,000	20.0 ft. or easement plus 3.0 ft., whichever is greater

f. The maximum height permitted shall be 21 ft.; measured halfway between the eve board and the top of the building.

g. Factory built structures initially constructed for use as a home and dwelling shall not be established or used as an accessory building in any zoned districts or for any purpose unless by variance approved by the appropriate advisory board of zoning appeals.

(Ord. No. 2-12-96-D, 2-12-1996; Ord. No. 9-22-03-A, 9-22-2003)

Section 6. - Special use requirements.

a. Temporary campgrounds:

1. Time limit. Maximum of seven consecutive days, five times a year.
2. Temporary campgrounds. Permit required: None.
3. Temporary campground. Adequate water and sanitary facilities shall be provided per local and/or state health laws and requirements. All other campground activities shall be in compliance with existing local and state nuisance, noise, etc., laws.

(Ord. No. 6-13-94-A, 6-13-1994)

Section 7. - Maximum number of children full or part-time six to 20.

- a. Shall have approved septic permit.
- b. Shall have adequate facilities for parking and traffic control.
- c. Signage shall comply with sign requirements of home occupation section of zoning ordinance.

No portion of structure shall be located within 300 feet of gasoline pumps, underground fuel storage tanks, or other flammable or explosive materials.

Note: Certain in-home day care facilities specifically covered under Indiana State Law shall be exempt from all local zoning requirements.

(Ord. No. 6-13-94-B, § 3, 6-13-1994)

ARTICLE 4. - RESIDENTIAL DISTRICTS

A. - RESIDENTIAL DISTRICTS ESTABLISHED

Residential zoning districts established in this ordinance for Hamilton County, Indiana, are as follows:

1.	R-1	Residential low density suburban
2.	R-2	Residential medium density suburban
3.	R-3(P)	Residential medium-high density village/urban
4.	R-4(P)	Residential high density village/urban

Section 1. - R-1 residential low density suburban district.

- a. *Purpose.* It is the purpose of this district to provide areas of low density, suburban residential development with particular emphasis upon promoting residential subdivision development.
- b. *Permitted uses:*
 - (1) One single family dwelling per lot or parcel.
 - (2) Home occupations.
 - (3) Manufactured home type I, provided they have wheels, axles and hitch mechanisms removed and are anchored to the ground in accordance with approved installation standards.
 - (4) Public utilities uses for all public utilities service and operation except those uses listed as special uses.
 - (5) Off-street parking in accordance with [Article 13](#)
 - (6) Signs as permitted by [Article 9](#)
 - (7) Accessory buildings and uses customarily incidental to any of the above uses.
 - (8) Uses approved as special uses as provided in [Article 15](#)
 - (9) Any use otherwise allowed in this district may be developed as a planned development in accordance with [Article 12](#)
- c. *Subdivision.* Subdivision of land is permitted in R-1 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
 - (1) Minimum lot area:
 - (a) Not less than ten acres for individual lots.
 - (b) As an exception to the ten acre minimum area requirement specified in subsection (a) above, lots of less than ten acres may be created by the owner of a parcel of property at the time of enactment of this ordinance, without an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance, if the following requirements are met:
 - (i) Up to three new lots may be created from the entire parcel of property owned (the singular term "parcel" including all contiguous properties in common ownership); and
 - (ii) The new lot(s) may be directly adjacent to another lot(s); however, in the event such new lot(s) does not share a common boundary line with another lot, such new lot(s) shall be at least 750 feet from the boundary of any other lot(s) at its closest point; and
 - (iii) Neither the new lot(s) nor the remainder of the original parcel from which the new lot(s) were created shall be less than 30,000 sq. ft. in area.
 - (c) Lots of less than ten acres may be permitted in an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance, if such lots are equal to or greater than 30,000 sq. ft. in area.
 - (2) Minimum lot frontage on road:
 - (a) Lots in subdivisions or other lots - 60 feet on cul-de-sac, 100 feet on other lots.
 - (b) Ten acres (or greater) lots - 330 feet.
 - (3) Minimum setback lines (all construction):
 - (a) *Front yard:*
 - (1) Lots in subdivisions or other lots - 60 feet.
 - (2) Ten acres (or greater) lots - 80 feet on designated arterial and collector roads and not less than 60 feet on other public roads.
 - (3) Where there is not a sufficient front yard setback per Articles 4-A, Section 1-d-(3)(a)(1), (2) and 18-C, Section 1-r and where allowed by other sections of the zoning ordinance a portable accessory building without a permanent foundation (in-ground concrete, concrete blocks, posts) with or without tie down ground anchors may be placed no closer to the road centerline than the rear building line established by the existing building on the property closest to the frontage road.
 - (b) *Side yard:*
 - (1) Lots in subdivisions or other lots - 12 feet, except corner lots when 30 feet front yard setback will also apply to side yard.
 - (2) Ten acres (or greater) lots - 50 feet.
 - (c) *Rear yard:*
 - (1) Lots in subdivisions or other lots - 30 feet.
 - (2) Ten acres (or greater) lots - 50 feet.
 - (4) Minimum lot width at building line:
 - (a) Lots in subdivisions or other lots - 100 feet.
 - (b) Ten acres (or greater) lots - 330 feet.

- (5) Maximum building height shall not exceed 2½ stories or 35 feet, whichever is lower.
- (6) Minimum ground level square footage (single family dwelling exclusive of porches, terraces and garages):
 - (a) Single story - 1,350 sq. ft. This area represents the minimum square footage required for all manufactured or mobile homes otherwise allowed in R-1 district.
 - (b) Two story - 900 sq. ft.
 - (c) Tri-level - 900 sq. ft.
 - (d) Story and one-half - 900 sq. ft.
- (7) Off-street parking shall be provided in accordance with the requirements of Article 13 of this ordinance.
- e. *Use specifications.* Use specifications for R-1 district are as provided under paragraph B of this article.

(Ord. No. 04-21-09-A, 4-27-2009; Ord. No. 5-24-10-B, 5-24-2010)

Section 2. - R-2 residential medium density suburban district.

- a. *Purpose.* It is the purpose of this district to provide areas of moderate density, suburban residential development with particular emphasis upon promoting residential subdivision development.
- b. *Permitted uses:*
 - (1) Uses permitted in the R-1 residential low density suburban district.
 - (2) One single family dwelling per lot or parcel.
 - (3) Home occupations.
 - (4) Manufactured home type I provided they have wheels, axles and hitch mechanisms removed and are anchored to the ground in accordance with approved installation standards.
 - (5) Public utilities uses for all public utilities service and operation, except those uses listed as Special Uses.
 - (6) Off-street parking facilities in accordance with Article 13
 - (7) Signs as permitted by Article 9
 - (8) Accessory buildings and uses customarily incidental to any of the above uses.
 - (9) Uses approved as Special Uses as provided in Article 15
 - (10) Any use otherwise allowed in this district may be developed as a planned development in accordance with Article 12
- c. *Subdivision.* Subdivision of land is permitted in R-2 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
 - (1) Minimum lot area:
 - (a) Not less than ten acres for individual lots.
 - (b) As an exception to the ten acre minimum area requirement specified in subsection (a) above, lots of less than ten acres may be created by the owner of a parcel of property at the time of enactment of this ordinance, without an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance, if the following requirements are met:
 - (i) Up to three new lots may be created from the entire parcel of property owned (the singular term "parcel" including all contiguous properties in common ownership); and
 - (ii) The new lot(s) may be directly adjacent to another lot(s); however, in the event such new lot(s) does not share a common boundary line with another lot, such new lot(s) shall be at least 750 feet from the boundary of any other lot(s) at its closest point; and
 - (iii) Neither the new lot(s) nor the remainder of the original parcel from which the new lot(s) were created shall be less than:
 - 20,000 sq. ft. in area for single family
 - 30,000 sq. ft. in area for duplex
 - (c) Lots of less than ten acres may be permitted in an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance, if such lots are equal to or greater than:
 - 20,000 sq. ft. in area for a single family.
 - 30,000 sq. ft. in area for a duplex.
 - (2) Minimum lot frontage on public road:
 - (a) Lots in subdivisions and other lots:
 - (1) Fifty feet for single family dwelling.
 - (2) One hundred feet for duplexes.
 - (b) Ten acres (or greater) lots - 330 feet.
 - (3) Minimum setback lines:

- (a) Front yard:
 - (1) Lots in subdivisions and other lots:
 - 25 feet for single family;
 - 25 feet for duplexes.
 - (2) Ten acres (or greater) lots - Not less than 120 feet on designated primary and secondary arterials; not less than 80 feet on major and minor collectors and not less than 60 feet on other roads.
- (b) Side yards:
 - (1) Lots in subdivisions and other lots
 - (a) Ten feet for single family dwellings, except corner lots when 20 feet front yard setback will apply also to side yard on road.
 - (b) Twenty feet for duplexes.
 - (2) Ten acres (or greater) lots - 50 feet.
- (c) Rear yard:
 - (1) Lots in subdivisions and other lots:
 - (a) Thirty feet for single family;
 - (b) Forty feet for duplexes.
 - (2) Ten acres (or greater) lots - 30 feet.
- (4) Minimum lot width at building line:
 - (a) Lots in subdivisions and other lots.
 - (1) Fifty feet for single family dwelling.
 - (2) One hundred feet for duplexes.
 - (b) Ten acres (or greater) lots - 330 feet.
- (5) Maximum building height shall be 35 feet.
- (6) Minimum ground level square footage (exclusive of open porches, terraces and garages):
 - (a) Single-family:
 - (1) Single story - 1,200 sq. ft. This area represents the minimum square footage required for all manufactured or mobile homes otherwise allowed in R-2 district.
 - (2) Two story - 800 sq. ft.
 - (3) Tri-level - 800 sq. ft.
 - (4) Story and one-half - 800 sq. ft.
 - (b) Two-family (duplexes):
 - (1) Single story - 650 sq. ft. per unit.
 - (2) Two story - 650 sq. ft. per unit.
 - (3) Tri-level - 650 sq. ft. per unit (basement and first level).
 - (4) Story and one-half - 650 sq. ft. per unit.
- (7) Off-street parking shall be provided in accordance with the requirements of [Article 13](#) of this ordinance.

e. *Use specifications.* Use specifications for R-2 district are as provided under paragraph B of this article.

(Ord. No. 04-21-09-A, 4-27-2009)

Section 3. - R-3(P) residential medium-high density village/urban district.

- a. *Purpose.* It is the purpose of this district to provide areas of planned medium-high density, village/urban residential development with particular emphasis upon promoting the use of open space in conjunction with residential subdivision.
- b. *Permitted uses:*
 - 1. Uses permitted in the R-2 residential medium density suburban district.
 - 2. One single family dwelling per lot or parcel.
 - 3. One two family dwelling (duplex) per lot or parcel.
 - 4. Home occupation.
 - 5. Municipal or governmental office buildings.
 - 6. One manufactured home type 1 provided they have wheels, axles, and hitch mechanisms removed and are anchored to the ground in accordance with approved installation standards per lot or parcel.
 - 7. Manufactured home type II and mobile home when located in a mobile home park in accordance with the requirements of [Article 10](#)
 - 8. Public utilities uses for all public utilities service and operation except those listed as Special Uses.

9. Off-street parking facilities in accordance with Article 13
 10. Signs as permitted by Article 9
 11. Accessory buildings and uses customarily incidental to any to the above uses.
 12. Uses approved as Special Uses as provided in Article 15
 13. Any use otherwise allowed in this district may be developed as a planned development in accordance with Article 12
- c. *Subdivision*. Subdivision of land is permitted in R-3(P) district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards*:
- (1) Minimum lot area:
 - (a) Not less than ten acres for individual lots.
 - (b) As an exception to the ten acre minimum area requirements specified in subsection (a) above, lots of less than ten acres may be created by the owner of a parcel of property at the time of enactment of this ordinance, without an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance, if the following requirements are met:
 - (i) Up to three new lots may be created from the entire parcel of property owned (the singular term "parcel" including all contiguous properties in common ownership); and
 - (ii) The new lot(s) may be directly adjacent to another lot(s); however, in the event such new lot(s) does not share a common boundary line with another lot, such new lot(s) shall be at least 750 feet from the boundary of any other lot(s) at its closest point; and
 - (iii) Neither the new lot(s) nor the remainder of the original parcel from which the new lot(s) were created shall be less than:
 - 13,500 sq. ft. in area for single family dwelling.
 - 18,000 sq. ft. for duplex.
 - 9,000 sq. ft. per unit for multi-family units (three bedrooms and over).
 - 7,500 sq. ft. per unit for multi-family units (under three bedrooms).
 - (c) Lots of less than ten acres may be permitted in an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance if such lots are equal to or greater than:
 - 13,500 sq. ft. in area for single family dwelling.
 - 18,000 sq. ft. for duplex.
 - 9,000 sq. ft. per unit for multi-family units (three bedrooms and over).
 - 7,500 sq. ft. per unit for multi-family units (under three bedrooms).
 - (2) Minimum lot frontage on public road:
 - (a) Lots in subdivisions and other lots:
 - (1) Forty feet for single family dwelling.
 - (2) Fifty feet for duplexes.
 - (3) Seventy feet for multi-family units located on arterial or collector roads.
 - (b) Ten acres (or greater) lots - 330 feet.
 - (3) Minimum setback lines:
 - (a) Front yard:
 - (1) Lots in subdivisions and other lots:
 - (a) Twenty-five feet for single family.
 - (b) Twenty-five feet for duplexes

Or average of the setback of other homes in the block
 - (c) For multi-family units, 30 feet plus two feet for each foot over 30 feet in height.
 - (2) Ten acres (or greater) lots - 80 feet on arterials and collectors and 60 feet on other local roads.
 - (b) Side yards:
 - (1) Lots in subdivisions and other lots:
 - (a) Ten feet for single family dwelling.
 - (b) Twenty feet for duplexes.
 - (c) For multi-family units, 20 feet plus two feet for each foot over 30 feet in height.
 - (2) Ten acres (or greater) lots - 50 feet.

(c) Rear yards:

(1) Lots in subdivisions and other lots:

- (a) Twenty feet for single family dwelling.
- (b) Thirty feet for duplexes.
- (c) For multi-family units, 40 feet plus two feet for each foot over 30 feet in height.

(2) Ten acres (or greater) lots - 30 feet

(4) Minimum lot width at building line:

(a) Lots in subdivisions and other lots:

- (1) Forty feet for single family dwelling.
- (2) Fifty feet for duplexes.
- (3) Seventy feet for multi-family units located on arterials or collector roads.

(b) Ten acres (or greater) lots - 330 feet.

(5) Maximum building height shall be 35 feet.

(6) Minimum square footage per unit (exclusive of open porches, terraces, carports or garages):

- (a) Single-family and two family - same as requirements for R-2.
- (b) Apartments or townhouses - 650 sq. ft. per unit.

(7) Off-street parking shall be provided in accordance with the provisions of Article 13

(8) Minimum distance between buildings:

- (a) Single-family detached - Ten feet.
- (b) Two-family - 20 feet.
- (c) Multi-family - 20 feet.

e. *Use specifications.* Use specifications for R-3(P) district are as provided under paragraph B of this article.

(Ord. No. 04-21-09-A, 4-27-2009)

Section 4. - R-4(P) residential high density village/urban district.

a. *Purpose.* It is the purpose of this district to provide areas of planned high density, village/urban residential development with particular emphasis upon promoting the use of open space in conjunction with residential subdivision.b. *Permitted uses:*

1. Uses permitted in the R-3(P) residential medium high density village district.
2. Multiple-family dwellings.
3. Boarding or lodging house.
4. Tourist home.
5. Lodge or private club of a noncommercial character.
6. Nursing home or home for the aged.
7. Public utilities uses for all public utilities service and operation except those listed as special uses.
8. Off-street parking facilities in accordance with Article 13
9. Signs as permitted by Article 9
10. Accessory buildings and uses customarily incidental to any of the above uses.
11. Uses approved as special uses as provided in Article 15
12. Any use otherwise allowed in this district may be developed as a planned development in accordance with Article 12

c. *Subdivision.* Subdivision of land is permitted in R-4(P) district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.d. *Development standards:*

(1) Minimum lot area:

- (a) Not less than ten acres for individual lots.
- (b) As an exception to the ten-acre minimum area requirement specified in subsection (a) above, lots of less than ten acres may be created by the owner of a parcel of property at the time of enactment of this ordinance, without an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance, if the following requirements are met:
 - (i) Up to three new lots may be created from the entire parcel of property owned (the singular term "parcel" including all contiguous properties in common ownership); and
 - (ii) The new lot(s) may be directly adjacent to another lot(s); however, in the event such new lot(s) does not share a common boundary line with

- another lot, such new lot(s) shall be at least 750 feet from the boundary of any other lot(s) at its closest point; and
- (iii) Neither the new lot(s) nor the remainder of the original parcel from which the new lot(s) were created shall be less than:
- 8,000 sq. ft. in area for single family dwelling.
 - 12,000 sq. ft. for duplex.
 - 6,000 sq. ft. per unit for multi-family units (three bedrooms and over).
 - 5,000 sq. ft. per unit for multi-family units (under three bedrooms).
- (c) Lots of less than ten acres may be permitted in an approved and recorded subdivision under the Hamilton County Subdivision Control Ordinance if such lots are equal to or greater than:
- 8,000 sq. ft. in area for single family dwelling.
 - 12,000 sq. ft. for duplex.
 - 6,000 sq. ft. per unit for multi-family units (three bedrooms and over).
 - 5,000 sq. ft. per unit for multi-family units (under three bedrooms).
- (2) Minimum lot frontage on public road:
- (a) Lots in subdivisions and other lots:
- (1) Forty feet for single family dwelling.
 - (2) Fifty feet for duplexes.
 - (3) Seventy feet for multi-family units located on arterial or collector roads.
- (b) Ten acres (or greater) lots - 330 feet.
- (3) Minimum setback lines:
- (a) Front yard:
- (1) Lots in subdivisions and other lots:
 - (a) Twenty-five feet for single family.
 - (b) Twenty-five feet for duplexes
 - Or average of the setback of other homes in the block
 - (c) For multi-family units, 30 feet plus two feet for each foot over 30 feet in height.
 - (2) Ten acres (or greater) lots - 80 feet on arterials and collectors and 60 feet on other local roads.
- (b) Side yards:
- (1) Lots in subdivisions and other lots:
 - (a) Ten feet for single family dwelling.
 - (b) Twenty feet for duplexes.
 - (c) For multi-family units, 20 feet plus two feet for each foot over 30 feet in height.
 - (2) Ten acres (or greater) lots - 50 feet.
- (c) Rear yards:
- (1) Lots in subdivisions and other lots:
 - (a) Twenty feet for single family dwelling.
 - (b) Thirty feet for duplexes.
 - (c) For multi-family units, 40 feet plus two feet for each foot over 30 feet in height.
 - (2) Ten acres (or greater) lots - 30 feet.
- (4) Minimum lot width at building line:
- (a) Lots in subdivisions and other lots:
- (1) Forty feet for single family dwelling.
 - (2) Fifty feet for duplexes.
 - (3) Seventy feet for multi-family units located on arterials or collector roads.
- (b) Ten acres (or greater) lots - 330 feet.
- (5) Maximum building height shall be 35 feet.
- (6) Minimum square footage per unit (exclusive of open porches, terraces, carports or garages):
- (a) Single-family and two family, same as requirements for R-2.
 - (b) Apartments or townhouses, 650 sq. ft per unit.

(7) Off-street parking shall be provided in accordance with the provisions of Article 13

(8) Minimum distance between buildings:

- (a) Single-family detached - ten feet.
- (b) Two-family - 20 feet.
- (c) Multi-family - 20 feet.

e. *Use specifications.* Use specifications for R-4(P) district are as provided under paragraph B of this article.

B. - USE SPECIFICATIONS

Section 1. - Subdivision.

Subdivision of land is permitted in all residential districts. A particular area may be restricted by being designated for development only through the planned development procedure established under Article 12 [as indicated by the designation "(P)" after the zoning district on the zone map]. In such event, subdivision within this area shall be done in conjunction with development plan or P.U.D. approval under Article 12.

Section 2. - Planned development.

R-3(P) and R-4(P) districts shall in all instances be restricted by being designated for development only through the planned development procedure established under Article 12 [as indicated by the designation "(P)" after the zoning district on the zone map]. All development in these districts shall include a development plan or P.U.D. filed and approved in accordance with Article 12.

Any other residential district may be restricted by being designated for development only through the planned development procedure established under Article 12 (as indicated by the designation "(P)" after the zoning district on the zone map). If such designation exists, all development in this area shall include a development plan or P.U.D. filed and approved in accordance with Article 12.

Nothing in this ordinance should be construed to preclude any developer from requesting development plan or P.U.D. status with respect to a particular project, irrespective of whether the land in question actually lies in a designated planned development district, notwithstanding the mandatory requirement that all development in an area designated for planned development as hereinabove specified be done through development plan or P.U.D. approval.

Section 3. - Site plan review.

No building or structure shall be erected, land or lot site altered, work commenced thereon, or land used, unless and until a site plan for such building, structure, or use has been presented to, and approved by, the plan director pursuant to Article 11, if required.

Section 4. - Accessory buildings and uses.

- a. Accessory buildings are permitted in all districts, but not prior to the erection of the principal building.
- b. Accessory uses such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, bird baths and structures of a like nature are permitted in any required front, side or rear yard, and without the issuance of any permit.
- c. Accessories such as ground microwave antenna dishes are not permitted in front or side yards through the full depth of the lot. A ground microwave antenna dish, or other such accessory use, must be located at least ten feet from the rear property line or easement interior boundary plus three feet.
- d. Windmills for the generating of electric power are not permitted in any residential district without receiving approval as a special use.
- e. Maximum size of accessory building is 2,400 sq. ft. Accessory buildings shall not be located within any required front yard setback. Accessory building side and rear yard setbacks:

Size of Building	Required setback
0— 1,600 sq. ft.	5.0 ft. or easement plus 3.0 ft., whichever is greater
1,601— 2,400	8.0 ft. or easement plus 3.0 ft., whichever is greater

- f. The maximum height permitted shall be 21 ft.; measured halfway between the eve board and the top of the building.
- g. Factory built structures initially constructed for use as a home and dwelling shall not be established or used as an accessory building in any zoned

districts or for any purpose unless by variance approved by the appropriate advisory board of zoning appeals.

(Ord. No. 2/12/96-D, 2-12-1996; Ord. No. 9-22-03A, 9-22-2003)

ARTICLE 5. - OFFICE DISTRICTS

A. - OFFICE DISTRICTS ESTABLISHED

Office zoning districts established in this ordinance for Hamilton County, Indiana, are as follows:

1.	O-1	Office development - residential character
2.	O-2	Office development

Section 1. - O-1 office development - residential character.

- a. *Purpose.* This district is established to provide for office development in which the site development, building architecture and overall aesthetics of the project are of a residential character. Typically, this district would be proximate to residential districts and uses, and serve as a buffer between such residential uses and more conventional office or commercial development.
- b. *Permitted uses:*
 - 1. Uses permitted in the R-4(P) district.
 - 2. Banks and financial institutions, including savings associations.
 - 3. Professional offices and business offices, including medical clinics.
 - 4. Public utilities uses for all public utilities service and operation except those uses listed as special uses.
 - 5. Municipal or government office buildings.
 - 6. Off-street parking facilities in accordance with [article 13](#)
 - 7. Self-service storage facility as part of an office building or complex (size of storage facility cannot exceed size of office building).
 - 8. Signs as permitted by [article 9](#)
 - 9. Accessory buildings and uses customarily incidental to any of the above uses.
 - 10. Uses approved as special uses as provided in [article 15](#)
 - 11. Any use otherwise allowed in this district may be developed as a planned development in accordance with [article 12](#)
- c. *Subdivision.* Subdivision of land is permitted in O-1 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
 - 1. Minimum lot area - 30,000 feet.
 - 2. Minimum lot frontage on road or street - 50 feet.
 - 3. Minimum setback lines:
 - (a) Front yard - 60 feet.
 - (b) Side yard:
 - (1) For side yards adjoining a road or street - not less than 60 feet.
 - (2) For side yards abutting a residential area - 60 feet.
 - (3) For all other side yards - 15 feet.
 - (c) Rear yard - 20 feet, unless the rear yard abuts a residential area, in which case the rear yard setback shall be 60 feet.
 - 4. Minimum lot width at building line - 50 feet.
 - 5. Maximum building height - 35 feet.
 - 6. Minimum ground level square footage required - None; however, not more than 80 percent of the total area of any lot or any development on multiple lots shall be occupied by buildings, roads, parking lots, drainage facilities or other accessory uses.
 - 7. Off-street and/or private parking and loading and unloading berths shall be provided in accordance with the provisions of [article 13](#)
- e. *Use specifications.* Use specifications for O-1 district are as provided under paragraph B of this article.

(Ord. No. 01-09-95-A, 1-23-1995)

Section 2. - O-2 office development.

- a. *Purpose.* This district is established to provide for general office development.
- b. *Permitted uses:*
 1. Uses permitted in the O-1 district.
 2. Banks and financial institutions, including savings associations.
 3. Offices, business and professional, including medical clinics.
 4. Public utilities uses for all public utilities service and operation except those uses listed as special uses.
 5. Municipal or government office buildings.
 6. Off-street parking facilities in accordance with [article 13](#)
 7. Signs as permitted by [article 9](#)
 8. Accessory buildings and uses customarily incidental to any of the above uses.
 9. Uses approved as special uses as provided in [article 15](#)
 10. Any use otherwise allowed in this district may be developed as a planned development in accordance with [article 12](#)
- c. *Subdivision.* Subdivision of land is permitted in O-2 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
 1. Minimum lot area - 30,000 feet.
 2. Minimum lot frontage on road or street - 50 feet.
 3. Minimum setback lines:
 - (a) Front yard - 60 feet.
 - (b) Side yard:
 - (1) For side yards adjoining a road or street - not less than 60 feet.
 - (2) For side yards abutting a residential area - 60 feet.
 - (3) For all other side yards - 15 feet.
 - (c) Rear yard - 20 feet, unless the rear yard abuts a residential area, in which case the rear yard setback shall be 60 feet.
 4. Minimum lot width at building line - 50 feet.
 5. Maximum building height - 35 feet.
 6. Minimum ground level square footage required - None; however, not more than 80 percent of the total area of any lot or any development on multiple lots shall be occupied by buildings, roads, parking areas, drainage facilities and other accessory uses.
 7. Off-street and/or private parking and loading and unloading berths shall be provided in accordance with the provisions of [article 13](#)
- e. *Use specifications.* Use specifications for O-2 district are as provided under paragraph B of this article.

B. - USE SPECIFICATIONS

Section 1. - Subdivision.

Subdivision of land is permitted in all office districts. A particular area may be restricted by being designated for development only through the planned development procedure established under [article 12](#) (as indicated by the designation "(P)" after the zoning district on the zone map). In such event, subdivision within this area shall be done in conjunction with development plan or P.U.D. approval under [article 12](#).

Section 2. - Planned development.

Any office district may be restricted by being designated for development only through the planned development procedure established under [article 12](#) (as indicated by the designation "(P)" after the zoning district on the zone map). If such designation exists, all development in this area shall include a development plan or P.U.D. filed and approved in accordance with [article 12](#).

Nothing in this ordinance should be construed to preclude any developer from requesting development plan or P.U.D. status with respect to a particular project, irrespective of whether the land in question actually lies in a designated planned development district, notwithstanding the mandatory requirement that all development in an area designated for planned development as hereinabove specified be done through development plan or P.U.D. approval.

Section 3. - Site plan review.

No building or structure shall be erected; or land or lot site altered; or work commenced thereon; or land used in a district established under this article; unless and until a site plan for such building, structure, or use has been presented to, and approved by, the plan director pursuant to [article 11](#), if required.

Section 4. - Accessory buildings.

Factory built structures initially constructed for use as a home and dwelling shall not be established or used as an accessory building in any zoned districts or for any purpose unless by variance approved by the appropriate advisory board of zoning appeals.

(Ord. No. 2-12-96-D, 2-12-1996)

ARTICLE 6. - COMMERCIAL DISTRICTS AND USES

FOOTNOTE(S):

--- (1) ---

Cross reference— Telecommunications facilities, art. 20.

A. - COMMERCIAL DISTRICTS ESTABLISHED

Commercial zoning districts established in this ordinance for Hamilton County, Indiana, are as follows:

1.	C-1	Commercial development - residential character
2.	C-2	Commercial development - moderate community impact
3.	C-3	Commercial development - major community impact

Section 1. - C-1 commercial development - residential character.

a. *Purpose.* This district is established to provide for commercial development in which the site development, building architecture and overall aesthetics of the project are generally of a residential character and thus present minimal community impact. Typically, this district would be proximate to residential districts and uses, and serve as a buffer between such residential uses and more conventional office or commercial development.

b. *Permitted uses:*

1. Uses permitted in the O-2 district.
2. Bakery shop for the baking, processing and retail sale of food products where all such activity is restricted to the premises.
3. Banks and financial institutions, including savings and loans.
4. Lodges and fraternal organizations.
5. Dry cleaning and pressing establishments, limited to the use of not more than two clothes cleaning units neither of which shall have a rated capacity of more than 40 pounds and using cleaning fluids approved by the state fire marshal and the applicable servicing fire department.
6. Appliance repair work.
7. Pet shops, not including animal hospitals.
8. Launderette, laundromat or other similar type of self-service laundry.
9. Offices, business and professional, including medical clinics.
10. Public utilities uses for all public utilities service and operation except those uses listed as special uses.
11. Convenience store/mini-mart with gas pumps.
12. Restaurant, tearoom or cafe.
13. Municipal or government office buildings.
14. Other residentially compatible service and low impact retail uses not listed specifically herein.
15. A dwelling unit or lodging room as an accessory use in a principal building.
16. Off-street parking facilities and loading and unloading berths in accordance with [article 13](#)
17. Signs as permitted by [article 9](#)
18. Accessory buildings and uses customarily incidental to any of the above uses.
19. Uses approved as special uses as provided in [article 15](#)
20. Self-service storage facility.

21. Any use otherwise allowed in this district may be developed as a planned development in accordance with [article 12](#)
- c. *Subdivision.* Subdivision of land is permitted in C-1 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
1. Minimum lot area - 30,000 feet.
 2. Minimum lot frontage on road or street - 50 feet.
 3. Minimum setback lines:
 - (a) Front yard - 60 feet.
 - (b) Side yard:
 - (1) For side yards adjoining a road or street - not less than 60 feet.
 - (2) For side yards abutting a residential area - 60 feet.
 - (3) For all other side yards - 40 feet.
 - (c) Rear yard - 20 feet, unless the rear yard abuts a residential area, in which case the rear yard setback shall be 60 feet.
 4. Minimum lot width at building line - 50 feet.
 5. Maximum building height - 20 feet.
 6. Minimum ground level square footage required - None; however, not more than 80 percent of the total area of any lot or any development on multiple lots shall be occupied by buildings, roads, parking areas, storage, drainage facilities and other accessory uses.
 7. Off-street and/or private parking and loading and unloading berths shall be provided in accordance with the provisions of [article 13](#)
- e. *Use specifications.* Use specifications for C-1 district are as provided under paragraph B of this article.

(Ord. No. 01-09-95-A, 1-23-1995)

Section 2. - C-2 commercial development moderate community impact.

- a. *Purpose.* This district is to provide areas of general commercial development which create moderate impact on the community in which such areas are located.
- b. *Permitted uses:*
1. Uses permitted in the C-1 district.
 2. Appliance store including repair work.
 3. Art galleries and studios.
 4. Antique and gift shops.
 5. Bicycle sales and repair.
 6. Employment agency.
 7. Hand laundries employing not more than four persons.
 8. Locksmith.
 9. Mirror, glass and glazing shop.
 10. Mortuaries and funeral homes.
 11. Orthopedic and medical appliance store.
 12. Picture framing, if conducted for retail trade on the premises.
 13. Plumbing showroom and shop.
 14. Public auction rooms.
 15. Physical culture and health services.
 16. Schools: music, dance, business, commercial or trade.
 17. Second hand stores and rummage shops.
 18. Taverns.
 19. Taxidermists.
 20. Restaurants.
 21. Recreational uses, including gymnasium, skating rink, archery range, golf driving range, miniature golf course and other similar places of amusement or entertainment.
 22. Off-street parking facilities and loading and unloading berths in accordance with [article 13](#)
 23. Signs as permitted by [article 9](#)
 24. Accessory building and uses customarily incidental to any of the above uses.
 25. Uses approved as special uses as provided in [article 15](#)

26. Any use otherwise allowed in this district may be developed as a planned development in accordance with article 12
- c. *Subdivision.* Subdivision of land is permitted in C-2 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
1. Minimum lot area - One acre.
 2. Minimum lot frontage on road or street - 100 feet.
 3. Minimum setback lines:
 - (a) Front yard - 60 feet.
 - (b) Side yard:
 - (1) For side yards adjoining a road or street - not less than 60 feet.
 - (2) For side yards abutting a residential area - 80 feet.
 - (3) For all other side yards - 40 feet.
 - (c) Rear yard - 20 feet, unless the rear yard abuts a residential area, in which case the rear yard setback shall be 60 feet.
 4. Minimum lot width at building line - 100 feet.
 5. Maximum building height - 40 feet.
 6. Minimum ground level square footage required - none; however, not more than 80 percent of the total area of any lot or any development on multiple lots shall be occupied by buildings, roads, parking areas, storage, drainage facilities and other accessory uses.
 7. Off-street and/or private parking and loading and unloading berths shall be provided in accordance with the provisions of article 13
- e. *Use specifications.* Use specifications for C-2 district are as provided under paragraph B of this article.

(Ord. No. 1-25-99-B, 1-25-1999)

Section 3. - C-3 commercial development - major community impact.

- a. *Purpose.* This district is to provide areas of general commercial development which create major impact on the community in which such areas are located.
- b. *Permitted uses:*
1. Uses permitted in the C-2 district.
 2. Agricultural implement sales and service.
 3. Automobile and truck sales and service, including body repair and rebuilding or painting wholly located within a building.
 4. Automobile washing, including the use of mechanical conveyors, blowers and steam cleaning.
 5. Beverage (non-alcoholic) bottling and distributing.
 6. Blueprinting and photostating establishments.
 7. Motorcycle sales and service.
 8. Boat showroom.
 9. Bookbinding.
 10. Catering establishments.
 11. Contractors offices and shops, if no fabricating is done on the premises and if all storage of materials is within a building.
 12. Creameries and dairies.
 13. Exterminating shops.
 14. Feed and seed store, retail or wholesale.
 15. Garage, public, for storage of private passenger automobiles and commercial vehicles.
 16. Glass cutting and glazing establishments.
 17. Greenhouse, wholesale growers.
 18. Motels or hotels.
 19. Plumbing, electrical, heating, sheet metal and roofing showrooms and shops.
 20. Laboratories, medical, dental, research, experimental and testing, if no production or manufacturing of products occurs.
 21. Landscape centers, garden shops or retail nurseries.
 22. Office/warehouse where warehousing is 40 percent or less of total building space.
 23. Parcel delivery station.
 24. Printing, publishing and issuing of newspapers, periodicals, books, stationery and other reading matter.
 25. Pet shop, kennel or animal hospital.
 26. Photograph developing and processing.

27. Radio and television broadcasting stations.
 28. Restaurants with drive up windows.
 29. Riding academies.
 30. Mortuaries and funeral homes.
 31. Municipal or government office buildings.
 32. Public utility uses for all public utilities service and operations except those uses listed as special uses.
 33. Off-street parking facilities and loading and unloading berths in accordance with [article 13](#)
 34. Signs as permitted by [article 9](#)
 35. Accessory buildings and uses customarily incidental to any of the above uses.
 36. Uses approved as special uses as provided in [article 15](#)
 37. Any use otherwise allowed in this district may be developed as a planned development in accordance with [article 12](#)
- c. *Subdivision.* Subdivision of land is permitted in C-3 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
1. Minimum lot area - two acres.
 2. Minimum lot frontage on road or street - 120 feet.
 3. Minimum setback lines:
 - (a) Front yard - 60 feet.
 - (b) Side yard:
 - (1) For side yards adjoining a road or street - not less than 60 feet.
 - (2) For side yards abutting a residential area - 80 feet.
 - (3) For all other side yards - 40 feet.
 - (c) Rear yard - 20 feet, unless the rear yard abuts a residential area, in which case the rear yard setback shall be 60 feet.
 4. Minimum lot width at building line - 70 feet.
 5. Maximum building height - 40 feet.
 6. Minimum ground level square footage required - none; however, not more than 80 percent of the total area of any lot or any development on multiple lots shall be occupied by buildings, roads, drives, parking areas, storage, drainage facilities and other accessory uses.
 7. Off-street and/or private parking and loading and unloading berths shall be provided in accordance with the provisions of [article 13](#)
- e. *Use specifications.* Use specifications for C-3 district are as provided under paragraph B of this article.

(Ord. No. 1-25-99-B, 1-25-1999)

B. - USE SPECIFICATIONS

Section 1. - Subdivision.

Subdivision of land is permitted in all commercial districts. A particular area may be restricted by being designated for development only through the planned development procedure established under [article 12](#) (as indicated by the designation "(P)" after the zoning district on the zone map). In such event, subdivision within this area shall be done in conjunction with development plan or P.U.D. approval under [article 12](#).

Section 2. - Planned development.

Any commercial district may be restricted by being designated for development only through the planned development procedure established under [article 12](#) (as indicated by the designation "(P)" after the zoning district on the zone map). If such designation exists, all development in this area shall include a development plan or P.U.D. filed and approved in accordance with [article 12](#).

Nothing in this ordinance should be construed to preclude any developer from requesting development plan or P.U.D. status with respect to a particular project, irrespective of whether the land in question actually lies in a designated planned development district, notwithstanding the mandatory requirement that all development in an area designated for planned development as hereinabove specified be done through development plan or P.U.D. approval.

Section 3. - Site plan review.

No building or structure shall be erected; or land, site or lot altered; or work commenced thereon; or land used in a district established under this article; unless and until a site plan for such building, structure, or use has been presented to, and approved by, the plan director pursuant to [article 11](#), if required.

Section 4. - Accessory buildings.

Factory built structures initially constructed for use as a home and dwelling shall not be established or used as an accessory building in any zoned districts or for any purpose unless by variance approved by the appropriate advisory board of zoning appeals.

(Ord. No. 2-12-96-D, 2-12-1996)

ARTICLE 7. - MANUFACTURING DISTRICTS

FOOTNOTE(S):

--- (1) ---

Cross reference— Planned development, art. 12; nonconforming use specifications, art. 14.

A. - MANUFACTURING DISTRICTS ESTABLISHED

Manufacturing zoning districts established in this ordinance for Hamilton County, Indiana, are as follows:

1.	M-1	Manufacturing development - moderate community impact
2.	M-2	Manufacturing development - major community impact
3.	M-3	Manufacturing development - mineral extraction and processing

Section 1. - M-1 manufacturing development moderate community impact.

- a. *Purpose.* This district is to provide areas for manufacturing development which is of moderate impact on the community in which such areas are located.
- b. *Permitted uses:*
 - 1. The following uses provided the principal use is conducted within a completely enclosed building and conforms to the performance standards and use specifications for manufacturing districts which follow:
 - (a) Light manufacturing, including processing, refining, fabricating, assembling, cleaning, testing, or repairing of goods, materials or products.
 - (b) Engineering or research laboratories; vocational or industrial training facilities; data processing or analysis.
 - (c) Wholesaling, warehousing, packaging, storage or distribution facilities.
 - (d) General offices associated with a manufacturing or industrial use, including service facilities for employees or guests.
 - (e) Printing, lithography, publishing or photography establishments.
 - 2. Any use permitted in either A-4 or C-3 district, except that no residential uses are permitted.
 - 3. Electric and telephone substations and distribution centers; filtration plant, pumping station and water reservoir; sewage treatment plants; fire stations; radio or television transmitting or relay stations; antenna towers; and other similar governmental or public utility service uses.
 - 4. Feed and fertilizer establishments and grain elevators.
 - 5. Off-street parking facilities and loading and unloading berths in accordance with [article 13](#)
 - 6. Signs as permitted by [article 9](#)
 - 7. Accessory buildings and uses customarily incidental to any of the above uses including recreational areas for employees and lodging facilities for owners, guards or caretakers.
 - 8. Uses approved as special uses as provided in [article 15](#)
 - 9. Any use otherwise allowed in this district may be developed as a planned development in accordance with [article 12](#)
- c. *Subdivision.* Subdivision of land is permitted in M-1 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
 - 1. Minimum tract requirement - Three acres.
 - 2. Lot frontage on road or street - Not less than 70 feet.
 - 3. Minimum setback lines:
 - (a) Front yard - Not less than 100 feet on arterial collector roads and streets, as contained in the thoroughfare plan.

- (b) Side yard - Not less than 20 feet in width except a side yard abutting a street or road shall be not less than 40 feet in width and a side yard abutting a residential area shall not be less than 80 feet.
- (c) Rear yard - Not less than 20 feet in depth except a rear yard abutting a residential area shall not be less than 80 feet.
- 4. Minimum lot width at building line - 70 feet.
- [5. Reserved.]
- 6. Maximum building height - 60 feet.
- 7. Building minimum gross ground level space required - 2,000 sq. ft.
- 8. Parking - Off-street parking shall be provided in accordance with the provisions of [article 13](#)
- 9. Loading and unloading berths - Loading and unloading berths shall be provided in accordance with [article 13](#)
- e. *Use specifications.* Use specifications for M-1 district are as provided under paragraph B of this article.

Section 2. - M-2 manufacturing development - major community impact.

- a. *Purpose.* This district is to provide areas for manufacturing development which is of major impact on the community in which such areas are located.
- b. *Permitted uses:*
 - 1. Uses permitted in the M-1 district.
 - 2. Bakery; secondary food processing; milk processing; manufacture and bottling of dairy products and beverages.
 - 3. Manufacture and assembly of glass, plastic, paper, cloth, jewelry and leather products.
 - 4. Manufacture of colors, dye, paint and other coatings (excluding tar products).
 - 5. Machine, welding, tool and die shops; electroplating operations.
 - 6. Manufacture of pharmaceutical, biological, medical, cosmetic and candy products.
 - 7. Manufacture and assembly of optical goods, musical and recording instruments, office machinery, electrical and mechanical goods, and farm machinery.
 - 8. Manufacture and assembly of marine, office and household furniture and appliances; communication and automobile equipment; air conditioning, heating and refrigeration equipment.
 - 9. Can and container manufacture and processing and milling of forest products.
 - 10. Canning, bottling, processing and packaging of food and beverage products; grain elevators; grain processing and starch manufacture.
 - 11. Dyeing and cleaning works.
 - 12. Services such as freight movers, communications and canteen operations.
 - 13. Upholstering.
 - 14. Trucking terminals.
 - 15. Vehicle and implement repair and painting shops.
 - 16. Lumber yards, building materials, millwork, storage and sale; contractor's storage yard.
 - 17. Off-street parking facilities and loading and unloading berths in accordance with [article 13](#)
 - 18. Signs as permitted by [article 9](#)
 - 19. Accessory buildings and uses customarily incidental to any of the above uses including recreational areas for employees and lodging facilities for owners, guards or caretakers.
 - 20. Uses approved as special uses as provided in [article 15](#)
 - 21. Any use otherwise allowed in this district may be developed as a planned development in accordance with [article 12](#)
- c. *Subdivision.* Subdivision of land is permitted in M-2 district subject to the requirements of this ordinance and further subject to the terms and conditions of the Hamilton County Subdivision Control Ordinance. See "Subdivision" under use specifications which follow in paragraph B of this article.
- d. *Development standards:*
 - 1. Minimum tract requirement - Three acres.
 - 2. Lot frontage on road or street - Not less than 70 feet.
 - 3. Minimum setback lines:
 - (a) Front yard - Not less than 100 feet on arterial collector roads and streets, as contained in the thoroughfare plan.
 - (b) Side yard - Not less than 20 feet in width except a side yard abutting a street or road shall be not less than 40 feet in width and a side yard abutting a residential area shall not be less than 80 feet.
 - (c) Rear yard - Not less than 20 feet in depth except a rear yard abutting a residential area shall not be less than 80 feet.
 - 4. Minimum lot width at building line - 70 feet.
 - 5. Maximum building height - 60 feet.
 - 6. Building minimum gross ground level space required - 4,000 sq. ft.

- 7. Parking - Off-street parking shall be provided in accordance with the provisions in article 13
- [8. Reserved.]
- 9. Loading and unloading berths - Loading and unloading berths shall be provided in accordance with the provisions of article 13
- e. *Use specifications.* Use specifications for M-2 district are as provided under paragraph B of this article.

Section 3. - M-3 manufacturing development mineral extraction and processing.

- a. *Purpose.* This district is to provide areas which allow the extraction and processing of naturally occurring mineral resources.
- b. *Permitted uses:*
 - 1. The extraction, hauling, and storage of mineral resources and associated accessory uses.
 - 2. The processing of on-site extracted mineral resources including separation, storage, loading, and washing.
 - 3. The operation of concrete plants.
 - 4. The operation of asphalt plants.
 - 5. The operation of associated business and office uses.
- c. *Subdivision.* Subdivision of land is not permitted in M-3 district.
- d. *Development standards:*
 - 1. Minimum setback lines:
 - (a) From adjacent road right-of-way line (as established as part of the comprehensive thoroughfare plan) - 50 feet.
 - (b) From boundary of adjacent zone district - 100 feet.
 - 2. Area or size requirement - None.
 - 3. Maximum building height - None.
- e. *Use specifications:*
 - 1. Active mineral extraction and/or processing activities shall be buffered and/or screened at the property line in the form of a berm, spoil, mound, or evergreen landscaping, or combination of any or all of the above, at a minimum height of six feet.
 - 2. A development plan as required by the State of Indiana shall be filed with the plan commission on or before July 1 of each year. Any such mineral extraction and/or processing use shall be operated in full and complete compliance with applicable statutes, rules, and regulations of the State of Indiana.

State law reference— Regulation of mining, drilling and excavation, IC 36-7-2-6.

B. - USE SPECIFICATIONS AND PERFORMANCE STANDARDS

Section 1. - Subdivision.

Subdivision of land is permitted in all manufacturing districts. A particular area may be restricted by being designated for development only through the planned development procedure established under article 12 (as indicated by the designation "(P)" after the zoning district on the zone map). In such case, subdivision within this area shall be done in conjunction with development plan or P.U.D. approval under article 12.

Section 2. - Planned development.

Any manufacturing district may be restricted by being designated for development only through the planned development procedure established under article 12 (as indicated by the designation "(P)" after the zoning district on the zone map). If such designation exists, all development in this area shall include a development plan or P.U.D. filed and approved in accordance with article 12.

Nothing in this ordinance should be construed to preclude any developer from requesting development plan or P.U.D. status with respect to a particular project, irrespective of whether the land in question actually lies in a designated planned development district, notwithstanding the mandatory requirement that all development in an area designated for planned development as hereinabove specified be done through development plan or P.U.D. approval.

Section 3. - Site plan review.

No building or structure shall be erected; or land, site, or lot altered; or work commenced thereon; or land used in a district established under this article; unless and until a site plan for such building, structure, or use has been presented to, and approved by, the plan director pursuant to article 11, if required.

Section 4. - Standards for manufacturing uses (all districts).

- 1. *Smoke.* For M-1 moderate impact manufacturing district the emission of more than 70 smoke units per hour per stack and emissions in excess of Ringelmann No. 2 are prohibited, except that for one hour during any 24-hour period, this rate may be increased to 80 smoke units per stack up to and including Ringelmann No. 3 for the purging, soot blowing and fire cleaning.

For M-2 major impact manufacturing district the emission of more than 90 smoke units per hour per stack and emission in excess of Ringelmann No. 3 are prohibited, except that for a one-hour period during the 24-hour period this rate may be increased to 120 smoke units per hour per stack, still at Ringelmann No. 3 for purposes of process purging, soot blowing and fire cleaning.

- 2. *Particulate matter.* The rate of emission of particulate matter from an individual process within the boundaries of any lot shall not exceed a figure of 0.06 pounds per 1,000 pounds of effluent gas. Not more than 50 percent by weight particles larger than 44 microns (325 mesh) shall be allowed.
- 3. *Odor.* Any manufacturing use activity or operation which releases odors to the atmosphere shall be so controlled as to insure that it will produce no public nuisance or hazard at or beyond the nearest residential district boundary line.
- 4. *Poisonous and injurious fumes and gases.* The emission of toxic or injurious fumes and gases shall be controlled so as to comply with the following:

The emission from any source shall not cause at or beyond any lot line, concentrations of toxic and/or injurious fumes and gases in excess of ten percent of the threshold limit as set for the fume or gas in question in the "2001 TVLs and BEIs," issued by the state department of health, from the American Conference of Governmental Industrial Hygienists (ACGIH), latest issue, two copies of which are on file in the office of the county auditor.

The emission of any gas or fumes across lot lines in such concentrations as to be detrimental to or endanger public health, safety, comfort and welfare or shall cause injury or damage to property or business is prohibited.

Editor's note—

BEIs are biological exposure indices; TVLs are threshold limit values.

- 5. *Glare and heat.* No manufacturing use, operation, activity or structure shall cause heat or glare in such a manner as to be a public nuisance at or beyond any residential or business district boundary.
- 6. *Vibration.* Any manufacturing use creating intense earthshaking vibrations such as are created by a heavy drop forge shall be set back from a residential district boundary at least 250 feet, or at least 150 feet from a business district boundary. Earthshaking vibrations at the manufacturing property line shall not be in violation of this ordinance as long as the vibration is not perceptible without the aid of instruments.
- 7. *Noise.*
 - (a) M-1 moderate impact manufacturing district. At no point on the property line of any manufacturing use located in this district shall the sound pressure level of any operation or plant (other than background noises produced by sources not under the control of this ordinance) exceed the decibel limits in the octave bands designated below:

	M-1 Manufacturing Use	
Octave Band Frequency	Maximum Permitted Sound Level (in decibels) 125 Feet From District Adjoining Residential District Boundaries	Maximum Permitted Sound Level (in decibels) 125 Feet From District Adjoining Business District Boundaries
0 to 75	75	80
76 to 150	70	75
151 to 300	65	70
301 to 600	59	64
601 to 1200	53	58
1201 to 2400	48	53
2401 to 4800	48	49
Above 4800	41	46

- (b) M-2 major impact manufacturing district. At no point on the property line of any manufacturing use located in this district shall the sound pressure of any operation or plant (other than background noises produced by sources not under control of this ordinance) exceed the decibel limits in the octave bands designated as follows:

M-2 Manufacturing Use

Octave Band Frequency	Maximum Permitted Sound Level (in decibels) 125 Feet From District Adjoining Residential District Boundaries	Maximum Permitted Sound Level (in decibels) 125 Feet From District Adjoining Business District Boundaries
0 to 75	75	80
76 to 150	70	75
151 to 300	65	70
301 to 600	59	64
601 to 1200	53	58
1201 to 2400	48	53
2401 to 4800	48	49
Above 4800	41	46

Sound levels shall be measured with a sound level meter and associated octave band analyzer or filter, manufactured in compliance with standards prescribed by the American Standards Association.

8. *Fire hazards.* The storage, utilization or manufacture of solid materials, or products ranging from incombustible to moderate burning is permitted. The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted provided the following conditions are met:
- Said materials shall be stored, utilized or manufactured in such a manner and protected by such means as approved by the Indiana State Fire Marshal.
 - The storage, utilization or manufacture of flammable liquids or gases which produce flammable or explosive vapors shall be permitted in accordance with the rules and regulations of the Indiana State Fire Marshal regulating the use, handling, storage and sale of flammable liquids - official regulation number 5, effective July 23, 1973.
 - No activity involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted unless conducted in an M-2 district in accordance with the rules promulgated by the Indiana State Fire Marshal. Such materials shall include, but are not limited to, all primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, HMX, PET, and picric acid, propellants and components thereof, such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles, and ozonides, strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, hydrogen peroxide in concentrations greater than 35 percent; nuclear fuels, fissionable materials and products and reactor elements such as uranium 235 and plutonium 239.
9. *Other provisions and requirements for manufacturing districts are as follows:*
- The disposal of wastes discharged into public streams and sewage systems shall meet the requirements of the stream pollution control law of the State of Indiana (IC 13-1-3).
 - In all manufacturing districts, it is permissible to erect more than one principal building devoted to a particular manufacturing use on a lot.
 - Chimneys, cooling towers, elevator bulkheads, fore towers, scenery lofts, power transmission lines or towers and distribution poles and lines, and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.
 - The plan commission shall review and approve plans to assure adherence to developmental standards and overall conformity to the comprehensive plan and zoning ordinance.
 - The handling, removal, and/or disposition of all solid wastes shall comply in all respects with those requirements and performance standards specified in appropriate federal and state statutes and regulations.

Section 5. - Accessory buildings.

Factory built structures initially constructed for use as a home and dwelling shall not be established or used as an accessory building in any zoned districts or for any purpose unless by variance approved by the appropriate advisory board of zoning appeals.

(Ord. No. 2-12-96-D, 2-12-1996)

ARTICLE 8. - FLP FLOODPLAIN DISTRICT

FOOTNOTE(S):

--- (1) ---

Cross reference— Manufactured homes, mobile homes and mobile home parks, art. 10; planned development, art. 12.

A. - FLP FLOODPLAIN DISTRICT ESTABLISHED

A floodplain zoning district, designated as "FLP," is hereby established for Hamilton County, Indiana.

Section 1. - Purpose.

The purpose of this section is to regulate development in areas where a potential for damage from floodwaters exists. The new construction of buildings and other new development or land uses in the flood hazard areas of Hamilton County, if not properly regulated to account for the potential hazard, could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary expenditures for flood protection and relief. Development of these areas is not essential to the orderly growth of the community. These lands are suitable for open space and other uses that do not require structures or fill. The identification of the floodplain, which includes the floodway and flood fringe, has been made by the Federal Insurance Flood Administration of the Federal Emergency Management Agency. The Indiana Department of Natural Resources shall exercise primary jurisdiction in the floodway under the provisions of IC 13-2-22-1 et seq.; however, the plan commission or advisory board of zoning appeals may impose terms and conditions on any permit they issue which are more restrictive than those imposed by the Indiana Department of Natural Resources.

Section 2. - Permitted uses.

The following floodplain uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the flood plain district to the extent that they are not prohibited by any other ordinance:

- a. Agriculture uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, general farming and agriculture accessory structures.
- b. Forestry, wildlife areas, and nature preserves.
- c. Parks and recreational uses, such as golf courses, driving ranges, and play areas.
- d. Mineral extraction.
- e. Uses for which a permit has been secured from the department of natural resources for public works and related types of projects.

The above and foregoing uses shall be permitted provided they do not require the extensive use of structures or storage of materials or equipment; however, in no event shall the use of fill from either within or without the flood plain district be allowed without the specific permission and authority of the department of natural resources having first been obtained.

Section 3. - Nonconforming uses.

Any existing building, structure, or use of land in the flood plain district which is not in conformance with this ordinance constitutes a nonconforming use. All applications to repair, extend or enlarge a nonconforming use shall be forwarded to the Indiana Department of Natural Resources for review and comment. All terms and conditions imposed by the Indiana Department of Natural Resources shall be incorporated into the issuance of any local permit.

Section 4. - Issuance of improvement location permit.

The plan commission shall keep and maintain all records, including all first floor elevations, certificates, plans, and other materials associated with any permit or variance issued within the floodplain.

The plan commission shall not issue an improvement location permit within the floodplain until the applicant submits evidence that:

- a. A proper permit or letter of recommendation for it has been granted by the Indiana Department of Natural Resources;
- b. All buildings or additions to existing buildings shall have flood protection grades at least two feet above the regulatory flood; and
- c. No use shall increase the base flood level of a regulatory flood.

The plan commission shall not issue an improvement location permit for a mobile home in a floodway except for placement in a mobile home park existing on the date of enactment of this ordinance, or in a mobile home subdivision existing on that date.

All applications for improvement location permits involving new construction or substantial improvement to existing buildings shall be accompanied by an elevation certificate which needs to be completed by the applicant and have the lowest floor elevation certified to by a licensed professional engineer or land surveyor. The elevation certificate should be presented to the plan director at the time the owner is applying for a certificate of occupancy.

Section 5. - General disclaimer in areas of potential flooding.

In the floodplain, floodway, and flood fringe areas defined in this ordinance, the degree of flood protection established in this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes such as ice or debris jams. This ordinance does not imply that areas outside flood hazard areas as defined in this ordinance shall be free of flooding or flood damage. This ordinance does not create any liability on the part of the county, the plan commission, Indiana Department of Natural Resources, the state, or any elected or appointed official or employee of them for any flood damages that result from any reliance on this ordinance or any administration decision lawfully made under it.

Section 6. - Mapping disputes.

In a case where a property owner disputes the boundaries of a zoning district, flood protection grade data or regulatory flood profile data, he shall file a protest in written form with the plan director. The written protest shall contain information documenting the disputed area, prepared and attested to, by a registered professional engineer. The protest then will be submitted by the plan director to the plan commission. The item of dispute will be brought to the attention of the Indiana Department of Natural Resources, and in no case will such data be revised without the written approval of the Indiana Department of Natural Resources.

Section 7. - Basis for establishing a floodplain district.

The floodplain districts (areas subject to inundation by the regulatory flood) as identified by the Federal Insurance Administration in a scientific and engineering report entitled the Flood Insurance Study for Hamilton County, Indiana, dated February 15, 1983, with the accompanying flood insurance rate maps and flood boundary floodway maps along with any subsequent revisions to the text or maps are hereby adopted by reference and declared to be a part of this ordinance.

Copies of these documents are on file in the office of the county surveyor and the Hamilton County Plan Commission and are available for public inspection. These documents are to be used for the delineation of the flood fringe, floodplain and floodway areas as noted in this ordinance.

ARTICLE 9. - SIGNS

FOOTNOTE(S):

--- (1) ---

Cross reference— Planned development, art. 12.

A. - SIGNS PERMITTED AND REGULATED

Regulations pertaining to the use, placement, and development standards of all signs within the jurisdictional area of the Hamilton County Plan Commission are hereby established.

Section 1. - Scope and purpose.

The regulations of this article are intended to coordinate the use, placement, physical dimensions, and design of all signs within the jurisdictional area of the plan commission. The purpose of these regulations is to promote the public health, safety and welfare, and develop a satisfactory visual appearance within the county consistent with providing a suitable environment for business and economic growth.

Section 2. - Exemptions.

The following incidental signs are exempted from the requirements of this article:

- a. Traffic control or other regulatory signs, including signs on private property, erected by, or on the authority of a public officer in the performance of his duty.
- b. One non-illuminated sign, not to exceed two square feet in area and four feet in height (if free standing sign), which may identify only the address and/or occupants of premises or an establishment. Such a sign is exempt only if it is the only sign associated with the premises or use. Thus this exemption is not available if there are any other business or advertising signs associated with the premises or use.
- c. Legal notices, identification, informational, warning, trespassing, or directional signs erected or required by governmental units.
- d. Flags of any governmental unit, or civic, educational, or religious organization, except when displayed in connection with commercial promotion.
- e. Holiday seasonal decorations customarily displayed in conjunction with a national holiday or seasonal decorations for a period of time not to exceed 30 days.

Section 3. - General provisions.

The following general provisions shall apply within all zoning districts:

- a. No sign or sign structure shall be placed on private or public property without the written consent of the owner or agent thereof.
- b. No sign or sign structure other than official highway signs shall be placed upon, over or in any street or highway right-of-way.

- c. No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign device. No rotating beam, beacon or flashing illumination resembling any emergency lights shall be used by itself or in connection with any sign display, any sign make use of the words "stop," "look," "danger," or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or traffic.
- d. No sign or sign structure shall be located in such a manner as to materially impede the view of any street or highway intersection, or in such a manner as to materially impede the view of the intersection of a street or highway with a railroad grade crossing.
- e. It shall be unlawful to erect and maintain:
 - (1) Any sign which is not included under the types of signs permitted in this article.
 - (2) Any portable or moveable sign, except in compliance with the provisions of this article.
 - (3) Any sign or sign structure affixed to a roof top or known as a roof top sign, which extends above the highest point of the roof.
- f. Signs or sign structures located on a marquee or canopy shall be affixed flat to the surface thereof.
- g. No sign or sign structure, except a projecting sign structure attached to the wall of a building, shall extend more than 12 inches horizontally from such wall.
- h. No flush sign or sign structure attached to the wall of a building shall extend above the roof or parapet lines of such building.
- i. Business or advertising signs may be illuminated, but only in accordance with the provisions of this article.
- j. In no case shall a projecting sign structure extend more than eight feet from or beyond its supporting building. No projecting sign shall be at its lowest point less than eight feet above grade level.
- k. Free standing signs and projecting signs shall be set back in accordance with the following provisions:
 - (1) Free standing signs shall be located no closer than five feet from the road right-of-way line.
 - (2) In case the supporting building of a projecting sign is located closer than eight feet to the building setback line, the projecting sign may extend in front of said setback line, but in no case shall such sign extend beyond the property line or road right-of-way.
- l. Exposed, unshielded neon light tubes are considered to be signs regulated under this ordinance; thus their use must be in full and complete compliance with the terms and conditions of this ordinance.

Section 4. - Signs permitted.

The following signs shall be permitted in association with the classification of buildings and/or uses identified with each sign, and further, in accordance with the development standards specified for each sign use.

Note. By way of explanation and interpretation of this section, some of the building classifications and uses identified in this section have multiple sign types associated with such classifications or uses, which types of signs are designated by an alphabetic reference (i.e., "A" business advertising sign) for that particular class of building or use.

The alphabetic reference for a type of sign associated with a particular building classification or use shall identify that same type of sign throughout the entire subsection covering the particular building classification or use.

Thus, if the letter "A" identifies a business advertising sign under the building classification, single tenant building, the continued reference to "A" throughout the subsection covering single tenant building would refer to a business advertising sign associated with such a building.

a. *Business advertising sign (single tenant building).*

(1) *Type of signs:*

A	Any business identification/advertising sign including prices of product.
B	Special information sign - hours, credit cards, owner name, closed/open, special on-site services offered.
C	Traffic directional - in, out, employee parking.

(2) *Development standards:*

(a) *Location:*

A	On lot or parcel with primary structure.
B	Within six feet of entry door.
C	In close approximation to affected use.

(b) Number:

A	One per abutting public road frontage.
B	One per building entrance.
C	Per director's approval.

(c) Type of structure:

A	Ground, free standing, wall, roof, projections, window or canopy/awning.
B	Wall plaque, window or door.
C	Ground or wall.

(d) Maximum size:

A	Thirty square feet per face plus five square feet per each full 50-foot setback from public road right-of-way. As this provision applies specifically to movie theatres, the sign size may be increased five square feet for each movie screen with a maximum of 30 square feet of additional area. Fifteen square feet of the sign must be used to announce the name of the theatre.
B	Two square feet.
C	Two square feet.

(e) Maximum height:

A	Five feet plus six inches for each full 50-foot set back from public road right-of-way for ground sign.
B	Six feet.
C	Three feet.

(f) Construction material: Per director's review and approval.

(g) Illumination:

A	Internally lighted or shielded light source.
B	Lighting not allowed.
C	Internal or shielded.

(h) Number of sides per sign structure:

A	One, or two sided directly back to back.
---	--

B	One.
C	One, or two sided directly back to back.

(i) Color: A and B - See sign aesthetics section 7.e [of this article].

(j) Landscaping:

A	Equal to total square footage of ground sign.
B	None required.
C	None required.

(k) Minimum setback from road right-of-way:

A	Five feet.
B	Ten feet.
C	Two feet.

(l) Minimum setback from any easement or property line:

A	Five feet.
B	Five feet.
C	Two feet.

(3) *Administrative requirements:*

(a) Necessary approvals:

A	Director.
B	Director.
C	Director.

(b) Permit required:

A	Yes.
B	No.
C	No.

(4) *Special requirements:*

A	Twenty-five percent of a ground or free standing sign may be changeable copy shall be at bottom of main copy shall be manually operated and lettering must be all the same color.
B	A restaurant with a drive-through facility may have a <u>16</u> sq. ft. menu board with a maximum height of five feet with no business advertising.
C	Special information sign required by other governmental agencies are size, color, and location per governing agency.

b. Business advertising sign (one story multi-tenant building, each tenant has public entrance to outside).

(1) *Types of signs:*

A	Building sign.
B	Each tenant with separate entrance in multi-tenant building (shopping center).
C	On site traffic directional.
D	Special information, hours, closed/open, credit card, owner name, etc.

(2) *Development standards:*

(a) Location:

A	On site of business.
B	In conjunction with tenant space.
C	On site.
D	Within six feet of tenant entrance door.

(b) Number:

A	One per abutting public road frontage.
B	One per tenant space with own public entrance.
C	As needed per director's approval.
D	One per entrance.

(c) Type of structure:

A	Ground sign.
B	Wall, projecting, awning, canopy, window or door.
C	Ground.
D	Wall, window or door.

(d) Maximum size:

A	Thirty square feet per face plus five square feet per additional 50-foot setback of sign from road right-of-way. As this provision applies specifically to movie theatres, the sign size may be increased five square feet for each movie screen with a maximum of 30 square feet of additional area. Fifteen square feet of the sign must be used to announce the name of the theatre.
	When 50 percent of this sign is used to identify a unified center, the remaining 50 percent may be used to identify tenant business in the center whose on-building sign cannot be seen from a public frontage road. This sign may be increased in size for those tenant uses only at the rate of three square feet per tenant over two tenants.
B	Twenty square feet plus five square feet per additional 50-foot setback of sign from road right-of-way or center of shared parking lot whichever is closer.
C	Three square feet.
D	Two square feet.

(e) Maximum height:

A	Five feet plus six inches per full 50-foot setback for road right-of-way.
B	See section 3.e.(3) [of this article].
C	Three feet.
D	Six feet.

(f) Construction materials. See sign aesthetics, section 7.e [of this article]. All tenant signs shall be constructed of like materials; same color, type of construction and lighting per director's approval.

(g) Illumination:

A	Internal or completely shielded; must be the same for all tenant signs.
B	Internal or completely shielded.
C	Internal.
D	Not allowed.

(h) Number of sides per sign structure:

A	One, or two sided directly back to back.
B	One.
C	One or two sided, directly back to back.
D	One sided.

(i) Color: See sign aesthetics, section 7.e [of this article]. All signs must be of the same color except for 25 percent of sign area can be used for

business logo of any color.

(j) Landscaping:

A	For ground sign, one square foot of landscape area for each square foot of sign area.
B	None required.
C	None required.
D	None required.

(k) Minimum setback from road right-of-way:

A	Five feet.
B	Five feet.
C	Two feet.
D	Must be within six feet of entrance.

(l) Minimum setback from any easement or property line:

A	Five feet.
B	Five feet.
C	Five feet.
D	N/A

(3) *Administrative requirements:*

(a) Necessary approvals: A, B, C and D - director.

(b) Permit required:

A and B	Yes.
C and D	No.

(4) *Special requirements:* All tenant signs must be the same color, type of construction, height, type of lettering and lighting per director's approval. See sign aesthetics, section 7.e [of this article].

c. *Business advertising sign (multi-tenant, one story building; tenants share entrance to building).*

(1) *Types of signs:*

A	Building identification sign; may also be used for tenants per other requirements; i.e., doctors' medical building.
---	---

B	Tenant directory. Sign is to be used to identify all tenants within the building.
C	Traffic directional - in, out, employee parking, etc.
D	Special information hours - open/closed, credit cards, owner name, etc.

(2) *Development standards:*

(a) Location:

A	On the site of the building.
B	At the entrance to the building.
C	As needed per the director's approval.
D	Within six feet of entrance door.

(b) Number:

A	One building business advertising sign per adjacent public road frontage.
B	One tenant directory sign per shared entrance.
C	As necessary per director's approval.
D	One per entrance.

(c) Type of structure:

A	Ground, wall, window, awning, or canopy.
B	Ground.
C	Ground.
D	Wall, window, door.

(d) Maximum size (sign and structure):

A	Twenty square feet plus two square feet per tenant using sign over two tenants (maximum area 60 sq. ft.).
B	Nine square feet plus one square feet per tenant using sign.
C	Three square feet.
D	Two square feet.

(e) Maximum height (sign and structure):

A	Five feet per face plus six inches for each additional 50 feet sign is located from road right-of-way.
B	Six feet.
C	Three feet.
D	Five feet.

(f) Construction materials:

A, B, C and D - See sign aesthetics, section 7.e [of this article].

(g) Illumination:

A	Internally lighted or shielded light source.
B	Internally lighted or shielded light source.
C	Internally lighted or shielded light source.
D	None allowed.

(h) Number of sides per sign structure:

A	One, or two sided ground sign back to back.
B	One side.
C	One, or two sided back to back.
D	One side.

(i) Color: A, B, C and D - See sign aesthetics, section 7.e, [of this article].

(j) Landscaping:

A and B	Equal total square feet of ground or free standing signs both sides if two sided; per director's approval.
C and D	None required.

(k) Minimum setback from road right-of-way:

A	Five feet.
B	Ten feet.
C	Two feet.

D	Must be within six feet of entrance.
---	--------------------------------------

(l) Minimum setback from any easement or property line:

A	Five feet.
B	Two feet.
C	Two feet.
D	Two feet.

(3) *Special requirements:* All signs must be of same construction, materials, colors and lighting. See sign aesthetics, section 7.e [of this article].

d. *Business advertising sign (multi-tenant building, more than one story building).*

(1) *Type of sign (multi-story medical or business office building):*

A	Business advertising sign - Building sign.
B	Tenant directory.
C	Traffic directional - in, out, employee parking.
D	Special information - hours, closed/open, credit cards, owner name, etc.

(2) *Development standards:*

(a) Location:

A	On site of business.
B	On site of business.
C	On site of business.
D	Within six feet of entrance door.

(b) Number:

A	One building sign per road frontage.
B	One tenant directory per building entrance.
C	Traffic directional - as needed per director's approval.
D	One per entrance to building.

(c) Type of structure:

A	Ground, wall, awning or canopy.
---	---------------------------------

B	Ground.
C	Ground.
D	Wall, window, door.

(d) Maximum size:

A	Thirty square feet plus two square feet per tenant using sign over two tenants (maximum area 60 sq. ft.).
B	Five square feet plus one square per tenant using sign.
C	Three square feet.
D	Two square feet.

(e) Maximum height (sign and structure):

A	Five feet plus six inches for each full 50 feet sign is located from public road right-of-way.
B	Six feet.
C	Three feet.
D	Six feet.

(f) Construction material:

A, B, C and D - See sign aesthetics, section 7.e [of this article].

(g) Illumination:

A	Internal or shielded external light source.
B	Internal or shielded external light source.
C	Internal or shielded external light source.
D	Not allowed.

(h) Number of sides per sign structure:

A	One, or two sided directly back to back.
B	One sided.
C	One, or two sided directly back to back.
D	One sided.

(i) Color:

A, B, C and D - Same color except logo (on type A sign only) which may be 25 percent of sign size and may be any color.

(j) Landscaping:

A	Equal to square age of ground sign.
B	None required.
C	None required.
D	None required.

(k) Minimum setback from road right-of-way:

A	Ten feet.
B	Ten feet.
C	Two feet.
D	Two feet.

(l) Minimum setback from any easement or property line:

A	Five feet.
B	Five feet.
C	Two feet.
D	Two feet.

(3) *Administrative requirements:*

(a) Necessary approvals. A and B - director's review and approval.

(b) Permit required. A and B - Yes.

(4) *Special requirements:* See sign aesthetics, section 7.e [of this article].

e. *Multibuilding complex sign (planned unit development; three or more buildings):*

(1) *Types of signs:* Complex public entrance sign.

(2) *Development standards:*

(a) Location: Entrance to complex.

(b) Number: One per major public entrance to complex (maximum of four).

(c) Type of structure: Ground.

(d) Maximum size: Forty square feet plus five square feet per full 50-foot setback of sign from road right-of-way.

(e) Maximum height: Six feet plus six inches per full 50-foot setback from road right-of-way.

(f) Construction materials: As approved by plan commission.

(g) Illumination: Internal or completely shielded exterior.

(h) Number of sides per sign structure: One, or two sided back to back.

(i) Color: As approved by plan commission.

(j) Landscaping: Area two times area of sign.

(k) Minimum setback from road right-of-way: Ten feet.

(l) Minimum setback from any easement of property line: Five feet.

(3) *Administrative requirements:*

- (a) Necessary approvals: Plan commission.
- (b) Permit required: Yes.

f. *Real estate signs (temporary sign):*

- (1) *Type of sign:* Home for sale or rent.
- (2) *Development standards:*

(a) Location: On site of property for sale, rent or lease.

A	Residential and agricultural zones only.
B	Commercial zones.
C	Manufacturing zones.

(b) Number: One per road frontage of parcel for sale, rent or lease.

(c) Type of structure: Ground, wall or window.

(d) Maximum size:

A	Local street or agricultural/residential zoned areas: nine square feet.
B	Collector street; site must be zoned commercial or manufacturing: <u>16</u> square feet.
C	Arterial/freeway; site must be zoned commercial or manufacturing: 32 square feet.

(e) Maximum height:

A	Three feet.
B	Four feet.
C	Six feet.

(f) Construction materials: See sign aesthetics, section 7.e [of this article].

(g) Illumination: None allowed.

(h) Number of sides per sign structure: One or two sided directly back to back.

(i) Color: See sign aesthetics, section 7.e [of this article].

(j) Landscaping: None required.

(k) Minimum setback from road right-of-way:

A	Five feet.
B	Ten feet.
C	Twenty feet.

(l) Minimum setback from any easement or property line:

A	Three feet.
---	-------------

B	Five feet.
C	Five feet.

(3) *Administrative requirements:*

- (a) Necessary review and approval: Director.
- (b) Permit required: Yes for sign over nine square feet; permit good for one year.

(4) *Special requirements:* All real estate signs must be removed within five days after property is sold, leased or rented. In multi-tenant buildings, ground signs must be removed after 70 percent of the tenant space is leased for the first time. Future real estate signs are limited to a six square feet wall sign or window sign per road frontage or tenant space.

g. *Subdivision entrance sign (permanent sign):*

(1) *Type of sign:*

A	Entrance sign to subdivision.
B	Traffic directional/amenity signs.

(2) *Development standards:*

(a) *Location:*

A	Primary entrance(s) to subdivision.
B	Pool, club house, guest parking.

(b) *Number:*

A	One ground, or two matching wall signs (one on each side of entrance).
B	As needed per director's approval.

(c) *Type of structure:*

A	Ground or wall.
B	Ground.

(d) *Maximum size:*

A	Forty square feet one ground sign or total for two matching wall signs.
B	Three square feet.

(e) *Construction materials:* A and B - Permanent materials. See sign aesthetics, section 7.e [of this article].

(f) *Illumination:*

A	Internal or shielded external.
---	--------------------------------

B	None allowed.
---	---------------

(g) Number of sides per sign structure:

A	One, or two sides directly back to back.
B	One, or two sides directly back to back.

(h) Color: A and B - See sign aesthetics, section 7.e [of this article]. All subdivision signs must be of same colors.

(i) Landscaping:

A	One square foot per each square foot of signage.
B	None required.

(j) Minimum setback from road right-of-way:

A	Five feet.
B	Five feet.

(k) Minimum setback from any easement or property line:

A	Ten feet.
B	Five feet.

(3) Administrative requirements:

(a) Necessary approvals: A and B - Plan commission with primary plat, per director's review.

(b) Permit required:

A	Yes.
B	No.

(4) Special requirements:

A and B	Subdivision covenants must provide for long term maintenance and repair of sign per subdivision maintenance fund.
A and B	Sign must be located within a sign easement identified on the primary and secondary plat.
B	Copy limited to directional information only, no advertising words or logos permitted.

h. *Project construction sign (temporary sign):*

- (1) *Type of sign:* New building, subdivision, major expansion of existing building; may include information regarding architect, building, real estate agent, financing company, etc.
- (2) *Development standards:*
 - (a) Location: On site (parcel) of project.
 - (b) Number: One per road frontage.
 - (c) Type of structure: Ground sign.
 - (d) Maximum size:
 - Agricultural or residential zone district - 20-9 sq. ft.
 - Office, commercial or manufacturing zone district - 32 sq. ft.
 - (e) Maximum height:
 - Agricultural or residential zone district - Five feet.
 - Office, commercial or manufacturing zone district - Six feet.
 - (f) Construction materials: See sign aesthetics, section 7.e [of this article].
 - (g) Illumination: None.
 - (h) Number of sides per sign structure: One, or two sided back to back.
 - (i) Color: See sign aesthetics, section 7.e [of this article].
 - (j) Landscaping: Not required.
 - (k) Minimum setback from road right-of-way: Five feet.
 - (l) Minimum setback from any easement or property line: Five feet.
- (3) *Administrative requirements:*
 - (a) Necessary approvals: Director.
 - (b) Permit required: Yes; temporary, one year permit.
- (4) *Special requirements:*
 - (a) Individual building signs must be taken down when certificate of occupancy is issued or structure or additions first become occupied or after one year, whichever shall first occur.

i. *Public buildings:*

(1) *Types of signs:*

A	Schools, churches, government, institutions (not for profit organizations).
B	Special information, hours, open/closed, credit cards, owner name, etc.
C	Traffic directional.

(2) *Development standards:*

(a) Location:

A	On site of building.
B	Within six feet of entrance door.
C	Close to area to be identified.

(b) Number:

A	One per road frontage.
---	------------------------

B	One per entrance to building.
C	As needed per director.

(c) Type of structure:

A	Ground, wall, projecting, roof, awning, canopy.
B	Ground.
C	Ground.

(d) Maximum size:

A	Forty square feet.
B	Sixteen square feet.
C	Two square feet.

(e) Maximum height:

A	Six feet.
B	Six feet.
C	Three feet.

(f) Construction materials: See sign aesthetics, section 7.e [of this article].

(g) Illumination:

A	Internal or shielded.
B	Internal or shielded.
C	None allowed.

(h) Number of sides per sign structure:

A	One, or two directly back to back; ground sign.
B	One sided.
C	One or two directly back to back; ground sign.

(i) Color: See sign aesthetics, section 7.e [of this article].

(j) Landscaping:

A	Equal in square footage to surface area of all ground signs.
B	None required.
C	None required.

(k) Minimum setback from road right-of-way:

A	Five feet.
B	Five feet.
C	Two feet.

(l) Minimum setback from any easement or property line:

A	Five feet.
B	Five feet.
C	Two feet.

(3) *Administrative requirements:*

(a) Necessary approvals:

A and B	Director
---------------	----------

(b) Permit required:

A	Yes (\$25.00 processing fee only).
---	------------------------------------

(4) Special requirements: See sign aesthetics, section 7.e [of this article].

j. *Political sign (temporary):*

(1) *Types of signs:* Political campaign (or related) signs.

(2) *Development standards:*

(a) Location:

A	Private property with permission of owner or
B	Within road right-of-way.

(b) Number: One per road frontage A and B.

(c) Type of structure: Ground.

(d) Maximum size:

A	No size limit.
B	Four square feet.

(e) Maximum height:

A	No height limit.
B	Thirty inches.

(3) *Administrative requirements:*

- (a) Necessary approvals: None.
- (b) Permit required: None.

(4) *Special requirements:* Can be put up 30 days prior to election day; must be removed within five days after the election.

k. *Home occupation sign:*

(1) *Types of signs:* Sign identifying nature of occupation, business name and address, hours of operation, etc.

(2) *Development standards:*

- (a) Location: Wall sign.
- (b) Number: One; must be within six feet of the entrance to the home occupation.
- (c) Type of structure: Wall.
- (d) Maximum size: Four square feet.
- (e) Maximum height: Six feet.
- (f) Construction materials: See sign aesthetics, section 7.e [of this article].
- (g) Illumination: None allowed.
- (h) Number of sides per sign structure: One.
- (i) Color: See sign aesthetics, section 7.e [of this article].
- (j) Landscaping: None required.
- (k) Minimum setback from road right-of-way: N/A.
- (l) Minimum setback from any easement or property line: N/A.

(3) *Administrative requirements:*

- (a) Necessary approvals: Director.
- (b) Permit required: Yes.

(4) *Special requirements:* See sign aesthetics, section 7.e [of this article].

l. *Temporary banners:*

(1) *Types of signs:* Sign identifying nature of temporary event, (i.e., grand opening, closing, out of business, fall special, etc.).

(2) *Development standards:*

- (a) Location: Wall, window, ground.
- (b) Number: One.
- (c) Type of structure: Cloth; banner.
- (d) Maximum size: Fifteen square feet.
- (e) Maximum height: Ground, Five feet; wall, eight feet.
- (f) Construction materials: See sign aesthetics, section 7.e [of this article].
- (g) Illumination: None allowed.
- (h) Number of sides per sign structure: One.
- (i) Color: See sign aesthetics, section 7.e [of this article].
- (j) Landscaping: None required.
- (k) Minimum setback from road right-of-way: Five feet.

- (l) Minimum setback from any easement or property line: Five feet.
- (3) *Administrative requirements:*
 - (a) Necessary approvals: Director.
 - (b) Permit required: Yes.
- (4) *Special requirements:* Time limitation: Maximum of 30 days per event per director approval (depending on type of event); four events per year per director approval.
- (5) *Temporary banners:* [Temporary banners] for community public events are allowed with a maximum size of 20 square feet. A sponsor's name may appear on the banner when limited to 25 percent of the banner area. All other development standards shall be as provided under paragraphs (2), (3), and (4) above.
- m. *Limited agricultural related retail sales uses:* Permit required fee \$25.00 (permit fee not required for storage uses of existing farm buildings when area used is less than 2,000 square feet).
 - (1) *Road side sales business:* Signs (temporary) to limited agricultural related retail sales use signs.
Types of signs: Signs identifying nature of temporary business activity, (i.e., fresh produce, Christmas trees for sale, etc.), to road side sales stands, Christmas tree sales, long term storage use of existing agriculture buildings, retail sale of home grown and/or processed agricultural produce. (Off-site products limited to 30 percent of total products offered for sale.)
 - (2) *Development standards:*
 - (a) Location: On site of business.
 - (b) Number: One.
 - (c) Type of structure: Ground or wall.
 - (d) Maximum size: Sixteen square feet.
 - (e) Maximum height: Five feet for ground sign and eight feet for wall sign.
 - (f) Construction materials: See sign aesthetics, section 7.e [of this article].
 - (g) Illumination: Internal or shielded external.
 - (h) Number of sides per sign structure: One or two sided directly back to back (ground sign).
 - (i) Color: See sign aesthetics, section 7.e [of this article].
 - (j) Landscaping: None required.
 - (k) Minimum setback from road right-of-way: Five feet.
 - (l) Minimum setback from any easement or property line: Five feet.
 - (3) *Administrative requirements:*
 - (a) Necessary approvals: Director.
 - (b) Permit required: Yes.
 - (4) *Special requirements:*
 - (a) Time limitation: Maximum of one event per year not to exceed 90 days in duration.
 - (b) Zoning districts: Commercial or agricultural zoning districts only.
- n. *Garage sale (temporary):*
 - (1) *Types of signs:* Sign identifying temporary event, (i.e., garage sale, Saturday 10:00 a.m. to 4:00 p.m., etc.).
 - (2) *Development standards:*
 - (a) Location: On site of sale.
 - (b) Number: One per road frontage.
 - (c) Type of structure: Ground.
 - (d) Maximum size: Six square feet.
 - (e) Maximum height: Four feet.
 - (f) Construction materials: See sign aesthetics, section 7.e [of this article].
 - (g) Illumination: None allowed.
 - (h) Number of sides per sign structure: One or two back to back.
 - (i) Color: See sign aesthetics, section 7.e [of this article].
 - (j) Landscaping: N/A.
 - (k) Minimum setback from road right-of-way: Ten feet.
 - (l) Minimum setback from any easement or property line: Two feet.
 - (3) *Administrative requirements:*
 - (a) Necessary approvals: None.

- (b) Permit required: No.
- (4) *Special requirements:* Time limitation: Seven days per sale.
- o. *Agricultural signs (temporary):*
 - (1) *Types of signs:* Field signs promoting and/or identifying various types of agricultural products, i.e., types of seed corn, types of seed beans, etc.
 - (2) *Development standards:*
 - (a) Location: In or immediately adjacent to agricultural site (field).
 - (b) Number: Up to 20 per field; more than 20 per field with director's approval.
 - (c) Type of structure: Ground.
 - (d) Maximum size: Four square feet per sign.
 - (e) Maximum height: Eight feet.
 - (f) Construction materials: See sign aesthetics, section 7.e [of this article].
 - (g) Illumination: None allowed.
 - (h) Number of sides per sign structure: One or two, back to back.
 - (i) Color: See sign aesthetics, section 7.e [of this article].
 - (j) Landscaping: N/A.
 - (k) Minimum setback from road right-of-way: Five feet.
 - (l) Minimum setback from any easement or property line: Two feet.
 - (3) *Administrative requirements:*
 - (a) Necessary approvals: None.
 - (b) Permit required: No.
 - (4) *Special requirements:*
 - (a) Time limitation: No more than nine continuous months during any farm year (March 1 through February 28).
- p. *Residential subdivision directional signs:*
 - (1) *Type of sign:* Sign identifying a residential community with a directional arrow.
 - (2) *Development standards:*
 - (a) Location: County road intersections within two miles of the entrance of a residential community.
 - (b) Total number: Maximum of three per intersection per residential community. To be approved by plan director.
 - (c) Type of structure: Ground, removable metal stake.
 - (d) Maximum size: 18" × 24".
 - (e) Maximum height: Thirty inches above grade level.
 - (f) Copy: Name of residential community and directional arrow only.
 - (g) Illumination: None allowed.
 - (h) Number of signs per structure: One, may be front to back.
 - (i) Landscaping: N/A.
 - (j) Minimum setback from roadbase or curb: Ten feet, minimum five feet from any drainage swale.
 - (3) *Administrative requirements:*
 - (a) Necessary approvals: Plan director, highway superintendent, surveyor.
 - (b) Temporary sign permit required: As prescribed.
 - (c) Name, address, phone number of sign contractor: On back of sign with permit number.
 - (d) Hold harmless statement filed at time of permit. Bond must also be on file with county.
 - (4) *Special requirements:*
 - (a) No signs will be placed in median.
 - (b) No signs will be placed so as to obstruct motorists' vision.
 - (c) No signs will be attached to utility poles, trees, fences, or existing traffic signs.
 - (d) Signs shall not be placed before 6:00 a.m. Saturday and shall be removed before 8:00 p.m. the following Sunday. All poles and stakes shall be completely removed.

(Ord. No. 6-13-94-C, § 8, 6-13-1994)

Section 5. - Signs prohibited.

The intent of this article is to provide that signs not specifically permitted hereunder are prohibited. However, by way of explanation, and not by way of limitation, the following signs are specifically prohibited:

- a. Any sign or any part of any sign which moves or assumes a non-stationary position by mechanical means or under normal wind currents, except flags and banners as regulated in this article.
- b. Any business advertising on benches, tables, tents, or other similar items of personal property; however, business, donor, or sponsor names may be included on benches, provided such name is limited in area to one square foot.
- c. Electronic message center signs.
- d. Signs that contain statements, words, pictures or other matter that is obscene under the provisions of IC 35-49.
- e. Signs which advertise an activity, business, project or service no longer conducted on the premises upon which the sign is located.
- f. Posters, pennants, ribbons, streamers, strings of light bulbs, spinners or similar devices, unless they are specifically permitted by other provisions of this article. Posters, pennants, ribbons, or streamers may be allowed when used in conjunction with a business grand opening or public special event per the approval of the director. The use of such temporary promotional materials shall be limited to no more than 30 days in any one year.
- g. Signs which are affixed to trees, utility poles, fences, and antennas.
- h. Off-site signs which advertise goods, products, services or facilities or direct persons to a different location from where the sign is located. Any off premises business or advertising sign requires a use variance from the board.
- i. Lighter than air advertising devices.

Section 6. - Illumination and maintenance.

- a. Any sign permitted to be illuminated under this article may be illuminated, provided such illumination complies with the following restrictions:
 1. All illuminated signs within 100 feet of any residence shall be turned off between the hours of 11:00 p.m. and 7:00 a.m. unless the establishment is engaged in the operation of its business with employees on the premises during such period.
 2. The illumination shall be installed or applied such that (a) the light source is contained within the sign or recessed in the sign's structure and is visible only through a translucent surface; (b) the light source is external to the sign and is directed to, and concentrated on, the sign; or (c) the light source is supplied by neon filled tubing.
 3. Illumination shall be shielded in order to prevent the light from striking or causing a glare upon the street or nearby properties.
 4. Floodlights, gooseneck reflectors or other external sources of illumination shall be contained within a shielded protective casing.
 5. Illumination shall be constant in intensity and color and shall not consist of flashing, animated, chasing or scintillating lights.
- b. The owner of a sign and the owner and/or occupant of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources, in neat and orderly condition and in good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign.

Proper maintenance under this article shall include, but not by way of limitation, the proper painting of all parts and supports of said sign when necessary unless the same are galvanized or otherwise treated to prevent rust or deterioration.

Section 7. - Administration and enforcement.

- a. *Permits.*
 1. Unless exempted under this article, no sign shall be erected, altered or relocated without a permit for such sign issued by the plan director under this article.
 2. No permit shall be required for repainting, cleaning, and other normal maintenance or repair of a sign structure for which a permit has previously been issued.
 3. An applicant for a sign permit under this article shall file with the plan director an application for sign permit upon forms approved by the plan commission for such purpose and pay the requisite filing fee for sign permit in accordance with this ordinance. The application shall include the construction specifications for the sign and may include, in the discretion of the plan director, wind stress calculations.
 4. Submitted with each application shall be a site plan with particular emphasis upon existing and proposed signage location, setbacks, size, height, colors, type of construction, landscaping, type of lighting, elevation of building, etc., and consisting of other information deemed necessary by the plan director, in his sole discretion, in order to properly evaluate the signage aspects of the project and compliance with the substantive provisions of this article.
 5. The plan director, zoning administrator, or an authorized designee, shall consider and evaluate such application and associated site plan, and thereupon render his decision, in writing, which decision shall consist of either:
 - (a) Approval of the application and issuance of the sign permit based upon the determination that the proposed sign is in compliance with the provisions of this article;
 - (b) Disapproval of the application and refusal to issue the sign permit based upon a determination that the proposed sign is not in compliance with the provisions of this article;
 - (c) Approval of the application subject to any conditions, modifications and restrictions as required by the plan director which will ensure that the

proposed sign is in compliance with the provisions of this article.

6. If the construction and installation of a sign for which a permit has been issued hereunder has not been completed within six months following the permit issue date, said permit shall become null and void.
- b. *Inspection.*
 1. The plan director, zoning administrator, or an authorized designee, may, from time to time, inspect each sign for which a permit is required for the purpose of ascertaining whether the sign is in compliance with the provisions of this article and whether it is structurally unsafe or insecure.
 2. If the zoning official finds that any sign regulated hereunder is structurally unsafe or insecure, or has been constructed or erected in violation of the provisions of this article, he shall give written notice thereof to the owner of the sign, owner of the premises and/or occupant of the premises. If the responsible parties under this article fail to remove or alter the sign or apply for the necessary permits hereunder within ten days after such written notice, the plan director may avail himself of those remedies provided in article 20, sections 2 and 3 in order to have the subject sign determined to be a nuisance and removed.
 - c. *Abandoned signs.*
 1. Any sign which is located on property which becomes vacant or any sign which pertains to a use or activity which no longer applies shall be deemed to have been abandoned.
 2. Any nonconforming sign which has been abandoned shall be removed. Any abandoned sign that complies with the requirements and regulations of this ordinance shall have the face replaced with a weatherproof blank face, by the owner of the sign, owner of the premises or occupant of the premises upon which such sign is located within ten days after the plan director, or an authorized designee, gives written notification of such abandonment to the responsible parties. If the responsible parties under this article fail to take such action within said ten-day period, the plan director may avail himself of those remedies provided in article 20, sections 2 and 3 in order to have the subject sign determined to be a nuisance and removed.
 - d. *Nonconforming signs.* Any sign (or sign structure including sign can) lawfully existing or under construction as of the date of passage of this ordinance, which does not conform to the provisions contained in this article, shall be considered a nonconforming use and dealt with as such under article 14 of this ordinance.
 - e. *Aesthetics.*
 1. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
 2. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
 3. The colors, materials and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
 4. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportions to the area of the sign face.
 5. Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.

Section 8. - Appeals from the plan director.

- a. Any order requirement, decision or determination of the plan director with respect to administration of this article may be appealed to the advisory board of zoning appeals by any person claiming to be adversely affected by that order, requirement, decision or determination.
- b. Every appeal shall be filed within 14 days from the date of the order, requirement, decision or determination.
- c. Notice of hearing on the appeal shall be given 14 days prior to the advisory board of zoning appeals hearing date and may be made a part of the notice of hearing by the plan director.
- d. The advisory board of zoning appeals hearing on the plan director's (or authorized designee's) decision involving the administration of this article shall be de novo, in the same manner as though the matter was originally presented to the board.
- e. The decision of the board with respect to the administration of this article shall be the final administrative decision on the subject. Each decision of the board under this section is subject to review through the presentation of a petition for a writ of certiorari to the circuit or superior court of the county.

ARTICLE 10. - MANUFACTURED HOMES, MOBILE HOMES AND MOBILE HOME PARKS

FOOTNOTE(S):

--- (1) ---

Cross reference— FLP floodplain district, art. 8.

A. - MANUFACTURED AND MOBILE HOMES

Section 1. - Manufactured home type I.

- a. *General requirements:* Manufactured homes type I shall be permitted in any area zoned for single-family or duplex homes.
- b. *Requirements and limitations:* Manufactured homes type I shall meet the following requirements and limitations:

- (1) The homes shall meet all requirements applicable to single-family or duplex homes and shall be subject to all necessary improvement, location, building occupancy permits.
 - (2) The homes must be permanently attached to a solid foundation extending down below the frost line, a minimum of 30 inches, or on basement wall. The space between the floor joists of the home and the excavated area under floor grade shall be completely enclosed with a permanent, perimeter foundation, or basement wall, except for required openings.
 - (3) The homes shall be covered with an exterior material of one or more of the following types:
 - (a) Horizontal aluminum or vinyl lap siding;
 - (b) Cedar or wood siding;
 - (c) Weather resistant grain pressboard;
 - (d) Stucco, brick or stone; and
 - (e) Other materials approved by the plan commission.
 Such materials shall overlap the top of the foundation.
 - (4) The homes shall have a roof composed of a material customarily used on site-built residential dwellings, such as asbestos, fiberglass, shake, asphalt or tile, which shall be installed onto a surface appropriately pitched for the materials used.
- c. *Placement with permit:* Manufactured homes not meeting the terms of this subsection shall be permitted within the jurisdictional area only after receiving a variance approved by the Hamilton County Advisory Board of Zoning Appeals or without such variance they may be located in an approved mobile home park.
- d. *Structural alteration:* Any structural alteration or modification of a manufactured home after it is placed on the site must be approved by the plan director.

Section 2. - Manufactured home type II.

- a. *General requirements:* Manufactured homes type II shall be permitted within the jurisdictional area provided they are located in a mobile home park duly approved under the terms of this article, or, in the event they are not located in an approved mobile home park, provided a variance for their location and use has been duly approved by the Hamilton County Advisory Board of Zoning Appeals.
- b. *Requirements and limitations:* Manufactured homes type II shall meet the same requirements and limitations as manufactured homes type I, as hereinabove specified, except that a manufactured home type II need not be anchored to a permanent foundation and perimeter wall; need not have a pitched roof; or need not be covered with exterior materials customarily used for site-constructed homes.

Section 3. - Mobile homes.

All mobile homes must be located in an approved mobile home park except for the following:

- a. A mobile home which exists at a particular location at the time of the passage of this ordinance shall be allowed to remain at such location. Said mobile home may be replaced at the same location with a mobile home of equal or better condition and of equal or greater size. Any mobile home allowed hereby shall be anchored to the ground, have wheels removed, skirting installed and approved septic system and well location. Mobile homes allowed hereby may be sold or transferred.
- b. Mobile homes used as a temporary office or for other purposes on a construction site (special permit required). The special permit for such temporary mobile home usage shall be for a specific period not to exceed one year in duration. In the discretion of the director, the special permit may be renewed for an additional one year term.
- c. Mobile homes normally used for camping or traveling on highways may be permitted to be located on the property of the owner, provided their location complies with applicable front, side and rear yard setback requirements for the district in which they are located. These mobile homes may not under any circumstances be occupied as a temporary or permanent residence.

B. - MOBILE HOME PARKS

Section 1. - Mobile home parks permitted.

- a. Mobile homes and manufactured homes type II are recognized as viable forms of residential housing. The interests of residents of such mobile home and manufactured home units and of the community, generally, are best served if such housing units are located in a planned mobile home park.
- b. Mobile home parks containing mobile homes and manufactured homes type II are permitted as a special use in the following districts subject to prior approval of a development plan by the plan commission in accordance with the terms and conditions of article 12: R-4, R-3(P), R-4(P), C-1, C-2, and C-3.
- c. In considering a mobile home development plan, the plan commission shall insure that the design requirements for a mobile home park as specified in this article are present and implemented in the construction and operation of the park.

Section 2. - Design requirements.

- a. The minimum area of a mobile home park shall be five acres.

- b. The park shall be located on a well drained site, properly graded to insure rapid drainage and free from stagnant pools of water. The plan commission may, of its approval of a development plan, require curbs, gutters, catch basins or such other artificial enhancements to natural drainage in the mobile home park where, in the opinion of the commission, drainage of surface water as proposed by the developer in its development plan is insufficient to properly carry su surface water.

Surface drainage as approved by the plan commission shall be installed and maintained by the developer or its successors in interest.

- c. A mobile home park shall be screened continuously along all park boundary lines, except at established entrances and exits serving the park, by a landscaped strip at least five feet in width designed and planted with evergreen trees or shrubs not less than six feet high after one full growing season, and which at maturity are not less than ten feet high, which are of a type that may be expected to form a year round dense screen and which shall be set and selected so as to assure 80 percent opacity, and maintained in good condition at all times.
- d. Each park shall provide a recreational area or areas equal in size to at least eight percent of the area of the park. Streets, parking areas, drainage facilities, floodplains, and park service facility areas shall not be included in the required recreational area.
- e. Coin-operated laundries, laundry and dry cleaning pick-up stations and other commercial convenience establishments may be permitted in mobile home parks, provided: (a) they are subordinate to the residential character of the park; (b) they are located, designed and intended to serve only the needs of persons living in the park; (c) the establishments and the parking areas related to there use shall not occupy more than ten percent of the total area of the park; and (d) the establishments shall present no visible evidence of their commercial nature to areas outside the park.
- f. Each park shall provide either one central waterproof structure available to all mobile home site residents or a single waterproof structure for each mobile home site, suitable for storage of goods and the usual effects of persons occupying the park.
- g. All exterior park lights shall be located and shielded so as to prevent direct illumination of any areas outside of the park exceeding .01 footcandle.
- h. Mobile home sites shall be a minimum of 4,000 square feet in area and in no case shall a mobile home park exceed a density of seven units per gross acre.
- i. Each mobile home site shall have a minimum width of 40 feet.
- j. The minimum distance between a mobile home and another mobile home or structure shall be 20 feet.
- k. Each mobile home site shall be provided with a stand consisting of either a solid concrete slab or two concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock. Each stand shall be provided with an anchoring for each corner of its mobile home able to sustain a minimum tensile strength of 2,800 pounds.
- l. No mobile home shall be located closer to any mobile home park boundary line than 50 feet. In the event that such park shall abut a public street or highway, the standard setback lines for such road as established for conventional housing in the district shall prevail.
- m. Foundation skirting shall be required around each mobile home completely enclosing the undercarriage.
- n. Each mobile home site shall be provided with two parking spaces adjacent thereto, which parking spaces shall have unobstructed access to a mobile home park street. No on-street parking shall be permitted.
- o. Common walks at least four feet in width shall be provided around all recreational and service facility areas. No walk required herein shall be used as a drainage way.
- Individual walks - All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of three feet.
- p. Street construction within the park shall be in accordance with the current street construction standards of the governmental unit in which such mobile home park is located.
- q. No individual mobile home within a mobile home park shall have direct vehicular access to any public street. All access shall be from an improved street or driveway within the park.
- r. All entrances to mobile home parks shall be constructed in an attractive manner. The name of the park shall be adequately designated in an aesthetically pleasing manner. Entrance areas inside the park shall provide for internal street names and addresses and also provide adequate facilities for mail of the park's residents.

Section 3. - Limitation on use.

- a. All mobile homes located in a mobile home park shall only be used for residential purposes. Home occupations shall be limited to those permitted by this ordinance in single-family residences.
- b. No mobile home site shall be rented in any mobile home park except for periods of 30 days or longer.

ARTICLE 11. - DEVELOPMENT PLAN

FOOTNOTE(S):

--- (1) ---

Editor's note— A fax of Dec. 5, 2007(Exhibit A, Article 11), repealed article 11 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, article 11 pertained to Site Plan Review and derived from Ordinance No. 3-19-90.

A. - PURPOSE AND APPLICABILITY

Section 1. - Purpose.

The purpose of the development plan procedure set forth in this article is to regulate the development of structures and sites in a manner which considers the following concerns and, where necessary, provides for conditions, commitments, bonds or other written surety to assure that development proposals eliminate or minimize potential problems and nuisances. The principal areas of concern are:

- a. The balancing of landowner's rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);
- b. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
- c. The adequacy of water supply, waste disposal methods and protection from pollution of surface or groundwater; and
- d. The protection of natural environmental historic or archeological features on the site under review and in adjacent areas.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 2. - Applicability.

Approval of a development plan shall be required for the following proposals:

- a. Any subdivision in the A-2(S), A-3, R-1 or R-2 district which utilizes the cluster subdivisions options set forth in article 11, paragraph C., section 2.
- b. Any subdivision in the R-3 or R-4 district.
- c. Any office, commercial or manufacturing development which requires an Improvement Location Permit and which is located on a lot which abuts the right-of-way of US 31 or SR 37, or which abuts a frontage road which parallels US 31 or SR 37.
- d. Any office, commercial or manufacturing development which requires an Improvement Location Permit and which is located on a lot which abuts an "R" district or an existing subdivision.

(Fax of 12-5-2007 (Exh. A, Art. 11))

B. - DEVELOPMENT PLAN AUTHORITY AND NOTICE

The authority to approve or disapprove a development plan is hereby delegated to the plan director. The review of a development plan by the plan director may occur without public notice and without a public hearing.

(Fax of 12-5-2007 (Exh. A, Art. 11))

C. - DEVELOPMENT REQUIREMENTS

Pursuant to IC 36-7-4-1402(b)(1), development requirements which must be met for the approval of a development plan consist of the general development requirements specified below for all development plans and any additional development requirements specified below which are applicable to a particular type of development plan.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 1. - General development requirements.

The following list sets forth the general development requirements which must be satisfied before any development plan may be approved:

- a. Compliance with all applicable development standards of the zoning district in which the real estate is located (unless a variance has been obtained or a waiver is provided for by this article and has been granted, in which case compliance with the terms and conditions of the variance or waiver grant shall be required);
- b. Compliance with all applicable provisions of the subdivision control ordinance (unless a waiver has been granted, in which case compliance with the terms and conditions of the waiver grant shall be required);
- c. Provision of: setback; building separation; on-site parking and loading; landscape buffering; height, scale, materials and style of improvements; signs; outdoor lighting; recreation opportunities; site design; building orientation; or other design guidelines contained in this article or adopted by the plan commission, necessary to assure compatibility of the proposed development with surrounding land uses;
- d. Approval from the Hamilton County Health Department for any private water or sanitary facilities, or availability and extension of sanitary sewer or potable water.
- e. Availability and extension of stormwater drainage and other utilities to serve the needs of the proposed development and the proper coordination of such utilities with existing utilities;
- f. Management of traffic in a manner which creates conditions favorable to the health, safety, convenience and harmonious development of the community by:

- (1) The design and location of: proposed streets and highway access points; and, pedestrian ways, so as to minimize safety hazards and congestion;
 - (2) Assuring the capacity of adjacent or existing streets, highways and pedestrian ways to efficiently handle vehicular and pedestrian traffic projected to be generated by the proposed development; and
 - (3) The coordination of access points, street layout, pedestrian ways and internal traffic circulation facilities in the proposed development with existing and planned streets and adjacent developments.
- g. Approval by the Hamilton County Surveyor's Office of a stormwater management plan.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 2. - Cluster subdivisions in the A-2(S), A-3, R-1 and R-2 districts.

Intent. This cluster subdivision option is intended to allow greater flexibility in design and development of subdivisions, in order to provide for more efficient use of land, protect topographical features, preserve the rural agrarian character of Hamilton County, and permit the permanent set-aside of common area and open space.

Further, the approval of a cluster subdivision as set forth herein is intended to be conceptual in nature. While all plans shall be drawn to scale and shall be accurate in depicting existing conditions and the proposed development, no development within a cluster subdivision shall commence until more detailed engineering drawings with full bearing and distance calls, curve radii, details regarding utility installations, etc., shall have first been reviewed and approved pursuant to the subdivision control ordinance. Primary and secondary plat approval shall be required prior to any construction within a proposed cluster subdivision. The petitioner shall obtain development plan approval by the plan director for a cluster subdivision prior to filing for primary plat approval for a cluster subdivision.

Any residential development in the A-2(S), A-3, R-1 and R-2 districts in compliance with all development standards of the applicable district and which does not intend to use the cluster subdivision provisions set forth herein may pursue subdivision approval in compliance with the subdivision control ordinance and the development standards of the applicable district.

- a. *Additional development requirements for cluster subdivisions in A-2(S), A-3, R-1 or R-2 districts.* The following additional development requirements shall be applicable only to a subdivision in A-2(S), A-3, R-1 or R-2 districts that are proposed to be developed as a cluster subdivision as provided for in this section:
- (1) *Project area (minimum size of subdivision).* There shall be a minimum of 40 acres required for the development of a cluster subdivision. The tract of land to be developed shall be in one ownership or shall be the subject of an application filed by the owners of the entire tract. The tract shall be developed as a unit and in the manner approved.
 - (2) *Maximum density.* The overall maximum density shall not exceed the maximum number of lots per acre as follows:
 - (a) A-2(S) = 0.32;
 - (b) A-3 = 0.64;
 - (c) R-1 = 1.30;
 - (d) R-2 Single-family = 2.10; and
 - (e) R-2 Two-family = 1.30.
 - (3) *Sewers.* Attachment to public or semipublic water and sanitary sewer facilities shall be mandatory for the development of any cluster subdivision with a minimum lot area of less than 24,000 sq. ft.
 - (4) *Development standards.* Compliance with all development standards regarding lot area, lot width, lot width at setback, front setback, side setback, rear setback, street frontage and lot open space of the applicable zoning district (unless a waiver as authorized by [article 11](#), paragraph C., section 2., b., below, is granted, in which case compliance with the terms and conditions of the waiver grant shall be required).
 - (5) *Open space.* The creation of an amount of open space by the development of the site as a cluster subdivision equivalent to, or more than, the total reduction in lot sizes. At least 75 percent of the total amount of open space shall consist of tracts of land at least 50 feet wide in minimum dimension.

Open space created by the development of the site as a cluster subdivision shall be; preserved for continued agricultural use, with all the rights and privileges associated with agricultural uses and operations; preserved in its naturally occurring state for passive recreational activities; or, developed as a common recreational area.

Open space created for recreational purposes by the development of the site as a cluster subdivision shall be provided in such a manner as to be accessible to residents of the subdivision for their use and enjoyment and for continual maintenance.

Open space preserved for agricultural purposes by the development of the site as a cluster subdivision may be: owned by a homeowners association and leased for farming purposes; or, owned by a farming interest.

All open space created by the development of the site as a cluster subdivision shall perpetually run with the subdivision and shall not be developed or separated from the cluster subdivision at a later date. Provisions shall be made on the recorded secondary plat or by other legally binding instrument for continuous and adequate maintenance of such open space at a reasonable and nondiscriminatory rate of charge.
 - (6) Open space used for conservation purposes.

- (7) Protection of unique topographical features on the site, including, but not limited to: slopes, streams, natural water features, floodplains and regulat
 - (8) Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features.
 - (9) Development of common open space and recreational areas accessible to residents of the subdivision including provisions for walkways and bikeways.
 - (10) Creation of innovative residential environments.
 - (11) Minimization of the alteration of the natural site features to be preserved through the design and situation of individual lots, streets, and buildings.
 - (12) Diversity and originality in lot layout and individual building design to achieve the best possible relationship between development and the land.
 - (13) Site design shall provide for the compatible relationship of buildings to surrounding properties, the improvement of the view from and of buildings, and the minimization of the land area devoted to motor vehicle access shall be encouraged through the arrangement and situation of individual lots, buildings, and units.
 - (14) The proposed cluster development shall be constructed, arranged, and operated so as not to interfere with the development and use of neighboring property, and to include any necessary transition or buffering along the perimeter of the development with adjacent zoning districts.
- b. *Development requirements which may be waived for a cluster subdivision.* The following general development requirements, additional development requirements, and development standards of the underlying zoning district may be waived by the plan director in order to provide for the development of a cluster subdivision in conformance with the provisions of this article subject to the findings required for the approval of such waiver set forth in article 11, E., "Findings for Waiver of Development Requirements", below. The plan director may not waive any other general development requirements, additional development requirements or development standards of a zoning district not specifically set forth below. Any general development requirement, additional development requirement or development standard of a zoning district not set forth below must be complied with unless a variance of such general development requirement, additional development requirement or development standard is obtained from the board of zoning appeals. Further, the plan director may not waive any requirement of the Hamilton County Code regarding regulated drains or the requirement for a stormwater management plan.
- (1) Individual lots in a cluster subdivision may reduce the following development standards of the applicable district to the extent specified below:
 - (a) *Minimum lot area.* The minimum lot area may be reduced to not less than that specified in "Table 11—A: Minimum Lot Standards with Waivers".
 - (b) *Minimum lot frontage on road.* The minimum lot frontage on a road may be reduced to not less than that specified in "Table 11—A: Minimum Lot Standards with Waivers".
 - (c) *Minimum lot width at building line.* The minimum lot width at the building line may be reduced to not less than that specified in "Table 11—A: Minimum Lot Standards with Waivers".

Table <u>11</u> —A: Minimum Lot Standards with Waivers					
	A-2(S)	A-3	R-1	R-2 Single-Family	R-2 Two-Family*
Lot area (in square feet)	24,000	18,000	13,500	8,000	12,000
Lot frontage on road	45'	40'	35'	30'	35'
Lot width at building line	90'	80'	70'	60'	70'
* Also requires Special Exception (See <u>Article 15</u>).					

(d) *Minimum setback lines.*

(i) Front yard. The minimum front yard on a lot may be reduced to not less than:

- Twenty feet for any portion of a front loaded garage; or,
 - Fifteen feet for any living area, side loaded or rear loaded garage.
- (ii) Side yard. The minimum side yard on a lot may be reduced to zero feet, provided that:
- A minimum separation of at least ten feet is maintained between buildings;
 - In any case where the minimum side yard is less than five feet, a provision shall be incorporated into the secondary plat to provide for the continual maintenance of that portion of any structure that is located within five feet of the side lot line; and,
 - Such side yard does not encroach into any additional setback requirement for a regulated drain easement.
- (iii) Rear yard. The minimum rear yard on a lot may be reduced to 20 feet, provided that such rear yard does not encroach into any setback requirement for a regulated drain easement.
- (2) *Maximum lot coverage.* Individual cluster lots shall have a maximum lot coverage by buildings or roofed structures of 50 percent.
- (3) *Buffer yard required.* Any lot which utilizes any of the reductions listed in subsection (1)(a), (1)(b), (1)(c) or (1)(d), above, shall be separated from the perimeter of the overall subdivision by a landscaped common area of not less than 20 feet in width, measured from and parallel to the perimeter boundary of the overall cluster subdivision. Such perimeter buffer yards shall:
- (a) Not be part of any lot;
 - (b) Not qualify as any portion of open space required by subsection (5), above; and
 - (c) Not be part of any regulated drain easement.
- (4) *Design features for cluster subdivisions in the A-3, R-1 and R-2 district.* In order to create variation and interest in the built environment, all residential subdivisions in the A-3, R-1 and R-2 districts which utilize the cluster subdivision provisions of this article shall incorporate appropriate techniques (e.g., plat restrictions, building setback lines, or other method as approved by the plan director) to accomplish the design objectives as set forth below.
- (a) Each front façade, whether fronting onto a perimeter street or internal street, shall comply with the specifications listed in "Table 11—B: Residential Design Features for Front Façades."
 - (b) At least one of the following two design objectives:
 - (i) Development of single-family subdivisions in which single-family lots are so laid out that dwellings are located with the front of the dwelling oriented toward the perimeter street of the subdivision. This design objective may be accomplished through the utilization of frontage road in those instances where the classification of the perimeter street would prohibit individual lots from gaining direct access to the perimeter street; or
 - (ii) Single-family dwellings located on lots adjacent to a perimeter street of a subdivision and located so as to have a rear or side façade oriented to said perimeter street shall comply with the specifications listed in "Table 11—C: Residential Design Features for Side and Rear Façades."
 - (c) Rear façades oriented toward an open space, common area or other activity area created within the subdivision shall comply with the specifications listed in "Table 11—C: Residential Design Features for Side and Rear Façades"; and
 - (d) At least two of the following four design objectives:
 - (i) *Garage off-set.* Development of single-family dwellings or two-family dwellings in which the front façade of an attached or detached front loading garage is off-set and stepped back from the front building line by at least one-half of the depth of the primary building (this design feature may only be counted for dwellings with garages);
 - (ii) *Garage as percent of façade.* Garage doors shall not comprise more than 40 percent of the linear length of the ground floor, streetfacing façade of the primary building containing a dwelling unit (this design feature may only be counted for dwellings with garages);
 - (iii) *Variable build-to line.* Establishment of a build to line by plat to vary the placement of adjacent dwelling units by a minimum of:
 - Single-family dwellings. A five-foot or more variation applicable to at least one of every four lots along a block face; or
 - Two-family dwellings. Either: a two-foot off-set or more for each dwelling unit in a two-family dwelling building; or, a five-foot or more variation applicable to at least one of every four lots along a block face; or
 - (iv) *Covered porch.* Each dwelling unit is designed with a covered front porch occupying a minimum of 50 percent of the overall width of the primary building containing a dwelling unit;
- c. *Maintenance of common open space areas within a cluster subdivision.* As a condition of plan director's approval of the cluster subdivision and waiver of development requirements set forth above, the petitioner shall submit, at the time of filing of any plat application, documentary assurances that permanent dedication of the open space areas shall be made and that adequate provision is being made for continuous and adequate maintenance of project open space, common areas, recreation areas, agricultural areas and buffer yards. Once approved by the plan director, the documentary assurances shall be forwarded to the plan commission at the time of review of a petition for primary plat approval. Further, the documentary assurances shall be incorporated in the secondary plat that is recorded with a date stamp with the office of the Hamilton County

Recorder. No exceptions to these requirements shall be permitted unless the plan commission determines that the petitioner has adequately provided for such upkeep, protection and maintenance of open space, common areas, recreational areas, agricultural areas or buffer yards through other legally binding perpetual agreements.

Table 11—B: Residential Design Features for Front Façades	
<p>Select a minimum of three of the following design features for the front façade (a minimum of one feature shall be selected from Group 1, a minimum of one feature from Group 2, and the remaining feature may be selected from either Group 1, Group 2 or Group 3):</p>	<p>Group 1—Pick at least one of the following:</p> <ul style="list-style-type: none"> Roof line change (i.e., change in elevation or direction of ridge). Roof with dormers (minimum of two dormers). Covered front porch—Occupying a minimum of 50 percent of the overall width of the single-family dwelling unit containing a dwelling unit. Shed roof accent at front entry (minimum size 4' x 10'). Minimum 50 percent brick or stone on front façade*. <p>* Note: Front Façade wall area shall be exclusive of window or door areas and shall include all wall areas oriented to the front of a single-family dwelling unit between the two side walls of such building.</p> <p>Group 2—Pick at least one of the following:</p> <ul style="list-style-type: none"> Decorative door surround. Decorative window header. Decorative window surround. Hip roof. Roof overhangs (minimum 12" on all sides). Side garage bump-out. Door sidelight(s). Door Transom.
<p>Group 3—Additional Items:</p> <ul style="list-style-type: none"> Decorative trim molding (e.g., soffit and corner trim). Accent siding. Windows in garage door. Shutters (all sides). Window awnings. Window grids (permanent). Decorative front door. Decorative gable vents. Keystone. Address block. 	<p>Note: Additional architectural embellishments or design features may be approved within each group when such architectural embellishment or design feature would provide a similar architectural effect to the items listed within each group.</p>

Table 11—C: Residential Design Features for Side and Rear Façades

<p>Select a minimum of three of the following design features for any side or rear façade oriented toward a street, common area or other activity area (a minimum of two features shall be selected from Group 1, the remaining feature may be selected from either Group 1 or Group 2):</p>	<p>Group 1—Pick at least two of the following:</p> <ul style="list-style-type: none"> Finished space "pop-out". Screened in porch (minimum size 10' × 10'). Open covered porch (minimum size 10' × 10'). Bay window. Exterior chase fireplace. Roof line change (i.e., change in elevation or direction of ridge). Roof with dormers (minimum of two dormers). Minimum 50 percent brick or stone on rear façade*. <p>* Note: Rear façade wall area shall be exclusive of window or door areas and shall include all wall areas oriented to the rear of a single-family dwelling unit between the two side walls of such building.</p>
<p>Note: Additional architectural embellishments or design features may be approved within each group when such architectural embellishment or design feature would provide a similar architectural effect to the items listed within each group.</p>	<p>Group 2—Additional items:</p> <ul style="list-style-type: none"> Hip roof. Roof overhangs (minimum 12" on all sides). Accent siding. Elevated deck with decorative rail. Integrated covered storage area. Shutters (all sides). Window awnings. Window grids (permanent).

d. *Filing for primary plat approval.* After the expiration of the 30-day appeal period, the petitioner may then proceed with the filing of a primary plat before the plan commission as set forth in the subdivision control ordinance.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 3. - Subdivisions in the R-3 and R-4 districts.

Intent. The development plan review process for subdivisions in the R-3 and R-4 districts is provided to ensure compliance of a proposed subdivision design with the stated purpose of each district to provide areas for village/urban residential development with a particular emphasis upon promoting the use of open space in conjunction with residential subdivision.

- a. *Additional development requirements for subdivisions in the R-3 and R-4 districts.* The provision of open space and recreational facilities, including but not limited to: internal pedestrian ways and bike system; the connection of such internal system to the public sidewalk system or other trail system located or planned adjacent to the project; or, a community building/clubhouse featuring a swimming pool, tennis court, basketball court, lounge area, multipurpose room, game room, or other facilities, to be created in conjunction with the proposed subdivision which is appropriate in manner and extent to the nature of the subdivision.
- b. *Development requirements which may be waived for subdivisions in the R-3 and R-4 districts.* The plan director shall have the authority to waive any of the additional development requirements of this [article 11](#), paragraph C., section 3., for development of subdivisions in the R-3 and R-4 districts subject to the findings required for the approval of such waiver set forth in [article 11](#), paragraph E., below, findings for waiver of development requirements.

The plan director may not waive any general development requirements or any development standards of a zoning district. Any general development requirement or any development standard of a zoning district must be complied with unless a variance of such general development requirement or development standard is obtained from the board of zoning appeals.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 4. - Office, commercial or manufacturing development along US 31 or SR 37.

Intent. In order to promote innovation and creativity in the design of the built environment along the US 31 Corridor and the SR 37 Corridor within Hamilton County and to minimize the negative impacts on the corridor associated with strip commercial development, service facilities, loading facilities, storage facilities, sign clutter and incompatible building design features, all new construction, building additions, new or expanded surface parking areas, service facilities, loading facilities, storage facilities, exterior building renovations and freestanding signs for office, commercial or manufacturing development located on a lot which abuts the right-of-way of US 31 or SR 37, or a frontage road which parallels US 31 or SR 37, shall be subject to the approval of a development plan by the plan director.

- a. Additional development requirements for all lots which abut the right-of-way of US 31 or SR 37, or a frontage road which parallels US 31 or SR 37.
- (1) *Landscaping.* Yards fronting along the right-of-way of US 31 or SR 37 shall be landscaped with overstory (shade) trees, two-inch caliper at time of planting, spaced 40 feet on-center, or an equivalent landscape plan as approved by the plan director.
 - (2) *Use of yards.* Any yard required to be landscaped shall be maintained as open space free from buildings or structures (except signs permitted by [article 9](#). Signs) and shall not be used for any outdoor operations, outdoor display or outdoor storage of any kind, including, but not limited to: outdoor seating areas; outdoor display of goods or merchandise for sale or lease; or, outdoor storage of goods or merchandise.
 - (3) *Lighting.* All pole light fixtures used to illuminate off-street parking areas, off-street loading areas, delivery areas or service areas shall be a full cut-off style outdoor light fixture.
All wall pack light fixtures on building façades visible from US 31 or SR 37 shall be a full cut-off style outdoor light fixture.
All exterior lighting, including wall pack lighting, shall be of metal halide (except for low-level architectural lighting for buildings, structures, signs, pedestrian ways or landscape features, which may be incandescent or other type of lighting when deemed appropriate for the setting and which was specifically requested and approved as part of the development plan).
All under canopy light fixtures (e.g., gasoline service station canopies, bank drive through canopies, etc.) shall be full cut-off outdoor light fixtures.
All pole light fixtures and wall pack light fixtures shall be mounted parallel with the horizon.
 - (4) *Signs.* All signs shall be designed to create a unified and consistent sign package for the development.
 - (5) *Building and site orientation.* The following regulations shall apply to all lots which abut the right-of-way of US 31, SR 37, or a frontage road which parallels US 31 or SR 37:
 - (a) All building façades facing US 31, SR 37 or a street intersecting US 31 or SR 37 shall be a finished façade.
 - (b) No loading spaces shall be permitted to face US 31, SR 37 or a street intersecting US 31 or SR 37.
 - (c) No outdoor storage shall be permitted between an established building line and the right-of-way of US 31, SR 37 or a street intersecting US 31 or SR 37.
 - (d) All roof or ground-mounted mechanical equipment shall be screened, in the elevation view, from US 31, SR 37 or a street intersecting US 31 or SR 37.
 - (6) *Building materials.* In order to create variation and interest in the built environment, all new buildings or building additions located along the US 31 Corridor or SR 37 Corridor shall use the exterior building materials specified below for each district on each façade visible from US 31, SR 37 or a street intersecting US 31 or SR 37. In addition, the exterior building material selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, etc.) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.) on each façade visible from US 31, SR 37 or a street intersecting US 31 or SR 37:
 - (a) *Office and commercial districts.*
 - (1) All brick (excluding windows, display windows, doors, roofing, fascia and soffit materials). The brick used on each applicable façade shall include at least two architectural elements or at least two colors of brick; or
 - (2) Two or more building materials (excluding windows, display windows, doors, roofing, fascia and soffit materials). The primary building material shall be either brick, stone or EFIS and shall constitute a minimum of 50 percent of each applicable façade.
 - (b) *Manufacturing districts.* The primary building material (excluding window, door, roofing, fascia and soffit materials) used on each applicable façade shall be brick or other masonry material. If a masonry material other than brick is utilized, it shall include at least two textures or at least two colors.
- b. *Development requirements which may be waived along the US 31 Corridor or SR 37 Corridor.*

The plan director shall have the authority to waive any of the additional development requirements of this [article 11](#), paragraph C., for development along the US 31 Corridor or SR 37 Corridor subject to the findings required for the approval of such waiver set forth in [article 11](#), paragraph E., below, findings for waiver of development requirements.

The plan director may not waive any general development requirements or any development standards of a zoning district. Any general development requirement or any development standard of a zoning district must be complied with unless a variance of such general development requirement or development standard is obtained from the board of zoning appeals.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 5. - Office, commercial or manufacturing development abutting residential zoning.

Intent. In order to assure the compatibility of new development or additions to existing development with existing and proposed residential areas, all new construction, building additions, new or expanded surface parking areas, service facilities, loading facilities, storage facilities, exterior building renovations and freestanding signs located on a lot in any office, commercial or manufacturing district which abuts a residential district shall be subject to the approval of a development plan by the plan director.

- a. Additional development requirements for office, commercial or manufacturing districts abutting residential zoning.
- (1) *Parking areas, loading spaces, loading docks, storage areas or other outdoor operations.* Any parking areas, loading spaces, loading docks,

storage areas or other outdoor operations oriented toward: a front lot line which is across from a residential district; a side lot line which abuts a residential district; or, a rear lot line which abuts a residential district, shall be screened from view from such residential district by the use of (i) a dense planting of evergreen trees (ii) a combination of overstory, understory or evergreen trees or (iii) a solid wall or fence, which creates a visual barrier to a minimum height of three feet for a parking area or six feet for loading spaces, loading docks, storage areas or other outdoor operations.

(2) *Use of yards.* Any yard required to be landscaped shall be maintained as open space free from buildings or structures (except signs permitted by [article 9](#), Signs) and shall not be used for any outdoor operations, outdoor display or outdoor storage of any kind, including, but not limited to: outdoor seating areas; outdoor display of goods or merchandise for sale or lease; or, outdoor storage of goods or merchandise.

(3) *Lighting.* All pole light fixtures used to illuminate off-street parking areas, off-street loading areas, delivery areas or service areas shall be a full cut-off style outdoor light fixture.

All wall pack light fixtures on building façades oriented toward: a front lot line across from a residential district; a side lot line which abuts a residential district; or, a rear lot line which abuts a residential district, shall be a full cut-off style outdoor light fixture.

All exterior lighting, including wall pack lighting, shall be of metal halide (except for low-level architectural or sign lighting for buildings, structures, signs, pedestrian ways or landscape features, which may be incandescent or other type of lighting when deemed appropriate for the setting and which was specifically requested and approved as part of the development plan).

All under canopy light fixtures (e.g., gasoline service station canopies, bank drive through canopies, etc.) shall be full cut-off outdoor light fixtures.

All pole light fixtures and wall pack light fixtures shall be mounted parallel with the horizon.

b. Development requirements which may be waived for office, commercial or manufacturing development abutting a residential district.

The plan director shall have the authority to waive any of the additional development requirements of this [article 11](#), paragraph C., section 5., for commercial or industrial development abutting a residential district subject to the findings required for the approval of such waiver set forth in [article 11](#), paragraph E., below, findings for waiver of development requirements.

The plan director may not waive any general development requirements or any development standards of a zoning district. Any general development requirement or any development standard of a zoning district must be complied with unless a variance of such general development requirement or development standard is obtained from the board of zoning appeals.

(Fax of 12-5-2007 (Exh. A, Art. 11))

D. - FINDINGS FOR APPROVAL OF A DEVELOPMENT PLAN

The plan director, or the plan commission in the case of a referral or appeal, may only approve a development plan upon finding that:

- a. The proposed development is consistent with the intent and purpose of the Hamilton County Comprehensive Plan; and,
- b. The proposed development plan satisfies the general development requirements, including the development standards of the underlying zoning district, and additional development requirements specified in this article.

If the plan commission approves or denies a development plan, the written findings shall be signed by the president of the plan commission. If the plan director approves or denies a development plan, the written findings shall be signed by the plan director.

(Fax of 12-5-2007 (Exh. A, Art. 11))

E. - FINDINGS FOR WAIVER OF DEVELOPMENT REQUIREMENTS

The plan director, or the plan commission in the case of a referral or appeal, may approve a waiver of the general development requirements, including the development standards of the underlying zoning district specified in this [article 11](#), or the additional development requirements as authorized above, and only upon finding that:

- a. The proposed development represents an innovative use of site design/site access design/site circulation design/building orientation/building materials/landscaping which will enhance the use or value of area properties;
- b. The proposed development will not be injurious to the public health, safety, morals or general welfare of Hamilton County;
- c. The strict application of the general development requirements or the applicable additional development requirements of the Hamilton County Zoning Ordinance will result in a development of the real estate which is undesirable when compared with the proposed development;
- d. The proposed development is consistent with and compatible with other development located in the area; and
- e. The proposed development is consistent with the intent and purpose of the Hamilton County Comprehensive Plan.

If the plan commission approves or denies a waiver, the written findings shall be signed by the president of the plan commission. If the plan director approves or denies a waiver, the written findings shall be signed by the plan director.

(Fax of 12-5-2007 (Exh. A, Art. 11))

F. - COMMITMENTS, CONDITIONS OR SURETY

Section 1. - Commitments.

The plan director, on behalf of the plan commission, or the plan commission in the case of a referral or appeal, may permit or require the owner of the real property which is the subject of a development plan approval to make a written commitment as set forth in article 16, paragraph C., section 2 of this article.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 2. - Conditions.

The plan director, on behalf of the plan commission, or the plan commission in the case of a referral or appeal, may impose conditions on the approval of a development plan which are reasonably necessary to assure compliance with the general development requirements and additional development requirements of this article.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 3. - Surety.

The plan director, on behalf of the plan commission, or the plan commission in the case of a referral or appeal, may require a bond or other written assurance to guarantee the timely completion of a public improvement required by the proposed development plan. Such bond or other written assurance shall be satisfactory to the plan director acting on behalf of the plan commission, and shall be issued for the benefit of the Board of Commissioners of Hamilton County, Indiana.

(Fax of 12-5-2007 (Exh. A, Art. 11))

G. - APPLICATION PROCEDURES

Section 1. - Plan documentation and supporting information.

All requests for development plan approval shall include two copies of the following plans, studies or reports:

- a. Site plan.
- b. Landscape plan.
- c. Building elevations.
- d. Floor plans.
- e. Drainage plans.
- f. Lighting plan.
- g. Sign plan.
- h. A traffic impact study (when a proposed development meets or exceeds the warrants of the INDOT Traffic Impact Study Guidelines (i.e., (i) 150 or more dwelling units; (ii) 15,000 square feet or more of retail space; (iii) 35,000 or more square feet of office space; (iv) 70,000 square feet or more square feet of industrial space; (v) 30,000 square feet or more of educational space; (vi) 120 or more occupied rooms; (vii) 46,000 or more square feet of medical space; or, (viii) any mixed-use development which generates 100 or more peak hour trips in the peak direction). If the petitioner obtains a written statement from INDOT or the Hamilton County Highway Department, as applicable, indicating that a Traffic Impact Study is not necessary in connection with the review of a Development Plan for a particular project, such Traffic Impact Study shall not be required.
- i. *Statement of development build-out.* Petitioner shall indicate, either on the submitted site plan, overall subdivision plan or in writing, a statement of: (i) the order of development of the major infrastructure elements of the project; (ii) project phase boundaries, if any; (iii) the order and content of each phase; and, (iv) an estimate the time frame for build-out of the project.
- j. *Open space provisions.* Petitioner shall indicate, either on the submitted landscape plan or in writing, along with any necessary explanatory materials or graphics, a statement of the nature and extent of all existing and proposed open space on the real estate.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 2. - Application process and requirements.

- a. *Who may file:* Development plan reviews may only be initiated by a petition signed by the owners of the land involved in the petition.
- b. *Fees:* In order to defray administrative costs, the fees as set forth in the fee schedule as approved by the Hamilton County Board of Commissioners for development plan approval by the plan director are to be paid by the applicant at the time of filing an application for development plan approval.
- c. *Application procedures:* Application for development plan approval shall be in compliance with the following procedures:
 1. Contact the plan director to make an appointment to deliver the following:
 - (a) The plan documentation and supporting information outlined in article 11, paragraph G., section 1, above; and
 - (b) An application for development plan approval upon forms approved by the plan commission for such purpose.

2. Plan director shall have a period of not more than 21 business days in which to review the proposed application for development plan approval and either
 - (a) Render a decision of approval or denial concerning the development plan; or
 - (b) Request, in writing, additional information from the applicant. If additional information is requested, the plan director shall have an additional period of 21 business days to review the information from the date the requested information is received.
3. Plan director may seek the advice and comment of members of the technical advisory committee or require approval letters from the Hamilton County Surveyor and Hamilton County Highway Department prior to making a decision.
4. If, in the sole discretion of the plan director, the proposed development plan raises a matter of significant land use policy, the plan director may refer such development plan to the plan commission for a determination at a public hearing in the same manner as set forth in article 11, paragraph I., section 1., b., c., and d., below, for an appeal by a petitioner.
5. Any decision of the plan director under this article, may be appealed by any interested party to the plan commission in accordance with the procedures of article 11, paragraph I., below.
6. *Additional plan documentation for cluster subdivision approval.* In addition to the plan documentation required by article 11, paragraph G., section 1, above, the petitioner shall submit, either in plan form supplemented with tabular data or in table form, a summary of:
 - (a) Density calculations required by article 11, paragraph C., section 2, above; and,
 - (b) The total area of developable wetlands (i.e., wetlands which may be filled due to being exempt or by obtaining a permit from IDEM or the Army Corp of Engineers), areas of slope in excess of 15 percent, woodlands or natural environmental, historical or archeological features.
7. *Determinations by plan director.* Determinations regarding a development plan by the plan director shall be subject to the following regulations:
 - (a) *Notice to petitioner.* Upon making a determination regarding a development plan, the director shall provide a written "Notice of Determination of Development Plan" to the petitioner.
 - (b) *Notice of an approval to interested parties.* In the event of an approval of a development plan, with or without conditions or commitments, the petitioner shall send a copy of the "Notice of Determination of Development Plan" to all adjoining property owners located within the lesser of 600 feet or two ownerships of the subject property by certified mail - return receipt requested. The list of adjoining property owners shall be certified by the Hamilton County Auditor's Tax Map Office.
 - (c) *Affidavit of notice.* An affidavit of notice, including the green return receipt cards, shall be filed with the plan director prior to the issuance of an improvement location permit for any improvements authorized by the approved development plan.
 - (d) *Improvement location permit.* No improvement location permit shall be issued for any improvements authorized by the approved development plan until the expiration date of the appeal period.
 - (e) *Appeal period.* The date of mailing of the "Notice of Determination of Development Plan" to all interested parties, as indicated on the affidavit of notice, shall be considered the date upon which interested parties received notice of such determination and shall be the date from which the 30-day appeal period provided for in article 11, paragraph I, below, shall be measured.

(Fax of 12-5-2007 (Exh. A, Art. 11))

H. - AMENDMENTS TO DEVELOPMENT PLANS

Section 1. - Amendments to development plans pending determination by the plan director.

Amendments to development plans pending approval or denial by the plan director may be made by the petitioner at any time prior to a determination being made by the plan director. If, in the sole discretion of the plan director, the proposed amendment is of such a nature that additional time is needed for review, the amended development plan shall be deemed a new filing and shall be reviewed within the time frames set forth above for the initial review of development plans by the plan director.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 2. - Amendments to development plans pending determination by the plan commission.

Amendments to development plans pending approval or denial by the plan commission may be made by the petitioner at any time prior to a vote being called for by the plan commission. If, in the sole discretion of the plan commission, the proposed amendment is of such a nature that addition time is needed for review, the plan commission may continue the consideration of such amended development plan to the next meeting of the plan commission.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 3. - Amendments to approved development plans.

Minor amendments to development plans shall be approved subject to the following regulations:

- a. *Development plans approved by the plan director.* Minor amendments to development plans which have already received approval from the plan director shall be reviewed by the plan director in the same manner as required for a new development plan. Such minor amendments authorized by the plan director shall be reported, in writing, to the plan commission at the next regular meeting of the plan commission.
- b. *Development plans approved by the plan commission.* Minor amendments to development plans which were referred to or appealed to the plan

commission and determined by the plan commission may be approved by the plan director in the continuing administration of such development plan. Such minor amendments authorized by the plan director shall be reported, in writing, to the plan commission at the next regular meeting of the plan commission.

- c. *Determination of minor amendments.* Amendments to an approved development plan shall be deemed to be "minor" if:
- (1) Such amendments do not involve: (a) an increase in height, area, bulk or intensity of land uses; (b) the designation of additional land uses; (c) the reduction in perimeter yards; (d) the addition of driveways or access points; or, (e) reduction in the amount of parking for any use; and
 - (2) In the determination of the plan director, the requested minor amendments do not adversely impact the purpose or intent of the overall development.
- d. *New development plan required.* If the plan director determines that the proposed amendment is not a minor amendment, petitioner shall be required to file a new petition for development plan approval.
- e. *Appeals of determination regarding amendments.* Any decision of the plan director regarding the amendment of development plan may be appealed by any interested party to the plan commission in accordance with the procedures of article 11, paragraph I., below.

(Fax of 12-5-2007 (Exh. A, Art. 11))

I. - APPEALS OF PLAN DIRECTOR'S DECISIONS

Section 1. - Appeal process.

Any order requirement, decision or determination of the plan director with respect to development plan review may be appealed to the plan commission by any person claiming to be adversely affected by that order, requirement, decision or determination. The procedures for such an appeal are as follows:

- a. *Time.* Every appeal shall be filed as specified below:
1. *Approved development plans.* Every appeal of an approval of a development plan, with or without conditions or commitments, shall be filed within 30 days of the date of notice of an approval to interested parties as specified in article 11, paragraph G., section 2, c., 7.; or
 2. *Denial or other determination regarding development plans.* Every appeal of any denial, order, requirement, decision or determination for which notice of an approval to interested parties as specified in article 11, paragraph G., section 2, c., 7., is not required, shall be filed within 30 days of the date of such denial, order, requirement, decision or determination.
- b. *Appeal in writing.* The petitioner or any other interested party may appeal the plan director's determination by filing a letter with the plan commission stating the reasons for such appeal.
- c. *Appeal of determination at public hearing.* All appeals of the plan director's determination shall be decided by the plan commission at a public hearing for which notice has been provided.
- d. *Notice of public hearing.* Notice to interested parties shall be sent as specified below:
1. *Notice of remonstrator's appeal.* In the case of an appeal by a remonstrator, the remonstrator shall send notice to the owner of the real estate, the applicant for the development plan and all adjoining property owners located within the lesser of 600 feet or two ownerships of the subject property. The list of adjoining property owners shall be certified by the Hamilton County Auditor's Tax Map Office.
 2. *Notice of petitioner's appeal.* In the case of a development which has been referred to the plan commission by the plan director or an appeal by a petitioner, the petitioner shall send notice to the owner of the real estate and all adjoining property owners located within the lesser of 600 feet or two ownerships of the subject property. The list of adjoining property owners shall be certified by the Hamilton County Auditor's Tax Map Office.
 3. *Form of notice.* Notice of an appeal shall be on forms substantially as prepared by the plan director and shall be sent by certified mail - return receipt requested not less than 20 days prior to the public hearing.
- e. *Appeal hearing de novo.* The plan commission hearing on the development plan shall be de novo, in the same manner as though the application was originally filed for determination by the plan commission.
- f. *Final decision.* The decision of the plan commission with respect to the development plan shall be a final decision that may be reviewed only as provided in IC 36-7-4-1016.

(Fax of 12-5-2007 (Exh. A, Art. 11))

J. - DUTIES OF THE PLAN DIRECTOR

Section 1. - General duties of the plan director.

It shall be the duty of the plan director to:

- a. Supervise or perform the intake and review of all development plans;
- b. Make any determinations delegated by this article regarding the:

- (1) Approval or denial of an initial development plans; or
- (2) Approval or denial of minor amendments to approved development plans;
- c. Notify the plan commission of the approval or denial of initial development plans or minor amendments to approved development plans; and
- d. Sign findings in support of any determination made by the plan director regarding any development plan.

(Fax of 12-5-2007 (Exh. A, Art. 11))

Section 2. - Additional duties of the plan director for cluster subdivisions.

In addition to the duties outlined above, it shall be the duty of the plan director to consider in following items in the review of development plans for cluster subdivisions:

- a. The plan director shall review the proposed development plan for a cluster subdivision to determine the appropriateness of cluster design for the site.
- b. In determining the appropriateness of cluster design for the site, the plan director shall review the development plan for compliance with the general development requirements of this article, including applicable development standards of the underlying zoning district, and the additional development requirements of article 11., paragraph C., section 2.
- c. If upon review, the plan director, based upon the general development requirements of this article, including applicable development standards of the underlying zoning district, and the additional development requirements of this section, determines that the proposed cluster subdivision is not appropriate for the site, the plan director shall deny the development plan application and shall prepare appropriate findings, sign the findings and inform the petitioner in writing of the determination and send a copy of such findings to the plan commission.
- d. If upon review, the plan director, based upon the general development requirements of this article, including applicable development standards of the underlying zoning district, and the additional development requirements of this section, determines that the proposed cluster subdivision is appropriate for the site, the plan director shall approve the development plan application and shall prepare appropriate findings, sign the findings and report such findings and inform the petitioner in writing of the determination and send a copy of that letter to the plan commission.

(Fax of 12-5-2007 (Exh. A, Art. 11))

ARTICLE 12. - PLANNED UNIT DEVELOPMENT DISTRICT

FOOTNOTE(S):

--- (1) ---

Editor's note— A fax of Sep. 10, 2003, repealed Article 12 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Article 12 pertained to Planned Development and derived from a fax of Mar. 31, 2008.

Cross reference— Manufacturing districts, art. 7; FLP floodplain district, art. 8; signs, art. 9; advisory plan commission, art. 16.

A. - INTENT

The planned unit development (PUD) district is designed and intended to: encourage creativity and innovation in the design of developments; provide for more efficient use of land; permit special consideration of property with outstanding natural or topographical features; facilitate use of the most appropriate construction techniques in the development of land; and, to provide for any individual land use not otherwise specified elsewhere in this zoning ordinance. The PUD district encourages imaginative uses of open space, promotes high standards in design and construction, and furthers the purposes of the Hamilton County Comprehensive Plan.

The PUD district is not intended for the development of residential subdivisions or other developments which are provided for as a matter of right within any zoning districts of this Zoning Ordinance.

(Fax of 9-10-2003 (Exh. B, Art. 12))

B. - PERMITTED USES, DEVELOPMENT STANDARDS AND MINIMUM REQUIREMENTS

Section 1. - Permitted uses.

Primary uses in the PUD district shall be any use or range of uses specified in the PUD district ordinance establishing such district, either in text form or as noted in the preliminary plan filed with the petition for zone map change, or any combination thereof. Primary uses, by way of example, may include any residential, commercial or industrial land use, or any individual land use or combination of land uses deemed appropriate for the real estate.

Accessory uses, home occupations or temporary uses, unless otherwise specified in the petition for zone map change to the PUD district and incorporated into the PUD district ordinance establishing such district, shall be permitted in a manner customarily associated with the primary use specified in the PUD district ordinance.

(Fax of 9-10-2003 (Exh. B, Art. 12))

Section 2. - Development standards.

Development standards applicable to a PUD shall be those standards specified in the PUD district ordinance establishing such district, either in text form or as noted on the preliminary plan filed with the petition for zone map change, or any combination thereof. Every petition for zone map change to the PUD district shall specify development standards applicable to each permitted use in the development and, at a minimum, shall adopt or include a variation of each development standard that is applicable to each such use in the district in which each such use is first permitted. In any case in which an applicable development standard has not been specified in the petition for zone map change to the PUD district, the development standard shall be that which is specified in the zoning district in which the use is first permitted unless the petition for zone map change to the PUD district: (i) contains a statement that the petitioner does not want an otherwise applicable development standard for any permitted use in the development to be applicable; (ii) contains an alternate development standard; and, (iii) such statement and alternate development standard are contained in the PUD district ordinance establishing such district.

(Fax of 9-10-2003 (Exh. B, Art. 12))

Section 3. - Area requirements.

Minimum area requirements. There shall be no minimum area requirement for the filing of a petition for zone map change to the PUD district, provided however, for any petition which does not exceed:

- a. In-fill development: Five acres.
- b. All other developments: 20 acres.

The petitioner shall file a statement with the petition for zone map change to the PUD district as to why a PUD district is required and how the proposed PUD district meets the intent of this [article 12](#).

(Fax of 9-10-2003 (Exh. B, Art. 12))

C. - PROCEDURE FOR APPROVAL OF A PLANNED UNIT DEVELOPMENT

The complete review and approval process for a planned unit development consists of three elements:

- a. Concept plan review;
- b. Zone map change and preliminary plan approval; and
- c. Secondary approval.

To facilitate the use of this PUD district, a petitioner may elect to proceed with each element listed above separately or may elect to combine certain elements for joint approval as set forth in [article 12](#), paragraph C., section 3., below. If a petitioner elects to combine certain elements, all elements elected to be combined shall be docketed before the plan commission for a joint hearing.

If filed separately, the procedure for filing for approval of a zone map change shall be the same as that required for any other petition for zone map change before the plan commission, except as otherwise provided for in this article. The procedure for filing for secondary approval is set forth in this [article 12](#), paragraph C.

(Fax of 9-10-2003 (Exh. B, Art. 12))

Section 1. - Filing of a concept plan for review by staff.

The petitioner shall submit a concept plan, which may be supplemented with a written description of the proposed PUD, for review by the staff prior to filing a petition for zone map change to the PUD district.

Staff shall review the proposed concept plan taking into consideration information regarding the terrain of the site and any unique natural features of the site. In doing so, the review by staff may include, but shall not be limited to, the following:

- a. Protection of unique topographical features on the site, including, but not limited to, slopes, streams, natural water features, floodways, floodplains and regulated drains;
- b. Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features;
- c. Development of common open space and recreational areas (passive or active) accessible to the residents or user of the PUD by way of sidewalks, footpaths or combined walkways/bikeways;
- d. A more efficient use of the land including the reduction of land area disturbed for utility lines and motor vehicle access;
- e. Creation of innovative residential and business environments;
- f. Minimize the alteration of the natural site features through the design and situation of individual lots, streets and buildings;
- g. Diversity and originality in lot layout;
- h. Utilization of individual building designs which achieve an enhanced relationship between the development and the land; and,
- i. Relationship to surrounding properties.

The plan director shall notify the petitioner of any staff comments related to the design of the proposed concept plan submitted for review within 21 business days of the such submittal. Upon receipt of staff comments, the petitioner may; (i) modify the proposed concept plan and resubmit a revised concept plan for a second round of review by staff; or, (ii) file a petition for zone map change as set forth below.

Notwithstanding anything contained in this zoning ordinance to the contrary, neither the staff's review of the proposed concept plan submitted for review nor staff's comments to the petitioner relating thereto shall be considered a denial, approval or decision concerning the proposed concept plan.

(Fax of 9-10-2003 (Exh. B, Art. 12))

Section 2. - Filing petition for zone map change.

All petitions for zone map change to the PUD district shall contain a preliminary plan that satisfies the requirements below, and shall specify in either general terms or detailed terms the permitted uses and development standards that will apply to the real property included in the petition.

A preliminary plan which includes a detailed description of all development requirements that apply to the proposed PUD development on any of the site plans, building elevations, landscape plans, sign plans, or any other plan required by this article in sufficient detail to fulfill the requirements for the issuance of an improvement location permit, shall be deemed to have expressed, in detailed terms, the development requirements that apply. All other preliminary plans or submittals shall be deemed to have expressed the development requirements that apply to the proposed PUD development in general terms only and shall require the secondary approval, as set forth below, prior to the issuance of an improvement location permit.

A preliminary plan shall satisfy the following requirements:

a. Preliminary plan contents:

(1) A drawing, map, plan or other graphic representation of the overall development which:

- (a) Depicts the location of proposed land uses and maximum land use densities; and,
- (b) Expresses development standards in either general terms or detailed terms;

(2) Proposed layout of streets, open space and other basic elements of the development;

(3) Proposals for handling traffic, parking, sewage disposal, drainage, tree preservation, and other pertinent development features;

(4) The current zoning of the area proposed to be developed as well as the current zoning of the adjacent land;

(5) A proposed breakdown of sections to be contained in the overall development along with a statement as to the order and timing of development;

(6) All public and private streets and pedestrian ways within 200 feet of the site;

(7) North arrow, written and graphic scale, general location map; and,

(8) Percentage of site devoted to open space.

b. The preliminary plan shall be drawn to a scale of not more than 1"=100' and shall be on plan sheets shall not exceed 24" x 36" in size.

c. *Determination by the plan commission.* In its determination of the appropriateness of the proposed PUD and whether to recommend approval of the zone map change to the Hamilton County Board of Commissioners, the plan commission shall pay reasonable regard to the extent to which the proposal:

(1) Accomplishes the intent set forth in article 12, paragraph A., above; and

(2) Provides for the protection or provision of the site features and amenities outlined in article 12, paragraph C., section 1., above.

(Fax of 9-10-2003 (Exh. B, Art. 12))

Section 3. - Preliminary plan and secondary approval.

a. *Preliminary plan approval.* If the preliminary plan expresses development standards in general terms, as described above, secondary approval as set forth in article 12, paragraph C., section 5., below, shall be required prior to the issuance of an improvement location permit for any development pursuant to the PUD district.

b. *Combined preliminary plan and secondary approval.* If the preliminary plan expresses development standards in detailed terms, as described above, the petitioner may also request secondary approval in connection with the approval of the zone map change to the PUD district, provided that any such approval shall be conditioned upon the Hamilton County Board of Commissioners adopting the zone map change to the PUD district. The requirements for a secondary approval are set forth in article 12, paragraph C., section 5., below. If the preliminary plan expresses the development standards in detailed terms, as described above, the PUD district ordinance must specify any plan documentation or supporting information that must be supplied before an improvement location permit may be issued for development of real property in the planned unit development district.

(Fax of 9-10-2003 (Exh. B, Art. 12))

Section 4. - Commitments, conditions or surety.

a. *Commitments.* Commitments may be permitted or required of the owner of the real property in connection with: (i) a zone map change for a PUD district; (ii) a secondary approval of a PUD; or, (iii) a modification of permitted uses or development requirements of a PUD as set forth in article 16, paragraph C., section 2 of this article.

b. *Conditions.* Conditions may be imposed on the approval of a PUD district which are reasonably necessary to assure compliance with the permitted use,

development standards and minimum requirements of the PUD district.

- c. *Surety.* Bonds or other written assurance may be required which are reasonably necessary to guarantee the timely completion of a public improvement required by the proposed PUD district. Such bond or other written assurance shall be satisfactory to the plan director acting on behalf of the plan commission, and shall run to the Hamilton County Board of Commissioners.

(Fax of 9-10-2003 (Exh. B, Art. 12))

Section 5. - Secondary approval.

- a. *Secondary approval required.* Secondary approval is required in the PUD district as a prerequisite to the issuance of an improvement location permit for development of any real property in such district.
- b. *Time period for obtaining secondary approval.* If secondary approval is not obtained from the plan commission in a joint hearing with the petition for zone map change to the PUD district, petitioner shall have a period of up to two years from the date of the approval of the petition for zone map change to the PUD district by the Hamilton County Board of Commissioners in which to file for secondary approval, in total or in phases, for approval by the plan director. The plan director shall review the request for secondary approval for consistency with the preliminary plan approved by the Hamilton County Board of Commissioners in connection with the petition for zone map change to the PUD district. If a secondary approval is filed for in phases, each subsequent phase shall be filed for within two years of the approval of the prior phase. No phase shall contain less than 20 percent of the total project area.

In the event that secondary approval is not obtained for all or a portion of the PUD within the time frames outlined above, the preliminary plan shall be deemed to have expired for that portion of the PUD that has not received secondary approval, except for the location and density of proposed land uses depicted on such preliminary plan. Once a preliminary plan has expired for any portion of the PUD, no development shall occur within the expired portions of the PUD until: (i) a new preliminary plan is approved by the plan commission at a public hearing, notice of which shall be given in the same manner as for a petition for zone map change; and, (ii) a secondary approval, as required by this article, has been obtained.

- c. *Secondary approval.* Secondary approval authority is hereby delegated to the plan director. The plan director shall have a period of not more than 21 business days in which to review the proposed secondary approval application and either:
- (1) Render a decision of approval or denial concerning the secondary approval; or
 - (2) Request, in writing, additional information from the applicant. If additional information is requested, the director shall have an additional period of 21 business days to review the information from the date the requested information is received.

The plan director may seek the advice and comment of members of the technical advisory committee or require approval letters from the Hamilton County Surveyor and Hamilton County Highway Department prior to making a decision.

Any decision of the plan director under this article, may be appealed by any interested party to the plan commission in accordance with the procedures of [article 12](#), paragraph H., below.

If, in the sole discretion of the plan director, there are questions regarding how the application for secondary approval fulfills the intent of the PUD district ordinance or how the secondary approval expresses in detailed terms the general terms approved as part of the preliminary plan and zone map change to the PUD district, the plan director may refer the proposed secondary approval to the plan commission for review and determination.

- d. *Proceedings/notice.* The proceedings required for secondary approval shall be the same as those required by this zoning ordinance for the review and issuance of an improvement location permit. Notice of secondary approval proceedings shall not be required.
- e. *Expiration of secondary approval.* A secondary approval shall expire one year after the date of final approval unless an improvement location permit has been issued for the use or development of the property. Once a secondary approval has expired for any portion of the PUD, no development shall occur within the expired portions of the PUD until a new secondary approval, as required by this section, has been approved.
- f. *Supporting documentation.* Before the issuance of a secondary approval, the petitioner must file a petition requesting secondary approval and submit plans consisting of the following:
1. Area map insert showing the general location of the proposed development referenced to major streets and section lines.
 2. Location map showing the names of all metes and bounds property owners, boundary lines of recorded subdivisions, zoning and land uses of adjacent properties.
 3. Proposed name of the PUD.
 4. Legal description of the real estate.
 5. Boundary lines of the proposed PUD.
 6. Location and name of all existing and proposed public or private roads, access easements and rights-of-way within 200 feet of the real estate.
 7. Location of all existing and proposed utility facilities and easements, including, but not limited to: sanitary sewer, water, stormwater management, electric, gas, telephone and cable within 200 feet of the real estate.
 8. Layout, number and dimension of all lots and out lots with zoning setback lines.
 9. Location, delineation and elevation of all floodway and floodway fringe areas within the boundaries of the PUD.
 10. Drainage plan.
 11. Landscape plan.

12. Sign plan.
13. An erosion control plan for all areas of site disturbance.
14. Topographic contour every two feet superimposed upon the proposed site plan portion of the site covered by the submitted plans.
15. Proposed elevation of all building pads within the proposed development.
16. All improvements to street system on-site and off-site.
17. Sidewalk plan or alternate plan for walkways or other pedestrian ways.
18. Plans and specifications for all infrastructure improvements required or proposed in the PUD.
19. Areas reserved for park, conservation, wetland, common area, lake or other similar uses.
20. Proposed covenants, conditions and restrictions, if any.
21. The character and approximate density of all proposed uses and structures in the plan area.
22. Any other information specified elsewhere in the this zoning ordinance as a prerequisite to the issuance of an improvement location permit.
23. Any other information requested in writing by the plan director or plan commission in connection with the preliminary plan approval or requested in writing by the plan director within 21 business days of filing.

The plan commission or plan director, during secondary approval review, shall specify any additional plan documentation or supporting information beyond that required by this article 12, paragraph C., section 5., which must be supplied before an improvement location permit may be issued for the development of any real estate located in the PUD district.

g. *Required findings.* The plan commission or plan director may issue a secondary approval only upon a finding that:

1. The plans submitted for secondary approval satisfy the permitted uses and development standards specified in the PUD district ordinance establishing such district;
2. The plans submitted for secondary approval accomplish the intent set forth in this article 12, paragraph A., above; and
3. The plans submitted for secondary approval provide for the protection or provision of the site features and amenities outlined in article 12, paragraph C., section 1., above.

If the plan commission makes a determination regarding a secondary approval, the written findings shall be signed by the president of the plan commission. If the plan director makes a determination regarding a secondary approval, the written findings shall be signed by the plan director.

Said secondary approval and written findings, upon approval, shall be sealed with the plan commission seal and retained in the office of the plan commission to be used in its continuing administration of the PUD.

(Fax of 9-10-2003 (Exh. B, Art. 12))

D. - MODIFICATION OF PRELIMINARY PLAN OR SECONDARY APPROVAL

Minor modifications to a preliminary plan or secondary approval which has already received approval from the plan commission or the plan director and which do not involve:

- (a) An increase in height, area, bulk or intensity of land uses;
- (b) The designation of additional land uses;
- (c) The reduction in perimeter yards;
- (d) An encroachment into any drainage easement, regulated drain setback or floodplain;
- (e) The addition of driveways or access points; or
- (f) Reduction in the amount of parking for any use, may be authorized by the plan director without a public hearing in its continuing administration of the PUD if, in the determination of the plan director, the requested minor modifications do not adversely impact the purpose or intent of the overall development.

If the plan director determines that the proposed modification is of such a nature as to adversely impact the purpose or intent of the overall development, or if the proposed modification includes:

- (a) An increase in height, area, bulk or intensity of land uses;
- (b) The designation of additional land uses;
- (c) The reduction in perimeter yards;
- (d) An encroachment into any drainage easement, regulated drain setback or floodplain;
- (e) The addition of driveways or access points; or
- (f) Reduction in the amount of parking for any use, petitioner shall be required to file a new petition for zone map change.

(Fax of 9-10-2003 (Exh. B, Art. 12))

E. - SECONDARY PLAT APPROVAL

The process for the approval and recording of a secondary plat for any development pursuant to this PUD ordinance shall be issued in a manner consistent with that for any other subdivision under the jurisdiction of the Hamilton County Subdivision Control Ordinance in compliance with the procedures set forth in the Hamilton County Subdivision Control Ordinance and with any additional requirements or commitments entered into in connection with the approval of the preliminary plan pursuant to this article 12. The approval and recording of a secondary plat is required prior to the issuance of an improvement location permit for any improvements on a lot.

(Fax of 9-10-2003 (Exh. B, Art. 12))

F. - MAINTENANCE OF COMMON OPEN SPACE

In those PUD districts in which open space, common areas or recreation areas are provided for the use and enjoyment of residents or users of the PUD district, the petitioner shall file documentary assurances that the permanent dedication and continuous maintenance of open space, common areas or recreation areas shall be made in accordance with the approved preliminary plan and secondary approval, and that the open space, common areas and recreation areas shall be made available to the residents and users of the overall development in the PUD at a reasonable and nondiscriminatory rate of charge. Such documentary assurances shall be incorporated into the secondary plat that is recorded in the office of the Hamilton County Recorder or otherwise provided for through legally binding perpetual agreements as approved by the plan commission. Such open space shall perpetually run with the PUD and shall not be developed or separated from the overall development in the PUD at a later date (unless no development of any portion of the PUD which is benefited by the open space, common areas or recreation areas has occurred and the entire area subject to the PUD is presented for zone map change). A recorded copy of such secondary plat shall be provided to the plan director prior to the issuance of any permits for development within the PUD.

(Fax of 9-10-2003 (Exh. B, Art. 12))

G. - EXTENSIONS

Extensions of time, in six-month increments not to exceed a total of two years, for obtaining secondary approval may be granted by the plan director for good cause shown. In the event that the plan director disallows a requested extension, the petitioner may appeal said determination to the plan commission within 30 days of being notified of such determination.

(Fax of 9-10-2003 (Exh. B, Art. 12))

H. - APPEALS OF PLAN DIRECTOR'S DECISIONS

Section 1. - Appeal process.

Any order, requirement, decision or determination by the plan director regarding a secondary approval, or a modification of a preliminary plan or secondary approval, may be appealed to the plan commission by any person claiming to be adversely affected by that order, requirement, decision or determination. The procedures for such an appeal are as follows:

- a. Every appeal shall be filed within 30 days from the order, requirement, decision or determination.
- b. All appeals shall be determined by the plan commission at a public hearing for which notice has been provided to all interested parties (i.e., a remonstrator shall send notice to the owner of the real estate, the applicant for the development plan and all abutting property owners; a petitioner shall send notice to the owner of the real estate and all abutting property owners) not less than 20 days prior to the public hearing. The list of adjoining property owners shall be certified by the Hamilton County Auditor's Tax Map Office.
- c. The plan commission hearing on the development plan shall be de novo, in the same manner as though the application was originally filed with the plan commission.
- d. The decision of the plan commission with respect to a secondary approval, or a modification of a preliminary plan or secondary approval, shall be a final decision that may be reviewed only by certiorari procedures as provided in IC 36-7-4-1016.

(Fax of 9-10-2003 (Exh. B, Art. 12))

ARTICLE 13. - OFF-STREET PARKING AND LOADING

A. - OFF-STREET PARKING

Section 1. - General regulations.

In connection with any building or structure which is to be erected or substantially altered, and which requires off-street parking spaces, there shall be provided such off-street parking space in accordance with regulations hereinafter set forth:

- a. *Use.* Except as may otherwise be provided for the parking of trucks or for special uses, required accessory off-street parking facilities required as accessory to uses listed herein, shall be solely for the parking of passenger vehicles of patrons, occupants or employees of the use served.
- b. *Location.* Parking spaces shall be located on the same lot as the use served; except parking facilities located on land other than the lot on which the

building or use served is located must be within 300 feet walking distance from the main entrance of the use served. Under such circumstances, an agreement providing for such off-premises parking, duly executed by the owner of the off-premises parking facilities, must be submitted.

Except for residential uses, parking spaces shall not be permitted in the yards of any use unless the particular characteristics of the land or use make it a necessity for parking spaces to be so located in the yard.

In every instance where a parking area is adjacent to a public way, a landscape buffer shall be provided between the parking spaces (area) and adjacent roadways, whose width along the roadway shall be based upon the length of the parking area exposed to the street (but which shall in no case be less than six feet in width). If the public way is an arterial or collector, the appropriate landscape buffer shall be no less than 30 feet wide.

Parking spaces (area) must also be screened along lot lines bordering other uses, particularly, residential uses. Screening shall consist of a landscaped area at least six feet wide, densely planted with a mixture of deciduous and evergreen trees and shrubs, and shall create an effective visual barrier.

Parking lots containing ten or more spaces shall be planted with at least one tree per eight spaces within the parking area, no smaller than two-inch caliper (trunk diameter at chest height), each tree being surrounded by no less than 40 square feet of permeable, unpaved area.

- c. *Computation.* When determination of the number of off-street parking spaces required by this ordinance results in a requirement of a fractional space, any fraction of one-half or less may be disregarded; while a fraction in excess of one-half shall be counted as one parking space.
- d. *Collective provisions for nonresidential use.* Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements of each such use, and if all regulations governing the location of accessory parking spaces in relation to the use served are observed. But no parking space or portion thereof shall serve as the required space for more than one use unless otherwise authorized in accordance with this ordinance.

Section 2. - Development standards.

- a. *Size.* A required off-street parking space shall be at least nine feet in width and at least 20 feet in length, exclusive of access drives, aisles, ramps, columns and office or work area. Such space shall have vertical clearance of at least seven feet. Parallel parking shall require 24 feet in length.
- b. *Access.* Each required off-street parking space shall open directly upon an aisle or a driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

Parking Type	Aisle Width
45° parking	14 feet
60° parking	18 feet
90° parking	24 feet

All off-street parking facilities shall be provided with appropriate means of vehicular access to a street, alley or driveway in a manner which will least interfere with traffic movements.

- c. *Surface of parking area.* Off-street parking spaces, for all uses other than residential uses, shall be subject to the following provisions:
 - (1) The parking area must be paved with bituminous, concrete, or other all weather, dustproof surfacing;
 - (2) Poured in place concrete curbs shall be required when parking areas are located in the front or to the side of buildings.
 - (3) Bumper guards or barrier curbs must be provided where needed in parking areas to the rear of buildings;
 - (4) All maintenance and snow removal must be done by the owner;
 - (5) Access to said parking spaces must be obtained through ramps or aisles and not over the curbing or provided parking area;
 - (6) The owner is to be responsible for any replacement of pavement in said parking area necessitated by a governmental unit's repair of underground facilities where the governmental unit is not required to do so.
- d. *Screening and landscaping.* See "Location."
- e. *Lighting.* Any lighting used to illuminate a required off-street parking area shall be shielded with appropriate light fixtures directing the light away from adjacent properties in order that the illumination at any property line shall not exceed .01 footcandle.
- f. *Required spaces.* Off-street parking spaces accessory to designated uses shall be provided as follows:
 - (1) Single-family dwellings - Two parking spaces for each dwelling in all residential zones;
 - (2) Two family dwellings - Two parking spaces for each dwelling unit;
 - (3) Multi-family dwellings - Two parking spaces for each dwelling unit;
 - (4) Motels - One parking space for each room plus one parking space for each two employees on day shift;
 - (5) Churches - One parking space for each three seats in A-2, A-3, R-1, and R-2 districts; One parking space for each five seats in R-3(P), R-4(P), C-1, C-2

and C-3 districts;

- (6) Theaters - One parking space for each five seats;
- (7) Medical and dental clinics - Three parking spaces for each examining or treatment room, plus one parking space for each doctor and employee in the building;
- (8) Drive-in restaurants - One parking space for each two seats in service area plus one parking space for each employee on primary shift;
- (9) Establishments handling the sale and consumption of food and refreshment on the premises - One parking space for each three seats of serving area plus one parking space for each employee on primary shift;
- (10) Banks, savings associations, and other financial institutions as defined in IC 28-2-2-3 - One parking space for each 300 square feet of floor area;
- (11) Business and professional offices or public administration buildings - One parking space per each 200 square feet of assignable office area;
- (12) Service stations - One parking space for each 200 square feet of gross business area, plus one for each employee, plus two for each set of gas pumps;
- (13) Manufacturing, fabricating and processing plants not engaged in retail trade - One parking space for each two employees, as related to the working period when the largest number of employees are employed on the premises;
- (14) Retail sales - One parking space for each 250 square feet of gross floor area, plus one for each employee on primary shift.

Parking space areas hereinabove specified may be reduced if reserved open space areas are shown on the site plan and the reduction and corresponding additional open space is approved by the director. However, in no event shall such reduction exceed 25 percent of the required parking area;

Parking space requirements for other uses will be determined by the plan director based upon data supplied by the applicant in response to requests for traffic and parking data to be furnished with the application for site plan review and/or an improvement location permit;

- (15) Limited agricultural retail sales - Minimum of three parking spaces, paved or gravel required. Shall use existing paved or gravel driveway if convenient for entrance and exit purposes to the sales area, if none, a new access road shall be installed (no roadside parking allowed).

(Ord. No. 6-13-94-C, § 9, 6-13-1994)

B. - LOADING BERTHS

[Section 1. - Guidelines, exceptions.]

Off-street loading berths shall be subject to the requirements as set out by the plan director in accordance with the following guidelines. Exceptions can be granted by the plan director upon presentation of justification for a lesser number of loading berths. Additional berths may also be required to serve the needs of the proposed office, commercial or manufacturing use.

- a. Business and professional offices, medical facilities, schools, hotels, clubs and similar business uses - One loading berth for each 100,000 square feet of space or additional fraction thereof;
- b. Industrial manufacturing and warehousing - One loading berth for each 40,000 square feet of space or additional fraction thereof; and
- c. Other local and general business - One loading berth for businesses with 5,000 to 10,000 square feet of space;

Two loading berths for businesses with 10,001 to 25,000 square feet of space;

Over 25,000 square feet of space, one additional berth for each 25,000 square feet or additional fraction thereof.

ARTICLE 14. - NONCONFORMING USE SPECIFICATIONS

The lawful use of a building or premises, existing at the time of passage of this ordinance, which does not conform to the use regulations of the district in which it is located shall be deemed to be either a class A or class B legal, nonconforming use.

FOOTNOTE(S):

--- (1) ---

Cross reference— Manufacturing districts, art. 7.

Section 1. - Classification.

- a. Upon the request of the owner of property upon which is located a non-conforming use, the plan director shall administratively determine whether such use is a class A or class B legal non-conforming use. In order for a use to be considered a class A legal non-conforming use, the following elements must be established by the proponent of the use:
 - (1) Limited expansion of the use must not be injurious to the public health, safety, and general welfare of the community;
 - (2) The use and value of property in the immediate area of the use must not be affected in a substantially adverse manner by such limited expansion of the use;

- (3) The need for limited expansion of the use arises from some condition peculiar to the property involved;
 - (4) The strict application of the terms of the zoning ordinance (a prohibition against expansion of the use) would constitute an unnecessary hardship if applied to the property for which the limited expansion is sought.
- b. Other factors which shall be considered by the plan director or advisory board of zoning appeals in making findings on the aforesaid elements are as follows:
- (1) Whether the owner or occupant has made a significant investment in a stand alone building(s) (excluding residence or residential garage);
 - (2) Whether the land and improvements on the land have been assessed as commercial or industrial property;
 - (3) Whether adequate provisions for sanitary sewers, water supply, stormwater drainage, and other utilities as deemed appropriate have been made or are available;
 - (4) Whether provisions have been made for the effective management of traffic; and
 - (5) Whether there are any undue disturbances associated with such use, i.e., noise, smoke fumes, dust, odor, glare, stormwater runoff, etc.
- c. If the plan director finds that the elements specified in subparagraph a above have been satisfied with respect to a particular nonconforming use, he shall classify such use as a class A legal nonconforming use. Certified mail notice of such finding shall be made by the proponent of the use at his expense to all property owners within a 300-foot radius of the property upon which the use is located. If the plan director finds and determines that the elements specified in subparagraph a above have not been satisfied by a particular legal nonconforming use, such use shall be classified as a class B legal nonconforming use. With respect to any such determination made under this article both the plan director and the advisory board of zoning appeals shall support their respective questions by written findings of fact with respect to each of the elements involved.
- d. Any decision of the plan director with respect to classifying a non-conforming use under this article may be appealed to the advisory board of zoning appeals, provided that a written request for review of such administrative decision is filed with the plan director within 30 days from either the date of his decision or the date on which notice of his decision is received by affected property owners, whichever is later.
- e. Any legal nonconforming use classified as a class A use as hereinabove provided may be increased or expanded by a total of 50 percent of the area devoted to such use, and any accessory uses to such legal nonconforming use may likewise be expanded or increased by a total of 50 percent of the area devoted to such accessory uses. Except as specifically provided herein, the size of the building or structure or use of land may not be increased. Any expansion of use permitted under this article applies only to land owned or occupied by the use at the time of adoption of this ordinance.
- f. Any legal nonconforming use which is not classified as a class A nonconforming use as hereinabove provided shall be considered a class B nonconforming use and such uses or structures and improvements associated with such uses shall not be allowed to expand from that which existed at the time of adoption of this ordinance.
- g. Normal maintenance and repair of a building or other structure containing a nonconforming use may be performed, provided there is no physical change to the building or structure and such maintenance or repair does not extend or intensify the nonconforming use, except as otherwise specifically provided in the article.
- h. Any legal nonconforming use, regardless of classification, shall continue until, or unless, modified or terminated as herein provided. Such use may be sold, transferred, inherited, or otherwise alienated, provided the use remains the same or of a more restricted character. Such use may not be changed to any less restricted use.
- i. If any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this ordinance, those premises shall not thereafter be used or occupied by any nonconforming use, even though the building may have been originally designed and constructed for the prior nonconforming use.
- j. No building shall be erected or expanded and no use of land area expanded upon any premises devoted to a nonconforming use, except in conformance with all other provisions of this ordinance.
- k. Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit or improvement location permit has been issued prior to the date of passage of this ordinance and on which construction will be begun within 30 days after the date of the permit and diligently prosecuted to completion (completed within 18 months from beginning construction).
- l. In the event that a nonconforming use of any building or premises is discontinued for a period of one year, the use of the same shall thereafter conform to the uses permitted in the district in which it is located, and provided further, that any nonconforming dwelling which is deficient in ground floor area, and which is removed from a lot, shall not relocate on the lot or be replaced by any other dwelling which is not in compliance with the requirements of this ordinance. Notwithstanding the foregoing provision, an agricultural confinement feeding operation established prior to the enactment of this ordinance may be discontinued for a period of up to two years and thereafter re-established without the need for a rezone, special uses or variance per other requirements of this ordinance.
- m. If no enclosed building is part of the nonconforming use, the discontinuance of a nonconforming use for a continuous period of six months shall constitute abandonment of the use.
- n. Appropriate permits shall be obtained with respect to any and all changes which pertain to either a class A or class B legal nonconforming use.
- o. These provisions apply in the same manner to a use which may become a nonconforming use as a result of an amendment to this ordinance.

ARTICLE 15. - SPECIAL USES

A. - REQUIREMENTS AND PROCEDURES

Section 1. - Procedure.

Upon receipt of an application for special uses, the plan director shall refer the application to the board for public hearing. A copy of each application shall be referred concurrently to the commission. The plan commission may, without public hearing, review the application for special uses and make their report as to any effect which such application might have upon the Hamilton County Comprehensive Plan.

Upon hearing, in order for a special use to be granted, the board must find, in writing, that:

- a. The establishment, maintenance, or operation of the special uses will not be injurious to the public health, safety, morals, or general welfare of the community;
- b. The special uses will not affect the use and value of other property in the immediate area in a substantially adverse manner;
- c. The establishment of the special uses will be consistent with the character of the district (particularly that area immediately adjacent to the special uses) and the land use permitted therein.

The board may impose conditions as part of its approval to protect the public health, and for reasons of safety, comfort and convenience.

The board shall direct the plan director to issue an improvement location permit for such special uses, otherwise the board shall direct the plan director to reject the application. The findings of the board and its order to the plan director shall be in writing.

Section 2. - Existing use.

An existing use which is listed herein as a special use, and which is located in a district in which such special uses may be permitted at the time of enactment of this ordinance, is a conforming use, providing such use meets the minimum lot area requirements set forth in the respective districts. Any expansion of such special uses involving the enlargement of buildings, structures, and land area devoted to such use, shall be subject to the requirements and procedures described in this section.

Section 3. - Delay.

Any person, to whom is issued an improvement location permit for a special use who fails to commence construction within nine months after such permit is issued, or who fails to carry to completion the use giving rise to the special uses within two years after such construction is begun, whichever is later, or who fails to conform to the provisions of any restrictions or conditions which the board imposed in conjunction with approval of the special uses by the board and upon the basis of which such improvement location permit was issued, may be required by the board upon its own motion, and shall be required by the board upon written petition of any person deeming himself aggrieved, to show cause why such approval should not be withdrawn and such improvement location permit revoked.

Section 4. - Alteration, change, amendment or extension.

The holder of an improvement location permit for a special use may apply to the board at any time for an alteration, change, amendment or extension of the application or use upon which such permit was based.

- a. Upon receipt of such application, the board shall proceed as in the case of original application for a special use.
- b. In the event the board shall approve and order such application or use changed, altered, amended or extended, it shall notify the plan director who shall issue an amended improvement location permit accordingly.
- c. The board may impose any additional reasonable requirements or conditions including, but not by way of limitation, establishing building setback lines and lot sizes for a special use, if, in the board's judgment, additional requirements or conditions are necessary for the protection of the public health, and for reasons of safety, comfort and convenience.

B. - USES CLASSIFIED AS SPECIAL USES

Section 1. - Special uses.

The following uses, or structural alterations to them, which are classified as special uses, may be permitted by the advisory board of zoning appeals in the designated zoning districts in accordance with the procedure specified in this article.

			Required information to be submitted as part of the application.***	Days/hours of operation	Economic impact assessment	Emergency management/safety plan approved by Hamilton Co. Emergency Management Director	Facility employment statistics	Environmental/archeological assessment	St: of fac ex su us
Listed Special Uses									
1.	Abattoir (slaughterhouse)			x				x	x
2.	Agricultural confined feeding facilities			x				x	x
3.	a.	Agricultural use on property less than 3.0 acres in size							x
	b.	Livestock sale or auction		x					x
	c.	Riding stables		x					x
	d.	Stockyards - shipping, holding and sale of animals		x				x	x
	e.	Farm animals zoo (petting zoo)		x					x

4.	a.	Airports			x	x	x	x	x
	b.	Private landing field							x
5.		Archeological & Historical sites (including excavation, restoration, and expansion)		x		x		x	x
6.		Bed & breakfast inn/house, boarding and lodging house, tourist home							x
7.		Building materials sales (no outside storage)							x
8.		Bulk storage and petroleum products		x		x		x	x
<u>9</u>		Bus terminal				x			x
<u>10</u>		Cement, lime, and gypsum, concrete cinder block manuf., process., and oil process., refining, and/or manuf.		x		x	x	x	x
<u>11</u>		Cemeteries, mausoleums and columboria							x
12.		Church, synagogue, and temple							x
13.		Convents and monasteries							x
14.		Correctional and penal institutions			x	x	x		x
<u>15</u>		Country clubs (swimming, tennis, etc.)							x
<u>16</u>		Crematories							x

17	Day school - Nursery school		x					x
18.	All schools and colleges - public and private			x				x
19	Fat rendering, stockyards, slaughtering, food processing; leather curing, and tanning						x	x
20	Fertilizer manufacturing			x			x	x
21	Golf club - course						x	x
22	Gun clubs, shooting ranges							
	(a) skeet and trap*		x					x
	(b) rifle, pistol and muzzle loader*		x					x
	(c) sporting clay*		x					x
23	Heliports				x			x
24.	Hospitals/sanitariums, public or private				x			x
25.	Hotels and motels							x
26.	Kennels		x					x
27.	Large animal hospitals/neutering clinics							x
28.	Lodge or private club		x					x
29.	Manufactured/mobile home when used as housing for security personnel							
30.	Marina**						x	x
31.	Mobile home parks							x

32.	Mortuaries/funeral homes							x
33.	Museums		x					x
34.	Nursing homes/home for aged							x
35.	Outdoor theatres		x		x			x
36.	Public pools and sports complexes, parks, playgrounds, and archery ranges		x					x
37.	Plumbing, electrical, heating, sheet metal, roofing, and other contractor shops and showrooms with no outside storage or display							x
38.	Public event sites with more than 100 attendees		x		x			x
39.	All public and private utility facilities including but not limited to power plants, transformer stations, water filtration plants, sewage disposal plants, pumping stations, water reservoirs and rail rights-of-way		x	x	x		x	x
40.	Radio, facsimile, T.V., microwave, cellular towers and other telecommunications facilities						x	x

41.	Recreational and amusement uses, including without limitation, race tracks, amphitheaters and amusement centers/parks		x	x	x	x	x	x
42.	Commercial riding stables		x					x
43.	Sand, soil, stone, and aggregate extraction processing, crushing, grinding and milling operation		x				x	
44.	Sanitary landfills and material recycling facilities		x	x	x	x	x	x
45.	Sawmills		x				x	x
46.	Storage or processing of material, junkyards, automobile wrecking and salvageyards		x				x	x
47.	Trucking terminals		x	x		x	x	x
48.	Zoos		x	x	x	x	x	x

* No alcohol shall be consumed while firing any types of firearms. Earth buffers or other material shall shield adjacent land from range activity. Chain link fence or other fence shall be provided around facilities.

A safety and operational plan shall be prepared and submitted to the board.

** Does not include canoe landings and boat launch facilities.

The level of expertise required for preparation of the plans and assessments will vary depending upon the complexity of the project.

*** Plans and assessments may be prepared by a professional in the field or by anyone else who is competent to do so.

(Ord. No. 9-13-94-B, § 4, 9-13-1994; Ord. No. 3-9-98-C, 3-9-1998)

A site development plan showing or describing the following are required for all special use projects:

Site development plan. Drawings and documents shall depict the existing conditions of the proposed development site and all proposed improvements to the project site. Information contained in a site development plan shall include, but is not limited to:

—An aerial photograph of the property	—Lighting facilities
—Site location map	—Soils identification
—100-year flood plain and wetlands I.D.	—Grading and drainage facilities
—Landscaping	—Parking and circulation facilities

—Bldg./improvement setback distance	—Irrigation facilities if proposed
—Existing and proposed traffic access points	—Neighboring land uses
—Septic tank/field location with perimeter	—Location of well
—Property boundary and dimensions	—Bldg./Improvement print
—Proximity of neighboring structures	— Description and location of any existing or proposed signage
—Location and dimensions of easements	
— All existing and proposed facilities, buildings, structures, vegetation and water	

Section 2. - Traffic study.

Either the traffic study plan or the site development plan shall show all existing and proposed edge of pavements, culvert or bridge structures, driveways, signs, roadside drainage swales, road centerlines, section lines, fence lines and utilities. In addition to the items already in the definitions, existing and future levels of service shall be calculated by a professional engineer for all intersections and road segments adjacent to or impacted by the special use site when requested by the county highway department.

Section 3. - Definitions of terms.

Archeological assessment. A letter of review (records check) regarding all affected parcels should be obtained from the department of natural resources.

Buffering plan. Drawings and documents which detail the type of buffer and specifications of said buffer, which will be erected to separate and screen views, noise, and objectional lighting, etc., of the proposed development from existing land uses.

Economic impact assessment. The costs of new development should be weighed against the benefits of the development in terms of community compensation, impact on existing or proposed infrastructure; impact on existing and proposed land uses, and impact on community character. The plan should include: cost of development, impact on infrastructure, jobs created, funding sources, and the value of the development to the community.

Environmental impact assessment. A detailed description of the effects which the proposed development will have upon the immediate and surrounding environment including but not limited to vegetative destruction, soils contamination, surface and sub-surface water contamination, air pollution, noise, lighting, etc.

Emergency management plan. Detailed description of procedure for dealing with extraordinary events. These events include, but are not limited to fire, tornado, flood, release of noxious gasses, release of hazardous substances, evacuation routes, etc.

Grading and drainage plan. Drawings and documents showing the existing and proposed surface elevations, off site and on site watersheds, the direction of surface runoff, retention/detention facilities, all floodplains, wetlands, location of the site stormwater outlet and should be drawn to the specifications of the Hamilton County Surveyor’s Office. A conceptional drainage plan shall receive approval of the Hamilton County Surveyor before the special use application is submitted.

Landscape plan. Drawings and documents showing the existing and proposed vegetation and plantings. This plan is to include both the aesthetic aspect of landscaping and the functional aspect of buffering and screening. It shall include location, name, spacing, size at time of planting and ultimate size of vegetation and spacing.

Maintenance plan. Plans detailing the manner in which the grounds and publicly visible portions of the project will be maintained. This plan shall include short-term routine maintenance as well as long-term.

Noise impact assessment. A detailed description of any continuous or periodic noises caused by the operation or presence of the proposed facility. A plan describing and diagraming the effect, volume, direction, and proposed buffering to limit noise from escaping the site shall be provided. Volume in decibels shall be provided.

Noxious fume assessment. Description of gasses, fumes or odors which may be released as a result of the daily operation of the proposed facility or which may be released as a byproduct of an unforeseen act such as fire, tornado or vandalism. The noxious fume assessment must be verifiable with local, state and federal requirements.

Site location map. A map or drawing which shows the location of the proposed property relative to commonly known landmarks such as state routes, major businesses or city/corporate limits. To reduce the number of pages submitted, the site location map may include other required information such as surrounding land uses, distance to nearest structure, distance to emergency services, access and circulation routes, and any other off-site requirements of the project.

Site safety plan. A plan or program listing procedures that would detail how potentially unsafe conditions or situations are to be handled in order to ensure the safety of employees, visitors, neighbors and nearby community.

Site security plan. An outline of the proposed procedures that will be implemented to restrict free access into and out of identified restricted facilities. The plan must detail the distance to and size of neighboring land uses, the identification of all hazards.

(Ord. No. 9-13-94-B, § 4, 9-13-1994; Ord. No. 3-9-98-C, 3-9-1998)

C. - USE SPECIFICATIONS

Section 1. - Use.

- a. Commercial care facility for children, the elderly and the handicapped, nursery school, pre-school, nursery school or day school.
- Maximum number of children per BZA discretion.
 - Shall have approved septic permit
 - Shall have adequate facility for parking and traffic control.
 - Shall have detailed site development plan.
 - Shall have drainage plans approved by county surveyor.
 - Shall meet all requirements of building codes and all applicable Indiana State Codes.

No portion of structure shall be located within 300 feet of gasoline pumps, underground fuel storage tanks, or other flammable or explosive materials.

Note: Certain in home day care facilities specifically covered under Indiana State Law shall be exempt from all local zoning requirements.

(Ord. No. 6-13-94-B, § 5, 6-13-1994)

ARTICLE 16. - ADVISORY PLAN COMMISSION

FOOTNOTE(S):

--- (1) ---

Cross reference— Planned development, art. 12; administration, art. 18.

A. - CREATION, COMPOSITION AND ORGANIZATION

Section 1. - Establishment.

The county advisory plan commission is hereby established in accordance with IC 36-7-4-200 et seq.

Section 2. - Membership of commission.

- a. *Composition.* The county advisory plan commission shall consist of nine members, as follows:
- (1) One member appointed by the county executive from its membership.
 - (2) One member appointed by the county fiscal body from its membership.
 - (3) The county surveyor or a qualified deputy surveyor appointed by the surveyor.
 - (4) The county agricultural extension educator.
 - (5) Five citizen members, of whom no more than three may be of the same political party, and all five of whom must be residents of unincorporated areas of the county, appointed by the county executive.
- b. *Qualifications (citizen members).* Each citizen member shall be appointed because of the member's knowledge and experience in community affairs; the member's awareness of the social, economic, agricultural and industrial problems of the area; and the member's interest in the development and integration of the area. A citizen member may not hold other elective or appointive office in municipal, county, or state government, and must be a resident of the jurisdictional area of the plan commission.
- c. *Terms of office.*
- (1) *Initial term.* The county advisory plan commission was originally established by Ordinance No. 3/21/88 B passed March 21, 1988, and said ordinance provided that citizen members be appointed for the following terms of office:
 - (a) One for a term of one year.
 - (b) One for a term of two years.
 - (c) One for a term of three years.
 - (d) Two for a term of four years.

- (2) *Subsequent terms.* After the initial term of office of a citizen member expires, each new appointment of a citizen member shall be for a four-year term.
- d. *Vacancies.* If a vacancy occurs among the commission members who are appointed, the appointing authority shall appoint a member for the unexpired term of the vacating member.
- e. *Conflict of interest.*
- (1) No member of the commission shall participate in a hearing or decision of the commission concerning a matter in which he has a direct or indirect financial interest or, which for any other reason brought to the attention of the commission, results in his disqualification either by himself or by the commission.
 - (2) The commission shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision.
 - (3) Any participating alternate member shall be appointed by the same body which appointed the regular member who has been disqualified.

Section 3. - Organization.

At its first regular meeting in each year, the commission shall elect from its members a president and a vice president. The commission may appoint and fix the duties and compensation of a secretary and those employees necessary for this discharge of its duties, all in conformity to and compliance with salaries and compensations fixed by the county council and state law.

B. - PROCEDURE

Section 1. - Rules of procedure.

The commission shall supervise, and make rules for, the administration of the affairs of the commission; and prescribe uniform rules pertaining to investigations and hearings.

Section 2. - Meetings and records.

Except as otherwise provided by law, all meetings of the commission shall be open to the public. The commission shall keep minutes of its meetings, keep records of its examinations and other official actions, prepare written findings of fact and record the vote, disqualification, abstention, or failure to vote of each member upon each question. The minutes of commission meetings and all records shall be filed in the office of the commission and are public record.

C. - AUTHORITY

Section 1. - Powers and duties.

- a. The commission shall:
- (1) Make recommendations to the county commissioners concerning:
 - (a) The adoption of the comprehensive plan, zoning ordinance, and amendments thereto; and
 - (b) Any other matters, within the jurisdiction of the commission, authorized by the advisory planning law as defined in IC 36-7-4-101; and
 - (2) Render decisions concerning and approve:
 - (a) Plats or replats of subdivisions; and
 - (b) Planned developments for residential, commercial and industrial uses.

Section 2. - Commitments.

Pursuant to the authority granted under IC 36-7-4 et seq., commitments may be permitted or required connection with the approval of: (i) a zone map change, including a zone map change for a PUD District; (ii) a secondary approval of a PUD; (iii) a modification of permitted uses or development requirements of a PUD; or, (iv) the approval of a development plan. Such commitments may be permitted or required when it is deemed necessary to: (i) assure the compatibility of a proposed development with surrounding properties; or, (ii) to minimize the potential for the occurrence of detrimental affects from any attributes of a proposed development on surrounding properties. Commitments shall be regulated as follows:

- a. *Zone map changes.* The plan commission may permit or require the owner of real property which is the subject of a zone map change request, including a zone map change for a PUD district, to make written commitments concerning the use or development of the such real property pursuant to IC 36-7-4-615 and IC 36-7-4-1512 in connection with making a recommendation on a zone map change request to any zoning district classification contained in this article, including a zone map change request for a PUD district, to the Hamilton County Board of Commissioners as a condition of development. In addition, in the case of a zone map change request for a PUD district, the Hamilton County Board of Commissioners may permit or require additional commitments to those recommended by the plan commission.
- b. *Secondary approval of a PUD or modification of a PUD.* The plan director, on behalf of the plan commission, or the plan commission in the case of a referral or appeal, may permit or require the owner of real property which is the subject of a secondary approval of a PUD or a request for a

modification of permitted uses or development requirements of a PUD to make written commitments concerning the use or development of the such real property pursuant to IC 36-7-4-615 and IC 36-7-4-1512 in connection with the issuance of a secondary approval or modification of permitted uses or development requirements of a PUD as a condition of development.

- c. *Development plans.* The plan director, on behalf of the plan commission, or the plan commission in the case of a referral or appeal, may permit or require the owner of the real property which is the subject of a development plan approval to make a written commitment regarding the use or development of such real property pursuant to IC 36-7-4-1405(b)(3) and IC 36-7-4-613 in connection with the approval of a development plan as a condition of development.
- d. *Recording.* The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall be in effect for: (i) as long as the real estate to which they apply remains zoned to the classification to which the real estate was zoned when the commitments were made; or (ii) modified or terminated as provided below. The commitments shall authorize their recording by Staff of the Hamilton County Plan Commission in the Office of the Recorder of Hamilton County, Indiana upon the final approval of a development plan by the plan commission or the final approval of the zone map change by the Board of Commissioners of Hamilton County, Indiana. Following the recording of the commitments, Staff of the Hamilton County Plan Commission shall return the original recorded commitments to petitioner and shall retain a copy of the recorded commitments in its file.
- e. *Enforcement.* The plan commission, owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval, and other specially affected persons designated in such commitments shall be entitled to enforce such commitments pursuant to IC 36-7-4-1015(d) or as otherwise provided by applicable law.
- f. *Form of commitments.* The commitments required by the plan commission shall be in substantially the form set forth in Exhibit "A" of this article.
- g. *Modification.* Commitments may be modified or terminated by a decision of the plan commission, made at a public hearing after notice to adjoining owners within the lesser of 600 feet or two ownerships of the subject property by certified mail - return receipt requested. Any modification or termination of the commitments shall not be effective until: (i) reduced to writing; (ii) approved by the plan commission; (iii) executed and notarized by the present owner(s) of the real estate; and, (iv) recorded in the Office of the Recorder of Hamilton County, Indiana, in substantially the same manner as set forth in subsection 2., d., above.
- h. *Form of modification.* The modification or termination of commitments shall be in substantially the form set forth in Exhibit "B" of this article.

EXHIBIT "A"

NOTE: The Hamilton County Zoning Ordinance, requires the use of this form in recording commitments made with respect to Development Plan Approvals, Zone Map Changes or Planned Unit Developments in accordance with IC 36-7-4-613 or IC 36-7-4-615.

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A DEVELOPMENT PLAN APPROVAL, ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT REQUIRED BY THE HAMILTON COUNTY ZONING ORDINANCE

Project Name: _____ Parcel #: _____

In accordance with IC 36-7-4-613 or IC 36-7-4-615, the Owner of the real estate located in Hamilton County, Indiana which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF COMMITMENTS:

- 1.
- 2.
- 3.

These COMMITMENTS shall run with the land, be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Hamilton County Advisory Plan Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the approval of petition # _____ pursuant to the Hamilton County Zoning Ordinance, and shall continue in effect until: (i) the real estate is rezoned; or, (ii) modified or terminated by the Hamilton County Advisory Plan Commission.

These COMMITMENTS may be enforced jointly or severally by:

- 1. The Hamilton County Advisory Plan Commission;
- 2. The Board of Commissioners of Hamilton County, Indiana;
- 3. Owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval; and
- 4. _____

The undersigned hereby authorizes the Plan Director of the Hamilton County Advisory Plan Commission to record this Commitment in the Office of the Recorder of Hamilton County, Indiana, upon final approval of petition #_____.

IN WITNESS WHEREOF, Owner has executed this instrument this ___ day of ____, ____.

(Individual Owner)

Signature _____(Seal) Signature _____(Seal)

Printed _____ Printed _____

(Organization Owner)

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF _____)

) SS:

COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ___ day of ____, ____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF _____)

) SS:

COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of _____, a(n) _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ___ day of ____, ____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____

EXHIBIT "B"

NOTE: The Hamilton County Zoning Ordinance requires the use of this form in recording commitment modification(s) or termination(s) with respect to a Development Plan Approval, Zone Map Change or Planned Unit Development in accordance with IC 36-7-4-613 or IC 36-7-4-615.

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A DEVELOPMENT PLAN APPROVAL, ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT.

Project Name: _____ Parcel #: _____

In accordance with IC 36-7-4-613 or IC 36-7-4-615, the Owner of the real estate located in Hamilton County, Indiana, which is described below, makes the following modification(s) or termination(s) of commitment(s) concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF MODIFICATION OR TERMINATION OF COMMITMENTS:

- 1.
- 2.
- 3.

These MODIFICATION OR TERMINATION OF COMMITMENTS shall run with the land, be binding on the Owner of the above-referenced real estate, subsequent owners of the above-referenced real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Hamilton County Advisory Plan Commission made at a public hearing after proper notice has been given.

MODIFICATION OR TERMINATION OF COMMITMENTS contained in this instrument shall be effective upon adoption of modification or termination approved by the Hamilton County Advisory Plan Commission in petition # _____: (i) the real estate is rezoned; or, (ii) modified or terminated by the Hamilton County Advisory Plan Commission.

These COMMITMENTS may be enforced jointly or severally by:

- 1. The Hamilton County Advisory Plan Commission;
- 2. The Board of Commissioners of Hamilton County, Indiana;
- 3. Owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval; and
- 4. _____

The undersigned hereby authorizes the Plan Director of the Hamilton County Advisory Plan Commission to record this MODIFICATION OR TERMINATION OF COMMITMENTS in the Office of the Recorder of Hamilton County, Indiana, upon final approval petition # by the Hamilton County Advisory Plan Commission.

IN WITNESS WHEREOF, Owner has executed this instrument this ___ day of ____, ____.

(Individual Owner)

Signature _____(Seal) Signature _____(Seal)

Printed _____ Printed _____

(Organization Owner)

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF _____)

) SS:

COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ___ day of ____, ____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF _____)

) SS:

COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of _____, a(n) _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ___ day of ____, ____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____.

(Fax of 12-5-2007 (Exh. C, Art. 16)

ARTICLE 17. - ADVISORY BOARD OF ZONING APPEALS

FOOTNOTE(S):

--- (1) ---

Cross reference— Administration, art. 18.

A. - CREATION, COMPOSITION AND ORGANIZATION

Section 1. - Establishment.

The county advisory board of zoning appeals is hereby established in accordance with IC 36-7-4-900 et seq. For the purpose of this article, the term "board" refers to the county advisory board of zoning appeals.

Section 2. - Composition, jurisdiction and appointment.

- a. The county advisory board of zoning appeals shall consist of two divisions, which divisions shall be designated, for identification purposes, as follows:
 - (1) The county advisory board of zoning appeals (North), which division shall have exclusive territorial jurisdiction over all matters properly before the board from White River and Adams Townships in Hamilton County, Indiana; and
 - (2) The county advisory board of zoning appeals (South), which division shall have exclusive territorial jurisdiction over all matters properly before the board from all other areas of Hamilton County, Indiana, (except White River and Adams Townships) subject to the zoning ordinance.
- b. Each division of the county advisory board of zoning appeals, as hereinabove provided, shall consist of five members.
- c. The members of each division of the county advisory board of zoning appeals shall be initially appointed pursuant to state law to staggered terms: one member for a three-year term; two members for a two-year term; and two members for a one-year term; and thereafter, each member shall serve for a four-year term.

Each member shall reside in the geographic area under the jurisdiction of the division of the county advisory board of zoning appeals to which he is appointed.
- d. Each appointing authority shall appoint one alternative member for each specific appointed regular member who shall be available to replace the regular member should the regular member become unavailable to attend a meeting.
- e. The members of each division of the county advisory board of zoning appeals shall be initially appointed and serve for the following primary terms:
 - (1) The board of county commissioners shall appoint a citizen member of the county plan commission who shall serve a term of one year.
 - (2) The board of county commissioners shall appoint a citizen member (not a member of the county plan commission) who shall serve a term of two years.
 - (3) The county plan commission shall appoint a citizen member from its own membership who shall serve a term of three years.
 - (4) The county council shall appoint a citizen member (not a member of the county plan commission) who shall serve a term of four years.
 - (5) The board of county commissioners shall appoint a citizen member (not a member of the county plan commission) who shall serve a term of four years.

(Ord. No. 5-24-10-B, 5-24-2010)

Section 3. - Organization.

At the first meeting of each year, each division of the board shall elect a chairman and a vice-chairman from among its members. The board may appoint and fix the compensation of a secretary and those employees necessary for this discharge of its duties, all in conformity to and compliance with salaries and compensations fixed by the county council and state law.

B. - PROCEDURE

Section 1. - Rules of procedure.

In addition to other powers and duties specified by state law, the board shall adopt rules concerning the filing of appeals, applications for variances and special uses, the giving of notice, the conduct of hearings and other subjects or matters as required by state law or as deemed necessary or desirable by the board.

Section 2. - Meetings and records.

Except as otherwise provided by law, all meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, keep records of its examinations and other official actions, make written findings of fact in all cases heard by it and record the vote, disqualification, abstention, or failure to vote of each member upon each question. All minutes and records shall be filed in the office of the board and are public records.

Section 3. - Findings and decisions.

All decisions of the board on all matters within their jurisdiction and authority shall be in writing supported by specific findings of fact on each material element pertaining to the matter under consideration.

Section 4. - Review by certiorari.

Each decision of the board is subject to review by certiorari as prescribed by state law.

C. - AUTHORITY

Section 1. - Powers and duties.

a. The board:

- (1) Shall hear and determine appeals from and review any order, requirement, decision or determination made by the plan director, a staff member or administrative board designated by ordinance, other than the plan commission, made in the enforcement of the zoning ordinance or the issuance of building and occupancy permits under IC tit. 36, art. 7.
- (2) May reverse or affirm, wholly or partly, or may modify any order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises and to that end shall have all the powers vested in the person or board from whom the appeal is taken.
- (3) Shall hear, and approve or deny, all special uses as specified in the zoning ordinance. A special use may be approved under this section only upon a written determination as provided in sections 2 and 3 under [paragraph] B of this article.

b. The board shall make written findings of fact and decisions as provided in sections 2 and 3 under [paragraph] B of this article pursuant to and consistent with the following criteria:

- (1) To grant a special use, the board shall find that:
 - (a) The establishment, maintenance, or operation of the special uses will not be injurious to the public health, safety, morals, or general welfare of the community;
 - (b) The special uses will not affect the use and value of other property in the immediate area in a substantially adverse manner;
 - (c) The establishment of the special uses will be consistent with the character of the district (particularly that area immediately adjacent to the special uses) and the land use permitted therein.

The board may impose conditions as part of its approval to protect the public health, and for reasons of safety, comfort and convenience.

- (2) To approve or deny a variance from the development standards, as defined in the district regulations of the zoning ordinance, the board shall determine in writing that:
 - (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
 - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - (c) The strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property.
- (3) To approve or deny variances of use from the terms of the zoning ordinance, the board shall determine in writing:
 - (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
 - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

- (c) The need for the variance arises from some condition peculiar to the property involved;
 - (d) The strict application of the terms of the zoning ordinance would constitute an unnecessary hardship if applied to the property for which the variance is sought; and
 - (e) The approval does not interfere substantially with the county comprehensive plan.
- (4) To reverse or modify, in whole or in part, an order, requirement, decision or determination of the plan director, staff member or administrative board (other than the plan commission), the board shall find that the plan director, staff member or administrative board:
- (a) Improperly interpreted any relevant portion of a law, ordinance or rule; or
 - (b) Improperly took administrative action pertaining to a relevant law, ordinance or rule; or
 - (c) Improperly enforced a relevant law, ordinance or rule.

Section 2. - Commitments.

The board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel to receive a special use or a variance from the terms of the zoning ordinance. Those commitments shall be recorded in the office of the county recorder and shall take effect upon the granting of the special use or variance. A recorded commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.

A commitment may be modified or terminated only by a decision of the board made at a public hearing after notice as provided by rule.

D. - CONFLICT OF INTEREST

Section 1. - Conflict of interest.

- a. No member of the board shall participate in a hearing or decision of the board concerning a matter in which he has a direct or indirect financial interest or, which for any other reason brought to the attention of the board, results in his disqualification either by himself or by the board.
- b. The board shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.
- c. Any participating alternate member shall be appointed by the same body which appointed the regular member who has been disqualified.

Section 2. - Communication with board members.

No person shall communicate with any board member prior to a hearing or decision with the intent to influence the actions of any member of the board regarding any matter pending before the board. However, the staff may file a written statement with the board setting forth facts or its opinions concerning that matter.

ARTICLE 18. - ADMINISTRATION

FOOTNOTE(S):

--- (1) ---

Cross reference— Advisory plan commission, art. 16; advisory board of zoning appeals, art. 17.

A. - AUTHORITY OF PLAN DIRECTOR

Section 1. - Duties of plan director.

- a. It shall be the duty of the plan director to enforce this ordinance and receive applications required by this ordinance, issue permits, and furnish the prescribed certificates. He shall examine premises for which permits have been issued, and shall make necessary inspections to see that the provisions of law are complied with. He shall enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided for. He shall, when requested by the board of commissioners or when the interests of the county so require, make investigations in connection with matters referred to in this ordinance and render written reports on the same. For the purpose of enforcing compliance with law, he shall issue such notices or orders as may be necessary and submit an annual report of the activities of the office to the plan commission, advisory board of zoning appeals and county commissioner.
- b. The plan director shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, or inspections made, or reports rendered, and of notices or orders issued. He shall retain on file, copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection at reasonable hours.

B. - ADMINISTRATION OF PERMIT PROCESS

Section 1. - Application and approval of permits.

- a. Any person, who shall make application for an improvement location permit and/or building permit, shall, at the time of making such application furnish a site plan or development plan of the real estate upon which said application for improvement location and/or building permit is made at least five days prior to the issuance of said permit(s), which five-day period may be waived. Said site plan shall be drawn to scale and show items required of a site plan under Article 11 of this ordinance.
- b. An application for an improvement location and/or building permit for any manufacturing use subject to the provisions of Article 7 of this ordinance shall be accompanied by a "certificate of compliance" subscribed by a registered professional engineer or architect, certifying that the use intended will satisfy the performance standards of manufacturing uses in the district in which it is to be located. The plan director may take five business days in which to study the application, during which time he may consult with appropriate technical consultants. If, after the ten-day period, the plan director has not required any additional information or stated any objections in writing, the plan director shall issue the improvement location permit/building permit.
- c. Site plans so furnished shall become a permanent public record.
- d. An applicant for an improvement location and/or building permit must also file for site plan review and approval in accordance with Article 11, and the plan director, zoning administrator, or an authorized designee, shall consider and evaluate such application and associated site plan, and thereupon render his decision in writing, which decision shall consist of either:
 - (1) Approval of the site plan based upon the determination that the proposed plan will constitute a suitable development and is in compliance with the general standards and design standards as specified in Article 11
 - (2) Disapproval of the site plan based upon the determination that the proposed project does not meet either the general standards or design standards set forth in Article 11; or
 - (3) Approval of the site plan subject to any conditions, modifications and restrictions as required by the plan director which will ensure that the project meets the general standards and design standards set forth in Article 11

No improvement location permit, building permit or certificate of occupancy can be issued by the plan director until the site plan submitted by the applicant shall have first been approved as being consistent with those standards specified in Article 11.
- e. The plan director shall issue an improvement location permit and/or building permit for a special use only following receipt of notice from the board that the application therefor has been approved by the board.

Section 2. - Certificate of occupancy.

- a. No land shall be occupied or used and no building hereafter erected, reconstructed or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a certificate of occupancy shall have been issued stating that the building and use comply with all the provisions of this ordinance applicable to the building or premises of the use in the district in which it is to be located.
- b. When the improvement covered by the improvement location permit and/or building permit has been completed in conformity with the site plan or development plan submitted in the application pursuant to paragraph a of this section [art. 18, B, section 1, paragraph a], a certificate of occupancy shall then be issued.
- c. No change shall be made in the use of land (except to an agricultural use) or in the use of any building or part thereof, now or hereafter erected, reconstructed or structurally altered, without a certificate of occupancy having been issued and no such certificate shall be issued to make such change unless it is in conformity with the provisions of this ordinance.
- d. A certificate of occupancy shall be applied for coincidentally with the application for a building permit and shall be issued within ten days after the lawful erection, reconstruction or structural alteration of such building or other improvement of the land shall have been completed.
- e. A record of all certificates of occupancy shall be kept on file in the office of the plan director and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.
- f. No building permit shall be issued for excavation for or the erection, reconstruction or structural alteration of any building, before application has been made for a certificate of occupancy.

Section 3. - Improvement location permit.

- a. An application for an improvement location permit and/or building permit for any use shall not be approved until it has been ascertained by the plan director that the proposed use will meet the minimum standards for sewage disposal and water as required by the health officer, who is any officer of authority, Hamilton County Health Department and state department of health, and as may be required by ordinances of Hamilton County, Indiana. No certificate of occupancy shall be issued for a commercial or industrial structure or for any other applicable use until the plans for such structure shall have been approved by the administrative building council of the State of Indiana and any other appropriate state agency including the state fire marshal.
- b. No improvement location permit shall be issued unless the lot for which the improvement location permit is sought is located on a public way.
- c. No improvement location permit, building permit or certificate of occupancy shall be issued until the appropriate fees have been paid to the plan director in accordance with those established in this ordinance.
- d. Improvement location permits and building permits shall expire six months after date of issuance if construction has not commenced. One extension for 12 months may be granted by the plan director upon presentation of reasonable justification for such an extension. This provision does not apply to Special Uses as otherwise provided for in Article 15

- e. When a developer of any commercial land or facility for any reason will be constructing or developing the site or facility with major changes from the final plan approved by the plan commission, then such developer shall notify and send to the plan director information outlining and supporting such changes. It shall be at the discretion of the plan director to approve or disapprove such changes and to determine whether further action or concurrence should be received by the plan commission or advisory board of zoning appeals and to determine whether any additional building improvement fees are due the county or to be refunded to the developer. Any such changes so approved by the plan director, or by the plan commission, or advisory board of zoning appeals, shall be deemed approved amendments of such final plans originally approved by the plan commission.

Section 4. - Filing of fees.

Applications and petitions filed pursuant to the provisions of this ordinance shall be accompanied by the filing fees specified in Article 18.

C. - MISCELLANEOUS SPECIFICATIONS

Section 1. - Specifications.

- a. *Use.* No building or land shall be used and no building shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which such a building or land is located.
- b. *Yard, lot area and size of building.* No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, ground floor area of dwellings, or lot coverage provisions established and specified for the use and the district in which such building is located.
- c. *Lots.* Every building hereafter erected shall be located on a lot. In no case shall there be more than one single family dwelling building/structure used for residential living purposes and permitted accessory buildings located on one lot.
- d. *Parking space, loading and unloading berths.* For each building hereafter erected or expanded and for certain other uses of land, paved parking spaces for motor vehicles and loading and unloading berths as specified for the use to which such building or land is to be devoted shall be provided, except that parking spaces may not be required for business or industrial uses to be established in blocks which 50 percent or more of the area was occupied by such uses at the time of passage of this ordinance, but it is the intent of this ordinance to encourage the establishment of adequate parking spaces wherever normally required by this ordinance.
- e. *Farm buildings/structures.* Accessory farm structures constructed in the normal course of agricultural business for the support of individual farms are not subject to requirements for detailed construction plans; however, a special agricultural accessory building permit is required with two inspection fees. If any structure requires plumbing, heating, sewage, electrical installation, or office space such structure will be subject to the accessory permit fees contained in the ordinance.
- f. *[Ancillary enterprises.]* If any farm structure is used as an ancillary commercial enterprise and agricultural commercial enterprise, such as greenhouses, wholesale or retail, or a feed mixing or grinding operation for a handling or service fee, then the requirements of the district in which the use is located with respect to permitted uses or Special Uses must be followed, or rezoning of the subject property or a use variance must be secured before construction on, or operation of, the use (ancillary commercial enterprise and agricultural commercial enterprise) may be commenced.
- g. *Public utility installations.*
- (1) Structures and land used for public utility installations, while so used, shall be affected by the provisions of this ordinance.
 - (2) All utility structures shall be effectively landscaped and shall have plans for such landscaping, lighting, traffic control, building heights and setbacks approved by the plan commission.
- h. *Minimum width for housing.* All single family or duplex homes shall be required to be constructed with the main body of the residence being 23 feet or more wide.
- i. *Exceptions to height limitations.* The various height limitations specified throughout this ordinance shall not include roof structures for the housing of elevators, ventilators, fire or parapet walls, skylights, flag poles, chimneys and other essential mechanical appurtenances.
- j. *Fences.*
1. On residentially used or zoned lots, fences located within any required front yard shall not exceed 42 inches in height, as measured from the top-most point thereof to the ground adjacent to the fence. At least 25 percent of its area shall be open as viewed on any line perpendicular to the vertical plan of the fence. Such open spaces must be reasonably dispersed throughout the entire area of the fence, except where solid stone or brick walls are permitted.
 2. Residential fences located within any required side or rear yard shall not exceed six feet in height, as measured from the top-most point thereof to the ground adjacent to the fence.
 3. Residential fences not located within any required yard but within the buildable area shall not exceed nine feet in height, as measured from the top-most point thereof to the ground adjacent to the fence.
 4. Any fence placed upon an erected earth berm or masonry wall must govern its height as measured to the ground adjacent to said earth berm or wall.
 5. Open wire mesh fences surrounding tennis courts may be erected to a height of 16 feet, if such fences shall enclose only a regulation court and standard apron area.
 6. Fences enclosing an institution, a public park, schools or commercial or industrial property may consist of an open mesh fence not to exceed a height

of ten feet.

7. No sign, fence, wall, shrub, or other obstruction to vision shall exist in the area designated as the vision clearance area of corner lots.
8. Fences located within any drainage easement other than a regulated legal drain shall be constructed so as to provide for an open space of 18 inches from the ground to the bottom of the fence.
9. No fence shall be located within a regulated legal drain easement.
10. Fences located in any easement shall be the responsibility of the property owner as to removal and replacement if any governmental agency is required to work within the easement and thus disturb the fence placement.

k. *Parking areas.*

- (1) Up to 25 percent of required parking spaces may be waived if a plan for all required parking spaces is developed and a landscaped reserve area is set aside for the total amount of required parking.
- (2) Paving and curbing of parking areas in A-2 or A-3 Agricultural Zone Districts and R-1 or R-2 Residential Zone Districts is not required for all uses with ten (10) or less required parking spaces.
- (3) Up to 25 percent of the required parking spaces may be gravel if they are located to the rear of the primary building and screened with landscape live plant material, fencing or earth mounding and designated as employee or overflow parking.

l. *Sidewalks.* Four-foot wide concrete sidewalks or pedestrian ways shall be provided for pedestrian traffic per the discretion of the director for all developments.

m. *Landscaping/screening (live plants).*

1. Twenty percent of each developed site shall be landscaped with existing or new live plant material, per the discretion of the director. The 20 percent required landscaping may be reduced to 15 percent per the development of a detailed landscaping plan approved by the director. All required and approved landscaping shall be installed within six months after a certificate of occupancy is issued for the project. Not more than ten percent shall be grass area when 20 percent landscaped, and not more than five percent shall be grass area when 15 percent landscape is approved.
2. Site features to be screened with live evergreen plants or other suitable materials such as fencing or earth mounding shall be:
 - a. Parking areas
 - b. Any approved outside storage areas
 - c. Foundations of buildings
 - d. Blank windowless walls
 - e. Utility and mechanical equipment features
 - f. Loading docks/areas
 - g. Trash storage areas and structures
 - h. Foundations or support structures for signs

n. *Lighting.*

1. A lighting plan shall be prepared which shows all light fixtures and light spread.
2. All exterior light fixtures shall be of shielded down lighting type.
3. Light intensity shall not exceed 0.01 footcandle at any property line or road right-of-way line unless otherwise approved by the plan commission or advisory board of zoning appeals.

o. *Outside storage and display.* The outside storage or display of merchandise or goods is not allowed in any zone district unless specifically approved by the plan commission or the advisory board of zoning appeals.

p. *Open space, vegetation, wildlife, recreation environmental, historic and archaeological features.* For all projects, including subdivisions and planned developments, in excess of three acres in area, except single family residence and agricultural uses, a minimum of 15 percent of the gross land area shall be devoted to open space; vegetation; wildlife; recreation; or environmental, historical or archaeological preservation; or any combination of the same, as in the discretion of the plan commission is deemed appropriate.

In the interest of the health, safety and general welfare of the public, the plan commission may direct a developer to prepare such studies as are deemed necessary and proper, based upon presented, credible information that a site contains any one, or combination, of the above-stated features.

The plan commission, with assistance from interested individuals, professionals, or organizations, shall study the reports and plans to determine if the site under consideration contains any of the identified features and how these features are to be preserved and maintained consistent with proposed reasonable development of the land.

q. *Swimming pools and spa requirements.*

1. Swimming pools, spas and their appurtenants (pumps, pool heaters) are considered accessory structures.
2. Swimming pools, spas and their appurtenants (pool heaters, pumps) shall not be constructed in front yards or side yards of a principal structure.
- [3. Reserved.]
4. Permanently installed swimming pools (inground/aboveground) shall be completely enclosed with a fence, wall or impenetrable barrier as required by the Indiana State Building Code relating to swimming pools. Two copies of such code are on file in the office of the county auditor for public

inspection.

- 5. A site plan and detailed drainage plan shall be submitted with an application for a pool permit for review and approval by the plan director.
- 6. Swimming pools, spas, and their appurtenants (pool heaters, pumps) shall not be located within any easement or within five feet of any easement.
- 7. Swimming pools and spas shall be constructed according to all state requirements. A certificate of compliance shall be furnished to the Hamilton County Plan Director after construction of the pool structure and required enclosure that states that all construction has been done in accordance with all local and state requirements.
- 8. Swimming pool or spa contractors shall have on file in the office of the Hamilton County Plan Commission an original License and Permit Bond made out to the Hamilton County Plan Commission in an amount equal to \$25,000.00 to be renewed annually and a current Certificate of Liability Insurance.

r. *Setback from thoroughfare plan right-of-way.* All new structures and additions to existing structures shall be placed no closer than the right-of-way as shown on the approved thoroughfare plan plus the setback distance required in the appropriate zone district.

(Ord. No. 01-09-95-A, 1-23-1995; Ord. No. 6-27-05-A, 6-27-2005; Ord. No. 04-21-09-A, 4-27-2009; Ord. No. 5-24-10-B, 5-24-2010)

ARTICLE 19. - FILING FEES

Fees for applications and petitions filed pursuant to the provisions of this article shall be paid to and collected by the Hamilton County Plan Commission, and shall be deposited according to procedures established by the county auditor. No part of any fee shall be returnable to the applicant.

Any person or persons who shall initiate construction of a structure or change of use of a structure or property prior to obtaining an Improvement Location Permit/Building Permit, or any plan commission or BZA reviews and approvals, or any other required permits shall pay up to three times the amount of the normal permit fee.

First offence—1½ times the regular fee.

Second offence—Two times the regular fee.

Third offence—Three times the regular fee.

No application fee shall be required to be paid by any Hamilton County or Township governmental agency for construction or remodeling of any public building or structure.

No fee or permit shall be required for normal maintenance and repair operations, including, but not limited to, roofing, flooring repairs, plumbing and heating repairs and replacement, insulation and minor adjustments or replacements to building openings, such as doors and windows.

FOOTNOTE(S):

--- (1) ---

Editor's note— Ord. No. 6-27-05-A, adopted Jun. 27, 2005, repealed Article 19 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Article 19 pertained to Fees and derived from Ordinance No. 3-19-90.

Section 1. - Projects, inspections and certificates of occupancy (C of O's)/certificates of compliance (C of C).

1.	Single-family dwelling	\$175.00	plus \$0.06 per total sq. ft. (Including covered porches, garages, basements, attics with access and stairways.) plus \$25.00 for the C/O.
2.	Two-family dwelling	250.00	plus \$0.06 per total sq. ft. plus \$50.00 for the C/O.

3.	Multi-family dwelling (of any construction type or ownership classification)	250.00	plus \$85.00 per unit plus \$25.00 per unit C/O.
4.	Dwelling additions, attached garage	150.00	plus \$0.06 per sq. ft. plus \$25.00 for the C/O.
5.	Dwelling remodels	100.00	plus \$0.06 per sq. ft. plus \$25.00 for the C/O.
6.	Detached garage (pole barns, hobby farm buildings, personal stables, carports, storage buildings and other accessory buildings without HVAC, interior partitions, second floor area, offices, stairs, plumbing and structures except swimming pools and spas.)	125.00	plus \$0.06 per sq. ft. over 586 sq. ft. plus \$25.00 for the C/O.
	a. With HVAC, interior partitions, second floor area, offices, stairs, and plumbing.	165.00	plus \$0.06 per sq. ft. over 586 sq. ft. plus \$25.00 for the C/O.
7.	Decks, porches, gazebo, etc. mini-barns, satellite antennas	65.00	plus \$0.03 per sq. ft. over 150 sq. ft. plus \$25.00 for the C/O.
8.	Temporary structures (construction trailers, subdivision sales structures)	150.00	first year
		75.00	each additional year
<u>9</u>	Moving a structure onto a different location on the same parcel		
	a. Residential	75.00	
	b. Other	150.00	
<u>10</u>	Specific structural modification (replacing foundations, etc.)		
	a. Residential	60.00	
	b. Other	125.00	

11	Electrical permits		
	a. Residential	55.00	
	b. Commercial, institutional, other	75.00	
12.	Ponds		
	a. Residential/farm/commercial, etc.	65.00	
13.	Signs		
	a. Housing projects	250.00	
	b. Home occupations/boarding house	25.00	
	c. Institutional uses	75.00	
	d. Commercial uses—Ground	150.00	
	e. Recreational uses	40.00	
	f. Commercial uses—Window	40.00	
	g. Single tenant building	40.00	
	h. Real estate—Over <u>9</u> sq. ft.	40.00	
Temporary signs			
	a. Housing Project Construction	250.00	
	b. Non-Residential Construction	125.00	
	c. Temporary Uses	15.00	
	d. Grand Openings/Closings	15.00	
14.	Swimming pools/spas		
	a. Residential	85.00	plus \$0.05 per sq. ft. pool and deck/patio/walkway area plus \$25.00 for the C/O.

	b. Other	150.00	plus \$0.05 per sq. ft. pool, deck/patio/walkway area plus \$50.00 for the C/O.
<u>15</u>	Home Occupations	65.00	
<u>16</u>	Temporary (six month maximum) Road Side Sales		
	a. Business and/or building including tents	75.00	plus \$25.00 for the C/O.
<u>17</u>	Certificates of Occupancy/Compliance		
	a. Residential	25.00	
	b. Commercial, Industrial, Institutional, etc.	50.00	
18.	Demolition		
	a. Residential	75.00	
	b. Other	125.00	
<u>19</u>	Commercial (including agricultural confinement feeding operations), Industrial, Institutional	300.00	plus \$0.10 per sq. ft. plus \$50.00 for the C/O.
<u>20</u>	Commercial, industrial or institutional		
	a. Accessory buildings	150.00	plus \$0.10 per sq. ft. plus \$50.00 for the C/O.
<u>21</u>	Commercial, industrial or institutional		
	a. Additions/remodeling	150.00	plus \$0.10 per sq. ft. plus \$50.00 for the C/O.
<u>22</u>	Parking lots—Commercial, institutional, other	100.00	

23	Change of use	65.00	
24.	Improvement location permit commercial, industrial, institutional, subdivisions, P.U.D., etc.	100.00	plus \$5.00 per acre
25.	Any submitted applications that are amended or changed after a filing number or docket number has been issued.	35.00	
26.	All inspections and reinspections		
	a. Residential	40.00	
	b. Commercial, industrial institutional, other	75.00	
27.	Timed inspections in addition to other inspection fees	40.00	
28.	Permit Time Extensions		
	a. 1—3 months	\$40.00	
	b. 4—6 months	80.00	
	c. 6—9 months	120.00	
	d. <u>10</u> —12 months	160.00	

(Ord. No. 6-27-05-A, 6-27-2005)

Section 2. - Development changes.

1.	Minor subdivision		
	a. Conceptual plan	\$50.00	
	b. Primary plat	150.00	
	c. Construction plans	100.00	
	d. Final plat	75.00	
	e. Amendment/re-plat	100.00	
	f. Variance/waiver	50.00	per section of ordinance
2.	Major subdivision		
	a. Sketch plan	\$125.00	plus \$3.00 per lot

	b. Primary plan	225.00	plus \$10.00 per lot
	c. Construction plans	200.00	
	d. Secondary/final plan	150.00	
	e. Amendment/replat	100.00	
	f. Variance/waiver	50.00	per section of ordinance
3.	Rezoning		
	a. Zoning ordinance amendment (text or map)	350.00	
4.	Developmental standards variance	125.00	plus \$25.00 for each addition section of zoning ordinance varied
5.	Land use variance	300.00	
6.	Renewal variance	75.00	each renewal
7.	Special uses		
	a. Residential	150.00	
	b. Other	300.00	
	c. Amendment	100.00	
8.	Development plan and P.U.D's		
	a. Original development plan	400.00	plus \$10.00 per acre
	b. Amendment	150.00	
9.	Appeal	50.00	

<u>10</u>	Aesthetic Review Overlay District		
	a. Original plans	200.00	plus \$10.00 per acre
	b. Amendment	100.00	
<u>11</u>	Horizontal property		
	a. Initial plans	250.00	
	b. Amendment	100.00	
12.	Mobile home parks	225.00	plus \$15.00 per mobile home space
	a. Change or addition	100.00	
13.	Wind Energy Conversion System (WECS) Overlay District		
	a. Commercial WECS tower	1,000.00	each
	b. Commercial WECS accessory structures	500.00	for each structure
	c. Non-commercial WECS	250.00	each
	d. Private WECS	100.00	each

(Ord. No. 6-27-05-A, 6-27-2005; Ord. No. 11-22-10-A, 11-22-2010)

Section 3. - Additional inspections.

(Fees for initial inspections are included in the cost of the Improvement Location Permit fees.)

1.	Footing and underslab plumbing:		
	a. Residential	40.00	per inspection
	b. Commercial/industrial/other	75.00	per inspection
2.	Electrical—New meter base, meter base relocation and panel upgrades:		

	a. Residential	40.00	per inspection
	b. Commercial/industrial/other	75.00	per inspection
3. Rough-in (electrical, plumbing, heating and air conditioning):			
	a. Residential	40.00	per inspection
	b. Commercial/industrial/other	75.00	per inspection
4. Final structure:			
	a. Residential	40.00	per inspection
	b. Commercial/industrial/other	75.00	per inspection
5. Final site:			
	a. Residential	40.00	per inspection
	b. Commercial/industrial/other	75.00	per inspection
6. All Other inspections:			
	a. Residential	40.00	per inspection
	b. Commercial/industrial/other	75.00	per inspection

(Ord. No. 6-27-05-A, 6-27-2005)

Section 4. - Additional fees.

1.	Missed inspections—Per each project.	
	1st	\$75.00
	2nd	150.00
	3rd or more	250.00 each
2.	Same company or individual—Additional projects.	
	1st	\$150.00
	2nd or more	300.00

3.	Occupying or using any structure or part of a structure or fixture prior to a Certificate of Occupancy/Compliance being issued.	
	\$250.00	
4.	Same company or individual—Additional projects.	
	1st	\$250.00
	2nd or more	400.00

(Ord. No. 6-27-05-A, 6-27-2005)

Section 5. - Fines and penalties.

The board of zoning appeals and/or plan commission, whichever board has jurisdiction, by mandatory injunction in the circuit and/or superior court of the county against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this article, or the removal of any use or condition in violation of this article.

Any person who violates any provision of this article or any regulation of the plan commission or the board of zoning appeals hereunder enacted, shall be fined not less than \$10.00 and not more than \$2,500.00. Each day a violation occurs or continues constitutes a separate offense.

Payment of any violation shall be made to the Hamilton County Plan Commission who shall deposit the funds in the General fund or plan commission fund as determined by the auditor's office. A receipt of payment must be recorded and a receipt issued to the person making the payment.

(Ord. No. 6-27-05-A, 6-27-2005)

Section 6. - Appeals or trials.

Any person receiving a notice of violation and/or fines may appeal the violation and/or fine to the board of zoning appeals within 30 days after receiving a notice of violation then to the court of jurisdiction.

(Ord. No. 6-27-05-A, 6-27-2005)

Section 7. - Permit time limits.

- a. *Initiation of work:* If the work described in any building permit or Improvement Locations Permit has not begun within three months from the date of issuance, said permit shall expire; no written notice shall be given to the persons affected.
- b. *Completion of work:* If the work described in any Improvement Location Permit has not been completed within 18 months of the date of issuance thereof for primary structures and nine months for an accessory structures, said permit shall expire; no written notice of expiration shall be given to the persons affected. Work shall not proceed unless and until a new Improvement Location Permit has been obtained and inspections completed.

(Ord. No. 6-27-05-A, 6-27-2005)

ARTICLE 20. - TELECOMMUNICATIONS FACILITIES

FOOTNOTE(S):

--- (1) ---

Cross reference— Commercial districts and uses, art. 6.

--- (2) ---

Note— Not included in these definitions are AM radio, noncommercial but residential type radio, TV, ham two-way radio, short wave radio, antennas and satellite dishes but which may be included in other sections of this zoning ordinance.

Section 1. - Purpose.

The purpose of this ordinance is to provide for sensible and reasonable land uses to allow for the provision of adequate reliable public and private telecommunications service and to maximize the use of any transmission tower in order to reduce the total number of towers needed to serve the telecommunications needs of the area; to minimize adverse visual effects of towers through careful design, siting, and vegetative screening.

(Ord. No. 3-9-98-B, 3-9-1998)

Section 2. - Definitions.

Antenna. ¹²¹ A structure or device that is used for the purpose of receiving and or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional or omni-directional antennas, panels, and microwave or satellite dishes.

Co-location. Means that a number of different telecommunications providers or different use antennas by the same provider or several providers locate their transmitting facilities on a single tower to allow the use of a number of different kinds of public and private telecommunications services including police, fire, emergency management, storm warning etc.

Tower† A ground pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, a meteorological device, or other similar apparatus aboveground for use as a wireless telecommunications facility.

Roof-mounted antenna.† Any device attached to a building, or structure that is used for wireless telecommunications service.

Wireless telecommunications facility.† A wireless telecommunications facility consists of the equipment and structures utilized to transmit and or receive telecommunication signals to and from any communications source which may also be connected to a mobile and or stationary unit with land-based facilities including but not limited to all antennas, towers and accessory structures.

Wireless telecommunications service. Licensed public commercial wireless telecommunications services, including but not limited to cellular, digital, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and other similar services that are marketed to the general public.

(Ord. No. 3-9-98-B, 3-9-1998)

Section 2. - Wireless telecommunications facility general requirements.

A.) *General.* All wireless telecommunications facilities shall meet the following provisions:

- 1.) The location of the tower and equipment buildings shall comply with all local, state and federal natural resource protection standards.
- 2.) The following buffer plantings shall be located around the perimeter of the outer most perimeter or security fence of a wireless telecommunications facility.
 - a. A live evergreen screen shall be planted around the entire facility including the guy wires and anchors, if used, that consist of a hedge, planted three feet on center maximum, or a row of evergreen trees planted a maximum of ten feet on center, height of plants at time of planting shall be no less than five feet tall.
 - b. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- 3.) An antenna may be located on a building or structure that is listed on a historic registry only after obtaining all necessary and required approvals. Any antenna located in a historic district will require approval by the advisory board of zoning appeals for a special use approval.
- 4.) Vehicular access to the tower and equipment building shall, whenever feasible, be provided along the existing driveways.
- 5.) The wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance and emergencies.

B.) *Roof mounted antennas.* The following chart shows where roof mounted antennas are permitted, and where and how they are restricted and necessary approvals.

Unscreened <u>11</u> or more feet above the roof line	Unscreened 10 or less** feet above the roof line
BZA approval	Director's approval
Screened <u>11</u> or more feet above the roof line	Screened 10 or less feet above the roof line
Director's approval	Director's approval
**If within 200' of residential property lines BZA approval required	

(Ord. No. 3-9-98-B, 3-9-1998)

Section 3. - Zoning districts.

A.) *Residential and agriculture districts.*

- 1.) A wireless telecommunications facility shall require a special use approval from the advisory board of zoning appeals and meet all the general and following requirements when located in a residential and or agriculture district:

- a. The tower shall be setback from any property line a distance equal to at least 100 percent the height of the tower.
- b. Maximum height: tower 125 feet, accessory structures 15 feet.
 1. Minimum number of antenna sites for a 125 feet tower is three; if tower is less than 125 feet refer to [article 20, section] 7.D.
- c. The tower shall be a monopole design.

B.) *Office and commercial districts.*

- 1.) Wireless telecommunications facility shall require approval as special uses by the advisory board of zoning appeals in all office and commercial districts and meet the following and all other requirements within this ordinance.
 - a. Minimum setback: equal to 80 percent of the height of the tower.
 - b. Maximum height: tower 180 feet accessory structure 15 feet.
 - c. Minimum number of antenna sites for a 180 feet tower is four; if tower is less than 180 feet refer to [article 20, section] 7.D.
 - d. Tower shall be placed no closer than 500 feet to any residential structure if closer will require special use approval by the advisory board of zoning appeals.

C.) *Manufacturing districts.*

- 1.) A wireless telecommunications facility shall be permitted in manufacturing districts M-1, M-2, and M-3 that meet the following and all other requirements within this ordinance.
 - a. Minimum setback from the property line: equal to 50 percent of the height of the tower.
 - b. Maximum height: tower 250 feet—accessory structure 15 feet.
 - c. Minimum number of antenna sites for a 250 feet tower is six; if tower is less than 250 feet refer to [article 20, section] 7.D.
 - d. Tower shall be placed no closer than 500 feet to any residential structure if closer will require special use approval by the advisory board of zoning appeals.

(Ord. No. 3-9-98-B, 3-9-1998)

Section 4. - Tower, antenna and support structures design requirements.

Proposed or modified towers and antennas shall meet the following design requirements:

- A.) Tower and antennas shall be designed to blend into the surrounding environment through the use of color, camouflaging and architectural treatment, except in instance where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- B.) Wireless telecommunications service towers less than 131 feet tall shall be of a monopole design and when located within an environmentally, aesthetically sensitive area or a residential district, designed in such a way as to architecturally camouflage the wireless telecommunications service tower as much as reasonably practical to blend into the surroundings.
- C.) The entire facility must be aesthetically and architecturally compatible with its environment. The use of residentially compatible materials such as wood, brick, or stucco is required for associated support structures, which shall be designed to architecturally match the exterior of residential or commercial structures within the neighborhood or area. Only if the facility will be 100 percent screened during all seasons will other materials be approved.
- D.) Only when lighting is for safety or security reasons or required by the Federal Aviation Administration or other federal or state authority will it be permitted. When approved the lighting shall be oriented inward so as not to project onto surrounding residential properties.

(Ord. No. 3-9-98-B, 3-9-1998)

Section 5. - Application requirements.

A.) *Application requirements.*

- 1.) At the time of submission of an application for special uses or building permit the applicant shall submit an initial or updated plan showing the location of existing and future planned telecommunications towers, within an area of ten miles in all directions of the proposed facility for a two to five year time period.
- 2.) Site plan(s) drawn to scale identifying the site boundary; tower(s); guy wire anchors; existing and proposed structures, including accessory structures; existing and proposed ground-mounted equipment; vehicular parking and access road; and any existing uses, structures, and land use designations on the proposed site and within 500 feet or abutting parcels, whichever is further.
- 3.) A landscape plan drawn to scale generally showing proposed landscaping, including species type, size, spacing, other landscape features and existing vegetation to be retained, removed or replaced.
- 4.) A report from a qualified individual(s) containing the following, which shall not limit the tower height or design or the number and type of antennas that shall be permitted unless expressly so stated in this ordinance:
 - a. A description of the tower and the technical and other reasons for the tower design.
 - b. Documentation to establish that the tower has sufficient structural integrity for the proposed uses at the proposed location and meets the current minimum safety requirements.
 - c. The general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.

- 5.) A letter of intent stating that applicant intends to lease excess space on the tower to other potential users at reasonable rental rates and on reasonable letter shall commit the tower owner and successors in interest to do the following:
 - a. Respond in a timely, comprehensive manner to a request for information from another potential user of the tower.
 - b. Negotiate in good faith for shared use by others.
 - c. Allow shared use if an applicant agrees in writing to pay reasonable rental charges or other consideration and to pay all costs of adapting the tower or existing users equipment to accommodate a shared user without causing uneconomically correctable electromagnetic interference, and otherwise agree on reasonable business terms and conditions for shared use of the tower.
- 6.) Letter of consent by property owner if not same owner of the tower.
- 7.) Show any easements necessary for access, guy wire anchors or other off-site uses on the site plan.
- 8.) Applications for towers intended for transmitters that will broadcast at a power in excess of 1,000 watts of radio frequency power per transmitter must include evidence that the applicant has contacted owners of all existing or approved towers and that the equipment for which the proposed tower is being constructed cannot be technologically or structurally accommodated on an existing or approved tower. Applicants for FM radio and high power UHF and VHF television station antennas shall only be required to contact the owners of towers whose height in 200 feet or whose tower can reasonably satisfy the requirements for height above average terrain and geographic location as set forth in their application and/or granted of construction authority from the FCC. Such evidence shall include the following:
 - a. A list of contacts.
 - b. The antenna specifications including, but not limited, to the weight and wind loading requirements; length, width and height; and transmitter space requirements provided to the tower owner(s) or representative(s).
- 9.) The board may require in residential areas visual study containing, at a minimum, a viewshed map depicting where within one mile radius any portion of the proposed tower could be seen, and a graphic simulation showing the appearance of the proposed tower and accessory structures from three points within the view shed, such points to be mutually agreed upon by the plan commission staff and applicant.
- 10.) An analysis of the area to be used containing the following:
 - a. Existing topographical contours based on the best available existing maps.
 - b. Bodies of water and intermittent or perennial streams.
 - c. Major vegetation masses.
 - d. Existing roads and structures.
 - e. Existing easements or rights-of-way (i.e., drainage, utility, irrigation, access, etc.) in or contiguous to the site.
 - f. Identified mineral resource area.
 - g. Where the area in which construction will occur contains slopes greater than ten percent, a slope analysis of the area affected by construction depicting locations and direction of slope faces for slope faces for slopes within the following categories: 0—8 percent, 9—15 percent, 16—22 percent, 23—30 percent, greater than 30 percent.
 - h. Floodplains/floodways.
 - i. Location of special potential hazards such as geologic hazard overlay zone, airports or radiological hazards.
 - j. Location of special resources such as well fields, historic structures, and archaeologically significant remains.
- 11.) Elevations of the proposed tower and accessory structures generally depicting all proposed antennas, platforms, finish materials, and all other accessory equipment.

(Ord. No. 3-9-98-B, 3-9-1998)

Section 6. - Permits.

- A.) It shall be unlawful for any person, firm or corporation to erect, construct, place or re-erect, or replace any tower or antenna without first making application to the Hamilton County Plan Commission or its designee and securing a permit therefor as hereinafter provided.
- B.) The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.
- C.) Permits are not required for:
 - 1.) Adjustment or replacement of the elements of antenna array affixed to a tower or antenna, provided that the replacement does not reduce the safety factor.
 - 2.) Antennas and/or towers erected temporarily for test purposes, for emergency communication, provided that no safety or personal property will be hindered in the process. All temporary antennas and or towers will be removed within 72 hours following installation.

(Ord. No. 3-9-98-B, 3-9-1998)

Section 7. - Co-location requirements.

Any request submitted to the Office of the Hamilton County Plan Commission to install an antenna to be located on an existing approved or grandfathered tower will only require a building permit and the contract between the applicant company and the owner of the tower.

All commercial wireless telecommunications towers erected, constructed, or located within the Hamilton County Plan Commission jurisdiction shall comply with the following requirements:

- A.) All towers at a minimum are to be constructed to support the initial user (wireless telecommunications antenna) plus handle the anticipated loading of a second user on a monopole and third user on all other towers equal to the antenna loading of the initial user.
- B.) The size of the site of the initial tower and support facility shall be sufficient area to allow for the location of one additional support facility for future co-location antennas on a monopole tower and sufficient area to allow for the location of two additional support facilities for future co-location antennas or all other towers.
- C.) A proposal for a new commercial wireless telecommunications service tower shall not be approved unless the applicant submits verification that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building or other structure due to one or more of the following reasons:
 - 1.) The planned equipment would exceed the structural capacity of the existing or approved tower, building, or structure as documented by a qualified and licensed professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified, or replaced to accommodate existing and planned equipment at a reasonable cost.
 - 2.) The planned equipment would cause interference impacting the usability of other existing or planned equipment at the tower site. Supportive documentation shall be provided by a qualified and licensed professional engineer indicating that the interference cannot be prevented at a reasonable cost.
 - 3.) No existing or approved tower, building or structure within the search radius can accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - 4.) Unforeseen reasons make it infeasible or impossible to locate the planned telecommunications equipment upon an existing or approved tower, building or structure.
 - 5.) Unable to enter a commonly reasonable lease term with the existing tower owner.
 - 6.) If agreement cannot be reached between parties both parties shall agree to binding arbitration.
 - 7.) Additional land area is not available.
- D.) Any proposed commercial wireless telecommunications service tower shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicant's antenna array and at least one additional user's antenna array for every 30 feet of tower above 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and accept antennas mounted at varying heights.

(Ord. No. 3-9-98-B, 3-9-1998)

Section 8. - Construction and maintenance of wireless telecommunications facility.

- A.) *Construction requirement.* All antennas, towers, accessory structures and wiring constructed within the Hamilton County Plan Commission jurisdiction, shall comply with the following requirements:
 - 1.) All applicable provisions of this Code and the Building Code of the State of Indiana and the Federal Communications Commission when applicable.
 - 2.) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the uniform building code and the electronics industry association.
 - 3.) With the exception of necessary electric and telephone service and connection lines approved by the advisory board of zoning appeals no part of any antenna or tower nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, trails or property line without appropriate approval in writing.
 - 4.) The tower and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the national electrical code.
 - 5.) All towers shall be constructed to conform with the requirements of the occupational safety and health administration.
 - 6.) An eight-foot high security fence shall completely surround the tower (and guy wires if used) and equipment building.
 - 7.) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower, antenna and a structure, or between towers, shall be at least ten feet above the ground at all points, unless buried underground.
 - 8.) The tower shall be designed and constructed to all applicable manuals and standards of the American National Standards Institute as amended.
 - 9.) An engineer's certification shall be submitted to document and verify the design specifications, including, but not limited to, the foundation for the tower, and anchors for the guy wires if used, co-location, strength requirements, for natural forces, including, but not limited to, ice, wind, and earth movements.
 - 10.) Towers and antenna shall be designed and constructed, at a minimum, to withstand wind gusts of at least 80 miles per hour with one-half inch of ice and to accommodate any co-location requirements.
- B.) *Existing antennas and towers.*
 - 1.) Towers may continue in use for the purpose used on March 9, 1998, and as existing on that date but may not be replaced or structurally altered without complying in all respects to the requirements in this ordinance.
 - 2.) If such towers are damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location,

and physical dimensions upon obtaining a building permit; provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be ten percent or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with all requirements in this ordinance.

C.) *Inspections.*

- 1.) All towers may be inspected at least once every five years by an official of the Hamilton County Plan Commission and/or a qualified and licensed engineer to determine compliance with the original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this ordinance.
- 2.) Notice of violations will be sent by registered mail or certified mail to the owner and the owner will have 30 days from the date the notification is issued to make repairs. The owner will notify the building inspector that the repairs have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the results.

D.) *Abandonment.*

- 1.) Any tower unused or left abandoned for 12 months shall be removed by the tower owner.

(Ord. No. 3-9-98-B, 3-9-1998)

ARTICLE 21. - ENFORCEMENT

A. - VIOLATIONS OF THIS ORDINANCE

Section 1. - Violations.

If any new construction shall be commenced; or if any structural change, alteration, or extension shall be commenced; or if any building shall be moved within the jurisdictional area of the county, prior to the issuance of an improvement location permit therefor, such action is hereby declared to be a violation of this section by the person performing such construction or work and the person owning such real estate.

Section 2. - Common nuisance.

A structure erected, raised, or converted, or land or premises used, in violation of IC 36-7-4 or this ordinance, is a common nuisance, and the owner or possessor of the structure, land, or premises is liable for maintaining a common nuisance.

State law reference— Similar provisions, IC 36-7-4-1012.

B. - PENALTIES FOR VIOLATION

Section 1. - Procedure.

The procedures for the enforcement of this ordinance are as follows:

- a. Actions for injunction for violations of this ordinance shall be instituted by the commission to restrain individuals or governmental units from violating the provisions of this ordinance as enacted pursuant to IC 36-7-4, except that such actions may also be instituted by the county, as hereinbefore provided.
- b. The plan director shall be the designated enforcement officer and shall act for the commission and shall not be personally liable for his or her official acts.
- c. The commission as relator or otherwise, may institute suits for mandatory injunctions directing individuals or governmental units to remove structures erected in violation of the provisions of this ordinance. If the commission shall be successful in any such suit, the respondent shall bear the cost of the action.

Section 2. - Additional fees and fines.

- a. Any person who knowingly engages in any activity under the control of this ordinance without first obtaining the required improvement location permit shall have violated the terms of this ordinance and shall be liable to pay a fee of \$25.00 in addition to the fees required under article 19. If any person required to pay this additional fee subsequently fails to obtain the required permit, that person shall pay a fee of \$50.00 in addition to the fees required under article 19, on each and every occasion the required permit is not obtained.
- b. Any person who violates any provision of this ordinance or any regulation of the commission hereunder enacted, shall be fined not less than \$10.00, and not more than \$300.00. Each day a violation occurs or continues constitutes a separate offense.

ARTICLE 22. - AMENDMENT, VALIDITY AND ADOPTION

Section 1. - Amendments.

All amendments to this ordinance shall be in conformance with relevant provisions of IC 36-7-4-600 et seq., as now or hereafter amended.

Section 2. - Validity.

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

Section 3. - Adoption.

CERTIFICATION BY THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY

To the Hamilton County Plan Commission:

Be advised that pursuant to IC 36-7-4-607, the Board of Commissioners of Hamilton County has made certain amendments to the ordinance originally certified by the plan commission to the commissioners. Those changes are reflected by the minutes of the meeting of the Board of Commissioners of Hamilton County of the April 16, 1990, and May 7, 1990, meeting. These amendments are returned to you pursuant to IC 36-7-4-6-7(e)(4).

Adopted this 7th day of May, 1990.

	Board of Commissioners of Hamilton County
	_____ Peg L. Goldberg
	_____ Steven A. Holt
	_____ Steven C. Dillinger
Attest:	
_____ Polly Pearce, Auditor	

COMMISSIONS REPORT OF APPROVAL
CERTIFICATION BY THE
HAMILTON COUNTY PLAN COMMISSION

To the Hamilton County Commissioners:

Be advised that pursuant to IC 36-7-4-607 the Hamilton County Plan Commission did, at a scheduled meeting of the Plan Commission on Thursday, May 10, 1990, approve the amended Zoning Ordinance (amended Monday, April 16, 1990 and May 7, 1990 by the Hamilton County Commissioners). This Certificate is to be filed with the Hamilton County Commissioners.

	Hamilton County Plan Commission President
	____ Date _____
Attest:	
____ Date _____	

Section 1. - Findings and purpose.

Create and establish regulations and a map for Wellfield Protection Zones.

Whereas, the safety and potability of the community's water supply requires that lands near wellfields used to supply water for public purposes be subject to land use controls designed to prevent site development that is injurious to the public water supply; and

Whereas, commercial and industrial uses, if unregulated, have an immediate probability of permitting the introduction of toxic substances into the water supply; and

Whereas, local water utilities, in compliance with Indiana Department of Environmental Management mandates for community public water systems, are presently establishing wellfield protection programs as a first step towards protecting their public water supply wellfields; and

Whereas, all public water supplies in Hamilton County are totally dependent on groundwater as the source for public water supplies; and

Whereas, existing and future development in Hamilton County is dependent on the availability of a safe and dependable supply of drinking water;

(Ord. No. 04-28-03-A, 4-28-2003)

Section 2. - Definition (IC 13-7-7-8; Rule 327 I.A.C. 8-4.1).

A *public water system* is defined as a system which has 15 or more service connections, or regularly serves at least 25 people 60 or more days a year. A system that serves water 60 or more days a year is considered to "regularly serve" water. Public water supply systems (PWSSs) can be publicly or privately owned.

PWSSs are further subdivided by regulations into two major categories: community and noncommunity water systems. This division is based on the type of consumer served and the frequency the consumer uses the water. In general, a community system serves water to a residential population, whereas a noncommunity system serves water to a nonresidential population. The noncommunity category is further broken down into two categories; non-transient, noncommunity water systems and transient noncommunity water systems. The following definitions and examples further clarify the system designations:

Community water system. A public water system that pipes water for human consumption to at least 15 service connections used by year-round residents, or one that regularly serves at least 25 year-round residents (e.g., municipalities, subdivisions, mobile home parks).

Noncommunity water system. A public water system that pipes water for human consumption to at least 15 service connections used by individuals other than year-round residents for at least 60 days a year, or serves 25 or more people at least 60 days a year (e.g., schools, factories, rest stops, interstate carrier conveyances).

Nontransient, noncommunity water system. A noncommunity water system that serves at least 25 of the same persons over six months per year (e.g., schools, factories, industrial parks, office buildings).

Transient noncommunity water system. A noncommunity water system that does not meet the definition of a nontransient, noncommunity water system (e.g., highway rest stops, restaurants, motels, golf courses, parks).

Examples of noncommunity water systems.

Noncommunity public water supply systems:

Nontransient/transient:

- Nonresidential schools and institutions.
- Public buildings.
- Office buildings.
- Industries.
- Day care centers.
- Industrial parks.

Anyone that employees at least 25 people:

- Churches.
- Restaurants.
- Motels/hotels.
- Campgrounds.

- Rest areas (highway).
- Parks.
- Service and gasoline stations.
- Shopping centers.
- Airports.
- Recreation areas.
- Marinas.
- Camps/clubs.

(Ord. No. 04-28-03-A, 4-28-2003)

Section 3. - Applicability.

The following requirements apply to all land within the Wellfield Protection Zones, as defined in subparagraph C, with the exceptions of all uses existing at the time of passage of this article, all agricultural uses (including agricultural confinement feeding and agricultural chemical uses and the storage of petroleum products) and of single and multi-family residential land uses connected to municipal sanitary and storm sewers. After the effective date of this article:

No building, structure, premises, or part thereof shall be constructed, erected, enlarged, extended, or relocated except in conformity with these regulations and for uses permitted by this article and until the proposed site and land use description has been filed with and approved by the Hamilton County Surveyor's Office.

(Ord. No. 04-28-03-A, 4-28-2003)

Section 4. - Establishment of wellfield protection zones.

For purposes of this article, the following areas are designated as Wellfield Protection Zones:

Zone 1. The area contained within a one-year time-of-travel to a public water supply well or wellfield, as defined by a modeled delineation performed in compliance with 327 IAC 8-4.1; or

The areas within 1,000 feet of a public water supply well.

Zone 2. The area contained within a five-year time-of-travel to a public water supply well or wellfield, as defined by a modeled delineation performed in compliance with 327 IAC 8-4.1; or

The areas within 3,000 feet of a public water supply well.

(Ord. No. 04-28-03-A, 4-28-2003)

Section 5. - Site and plan review.

- a. *Development plans required.* Unless otherwise exempted under [this section] any proposed land use within a Wellfield Protection Zone must submit a site and development plan, as described in [this section].
- b. *Exemptions.* The following are not required to submit site and development plans:
 1. *Zone 1 district.* Any land use, in the ordinary course of their business, that has, or will have, less than the threshold amount of one gallon of liquids in the aggregate or six pounds of water soluble solids; and
 2. *Zone 2 district.* Any land use, in the ordinary course of their business, that has, or will have, less than the threshold amount of 100 gallons of liquid in the aggregate or 600 pounds of water soluble solids in the aggregate.
 3. In determining thresholds, the following substances shall be exempted:
 - (a) Reasonable quantities of substances used for routine building and yard maintenance stored inside a facility;
 - (b) Liquids required for normal operation of a motor vehicle in use in that vehicle;
 - (c) Substances contained within vehicles for bulk deliveries to the site;
 - (d) Beverages and food at restaurants, supermarkets, convenience stores, and other retail food establishments;
 - (e) Uncontaminated public water supply water, groundwater and/or surface water;
 - (f) Substances, which are packaged in pre-sealed containers, sold at retail establishments;
 - (g) Substances utilized for the production and treatment of public water supply; and
 - (h) Substances, which due to their inherent chemical or physical properties, that are determined to pose no significant threat to groundwater quality.
- c. *Plan review.* Property located within Zones 1 and 2 proposed for new construction or expansion of existing facilities shall prepare and submit a description of said construction or expansion and the new or expanded use of the property. The site description shall be submitted to the Hamilton County Surveyor's Office for review and either approval, disapproval, or approval with conditions. The Hamilton County Surveyor's Office may solicit

comments from the Hamilton County Health Department and the applicable water utility on the site and development plan.

In reviewing the site and land use description, the Hamilton County Surveyor's Office shall assess whether the site and proposed land use:

1. Will prevent potential groundwater contaminants associated with human activity from interfering with each community public water supply system's ability to produce drinking water that meets all applicable federal and state drinking water standards after undergoing conventional groundwater treatment, as employed by the public water supply system. These treatment processes include, but are not limited to aeration, detention, pressure filtration, and disinfection;
2. Will not unreasonably endanger the quality of groundwater in a designated wellhead protection area. An unreasonable risk includes, but is not limited to, the inappropriate storage, handling, use and/or production of metals, inorganic compounds, volatile organic compounds, semi-volatile organic compounds or other substances listed at 40 CFR Part 355, or defined at Chapter 4 of the Hamilton County Code, "Hazardous Material Emergencies" (10-4-4-1) within a wellhead protection area; and
3. The site complies with the standards and prohibitions listed in section [6, below].

(Ord. No. 04-28-03-A, 4-28-2003)

Section 6. - Plan documentation and supporting information.

Said site and development plans shall include the following:

a. *A narrative report of the proposed site, including:*

1. A narrative description of the site including any existing uses, setbacks, available sewage disposal facilities, and a brief history of the site (including any former uses, historical environmental concerns, abandoned wells, underground storage tanks, septic systems, etc.);
 - (a) Description of the proposed operations, including chemical/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures;
 - (b) Methods and locations of receiving, handling, storing and shipping chemicals/products and wastes;
 - (c) Spill or release response measures and reporting;
 - (d) Description of slopes near containment vessels and waste storage areas.

b. *A site plan including:*

1. A vicinity map (USGS quadrangle preferred);
 - (a) A site map (drawn to scale) depicting:
 - All existing and proposed structures;
 - Paved and non-paved areas;
 - Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing);
 - Floor drain locations and outlets;
 - Chemical/product storage locations;
 - Waste storage locations;
 - Liquid transfer areas;
 - Site surface water bodies (streams, rivers, ponds);
 - Underground storage tanks (and associated piping);
 - Aboveground storage tanks (and associated piping);
 - Slope and contours of finished grade at two-foot intervals;
 - Regulated drains; and
 - Any and all easements.

2. Proposed containment area detail drawings, including area, heights, materials, specifications, if applicable.

(Ord. No. 04-28-03-A, 4-28-2003)

Section 7. - Development standards and prohibitions.

- a. Except for single-family residences (with sewage flows under 750 gallons per day), all development shall be connected to municipal sanitary sewers or combined sewers. Floor drains, if present, must be connected to sanitary sewers or combined sewers or routed to a temporary holding area for removal.
 1. No surface impoundments, pits, ponds or lagoons shall be established except for:
 - Stormwater detention and retention ponds; and

- Recreation, landscaping, or public water supply purposes.
2. In Zone 1, detention and retention ponds shall be constructed in a manner that provides an effective barrier to the migration of potential groundwater contaminants into groundwater, as demonstrated by sealing the bottom of the structure with clay or other approved low permeability material.
 3. The following restrictions apply to new storage areas in Zone 1:
 - (a) No aboveground storage of liquid and/or petroleum of greater than 1,000 gallons in aggregate;
 - (b) No storage of water-soluble solids of more than 6,000 pounds per container in any one containment area;
 - (c) No new underground storage tanks (USTs) are permitted.
 4. All aboveground storage of liquids in excess of 40 gallons for more than 24 hours within Zones 1 and 2 must provide secondary containment which meets the following requirements:
 - Containment must be capable of containing 110 percent of the volume of the tank or tanks;
 - Constructed to meet one of the following:
 - Designed to prevent and control the escape of the contaminant(s) into groundwater for a minimum of 72 hours before removal; or
 - Designed and built with an outer shell and a space between the tank wall and outer shell that allows and includes interstitial monitoring.
 - The secondary containment structure shall be properly maintained and shall be free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the structure; and
 - Secondary containment systems shall be designed so that the intrusion of precipitation is inhibited or that stormwater is removed to maintain system capacity.
 5. In Zone 1, the following requirements apply to existing fuel dispensing facilities and associated underground storage tanks (USTs) which are to be replaced or upgraded:
 - (a) All USTs shall be double walled;
 - (b) All USTs shall include the following three methods of release detection:
 - Inventory control as defined in 40 CFR 280.43(a);
 - Monthly 0.2 in-tank leak test as defined in 40 CFR 280.43(d); and
 - Interstitial monitoring of a double walled approved UST as defined by 40 CFR 280.43(g);
 - (c) Connected piping must include the following three methods of release detection:
 - Inventory control;
 - Continuous detection for three gallon per hour line leak, as specified in 40 CFR 280.44(a) except that automatic shutoff is required at 95 percent tank capacity; and
 - Double walled line which is continuously monitored to detect the presence of liquid in the interstitial space and provided an alarm as specified in 40 CFR 280.44c via 40 CFR 280.43g.
 6. In Zone 2, the requirements of 40 CFR Part 280 apply to all existing, registered USTs that are replaced or upgraded and USTs installed at new fuel dispensing facilities. In addition, the construction standards of 40 CFR Part 280, applicable to non-petroleum USTs, shall be applicable to the following in Zone 2:
 - (a) Such a tank that is covered by State or federal hazardous waste regulations; and
 - (b) Heating oil tanks for on-site use.
 7. All Class V Injection Wells (including but not limited to dry wells, large-capacity cesspools, motor vehicle waste disposal wells, or other injection wells as defined at 40 CFR 146) shall be prohibited with the exception of the following:
 - (a) Air-conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump, if non-contact;
 - (b) Cooling water return flow wells used to inject water previously used for cooling, if non-contact;
 - (c) Barrier recharge wells used to replenish the water in an aquifer or to improve groundwater quality, provided the injected fluid does not contain potential groundwater contaminants; and
 - (d) Wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power, if non-contact.
 8. The transfer area for bulk delivery of liquids shall be required to accommodate and contain a release that occurs during loading and unloading of a tank as follows:
 - (a) The liquid transfer area shall be constructed in a manner to prevent a release in the transfer area from reaching the groundwater; and
 - (b) The portion of the liquid transfer area intended to contain releases shall be maintained so that it is free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardizes the integrity of the area.

9. No disposal of solid waste, as defined at 329 IC 10-2-174, or other hazardous materials as defined at 40 CFR Part 355, or defined at Chapter 4 of the Hamilton County Code, "Hazardous Material Emergencies" (10-4-4-1) shall be permitted in either Zone 1 or Zone 2.
10. The following requirements apply to all excavation activities associated with the removal of sand and gravel materials:
 - (a) If the extraction of sand and gravel involves the removal of materials below the normal groundwater level, the work shall be performed by means of a dragline, floating dredge, or an alternative "wet" excavation method.
 - (b) There shall be no de-watering of sites utilized for sand and gravel extraction.
 - (c) No form of solid waste (as defined at 329 IC 10-2-174) or any other form of waste material of any kind, including but not limited to construction/demolition debris, shall be used on the site. Clean natural earth fill materials may be used without restriction as to origin or placement on-site.
 - (d) All fuels, oils, lubricants, hydraulic fluids, petroleum products, or other similar materials on site shall have appropriate secondary containment, as specified in subsection 5.[, of this section.]

(Ord. No. 04-28-03-A, 4-28-2003)

Section 8. - Establishment of new wellfield.

Any person who wishes to establish a new wellfield for a public water supply system must first apply to the Hamilton County Plan Commission, which shall hold a public hearing and make recommendations to the Hamilton County Board of Commissioners as to whether or not to approve the application. Notice of the hearing shall be given as follows:

1. By publication pursuant to IC 5-3-1-6; and
2. By certified mail, return receipt requested to all owners of real estate, as certified by the Hamilton County Auditor's office, whose real estate lies, in whole or part, within the proposed Zone 2 of the wellfield.

Table 1
Cross-Reference of Development Standards and Prohibitions
by Land Use Wellfield Protection Zones

Land Use	Zoning District	
	Zone 1 (One-Year TOT)	Zone 2 (Five-Year TOT)
Sanitary land fills	Prohibited	Prohibited
On-site sewage disposal (commercial facilities)	Prohibited	Prohibited
Sand and gravel mining	Allowed <ul style="list-style-type: none"> • Must use "wet" excavation" • Excavation can be filled only with clean fill 	Allowed <ul style="list-style-type: none"> • Must use "wet" excavation • Excavation can be filled only with clean fill
Surface impoundments (e.g., pits, ponds and lagoons)	Prohibited <ul style="list-style-type: none"> • Exceptions for stormwater, recreation, etc. 	Prohibited <ul style="list-style-type: none"> • Exceptions for stormwater, recreation, etc.
Detention and retention basins	Allowed <ul style="list-style-type: none"> • Must be lined 	No Restrictions
New ASTs (>1,000 gallons)	Prohibited	Allowed <ul style="list-style-type: none"> • Must have secondary containment at 110% of volume
New ASTs (<1,000 gallons)	Allowed <ul style="list-style-type: none"> • Must have secondary containment at 110% of volume 	Allowed <ul style="list-style-type: none"> • Must have secondary containment at 110% of volume
Existing ASTs	Allowed <ul style="list-style-type: none"> • Must have secondary containment at 110% of volume 	Allowed <ul style="list-style-type: none"> • Must have secondary containment at 110% of volume

Storage of water soluble solids	Prohibited (In excess of 6,000 lbs)	Allowed <ul style="list-style-type: none"> • Must prevent release to ground; and • Be appropriately maintained
New USTs	Prohibited	Allowed <ul style="list-style-type: none"> • Must meet all requirements of 40 CFR Part 280
Existing USTs	Allowed <ul style="list-style-type: none"> • Must be double-walled • Must include leak detection (40 CFR 280.43) • Must have release detection on connection piping (40 CFR 240.44) 	Allowed <ul style="list-style-type: none"> • Must meet all requirements of 40 CFR Part 280
Class 5 Injection Wells (e.g., dry wells)	Prohibited	Prohibited
Liquid transfer areas	Allowed <ul style="list-style-type: none"> • Must prevent release to ground; and • Must be appropriately maintained 	Allowed <ul style="list-style-type: none"> • Must prevent release to ground; and • Must be appropriately maintained

(Ord. No. 04-28-03-A, 4-28-2003)

ARTICLE 24. - WIND ENERGY CONVERSION SYSTEM (WECS) OVERLAY DISTRICT

A. - PREAMBLE

WHEREAS, Wind Energy Conversion Systems (WECS) offer an opportunity to produce electrical power in an environmentally beneficial manner;

WHEREAS, a WECS Project will require substantial economic investment in the jurisdiction of the Hamilton County Plan Commission which will be beneficial to the county and its residents, will create both temporary and permanent employment opportunities, and will generate lease payment to Hamilton County landowners;

WHEREAS, the construction of a WECS system involves the use of heavy equipment and transportation of heavy loads which have the potential of damaging the public and private infrastructure of the county, including roads, bridges, and drainage structures and for disruption of transportation on public roads;

WHEREAS, the failure to complete a WECS after the commencement of construction, the failure of a WECS system to continue in operation and the failure to remove a WECS after the end of its useful life create significant risks and damage to the value of the property of adjacent landowners, environmental risks, safety and security risks, and could be harmful to health, safety and harmonious environment of Hamilton County;

WHEREAS, the adoption of a zoning ordinance regulating the location, construction, and operation of a WECS is necessary and appropriate to achieve and secure the benefits of a WECS and to avoid and/or minimize the risks, dangers, and inconvenience to health, safety, and general welfare of Hamilton County;

WHEREAS, the adoption of the following WECS ordinance is necessary to achieve the goals set forth in the Comprehensive Plan for the jurisdictional areas of the Hamilton County Plan Commission;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Hamilton County that a Commercial Wind Energy Conversion System (WECS) and WECS Overlay District shall meet the following standards:

B. - REZONING AND DEVELOPMENT PLAN—APPLICATION REQUIREMENTS

Rezoning and Development Plan—Application requirements are as follows:

As with any other amendment to the Hamilton County Zoning Map, the Hamilton County Plan Commission and the Hamilton County Board of Commissioners shall follow I.C. 36-7-4.602 as amended.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 1. - Application for rezone.

An application for rezoning to a commercial WECS Overlay District must be submitted to the Hamilton County Plan Commission provided all property owners within the proposed commercial WECS Overlay District are listed as co-applicants. The application shall also include the following items:

- a. A commercial WECS Project Summary, including, to the extent available:
 1. A general description of the project including its total generating capacity, the potential equipment manufacturers, the type of WECS, the number of WECS Towers, the total name plate showing generating capacity of each WECS Tower, the maximum height of the WECS, the maximum diameter of the WECS rotors, and the specific location of the project.
 2. A description of the applicant/owner/operator, including their respective business structures.
 3. A description of substations, maintenance structures, storage yards, permanent meteorological towers and equipment, and other buildings that are a direct functional part of the WECS project. These structures, within the proposed overlay district, shall be considered accessory uses.
- b. The names, addresses and phone numbers of the applicants/owners/operators, and all co-applicants.
- c. A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed district with contours of two foot intervals.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 2. - Petition for Primary Development Plan approval.

Following the creation of a commercial WECS Overlay District, a Development Plan together with a petition for Development Plan review, as specified in Article 11 of the Hamilton County Zoning Ordinance, must be submitted to the Hamilton County Plan Commission, the Hamilton County Commissioners, the Hamilton County Surveyor, and the Hamilton County Highway Department.

- a. The petition for Primary Development Plan approval shall include:
 1. A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower sites not greater than one inch equals 20 feet); the proposed location of all Wind Energy Conversion System Facilities (including locations of each WECS Tower and anchor bases (if any); WECS access roads; substations, maintenance structures; storage yards; temporary and permanent meteorological towers; electrical cabling; ancillary equipment; and any other structures that are a direct functional part of the WECS. Each tower and/or structure should be assigned a unique identification number on the site plan. In addition, the site plan shall show primary structures within one-quarter mile of any commercial WECS Zone District; property lines, including identification of adjoining properties; setback lines; public roads; county regulated drains, open ditches, all water bodies and streams; location of all above-ground utility lines within a distance of two (2) times the WECS tower height of a WECS tower; location of all existing underground utility lines associated with the WECS site; recognized historic or heritage sites as noted by the Indiana Department of Natural Resources; floodplains; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines. This site plan must also be distributed to the county surveyor, county highway department, county health department, emergency management agency, any fire departments serving any part of the site and the county sheriff(s) department.
 2. A Transportation Plan showing delivery route of all equipment as recommended by the Hamilton County Highway Department and approved by the Hamilton County Commissioners.
 3. A Drainage Plan approved by the Hamilton County Surveyor and Drainage Board. The Transportation Plan and the Drainage Plan shall establish that all newly constructed WECS access roads shall not impede the flow of water and will comply with the county drainage ordinance and highway department requirements.
 4. A Projected Sound Emissions Study for the proposed WECS.
 5. A Decommissioning Plan formulated by the applicant/owner/operator and accepted by the Hamilton County Plan Commission and the Hamilton County Commissioners to ensure that the commercial WECS Project is properly decommissioned. The Decommissioning Plan must be updated and approved by the Hamilton County Plan Commission and the Hamilton County Commissioners every five (5) years after the approval of the initial Decommissioning Plan, and in the same manner as the initial plan. The Decommissioning Plan shall include assurance that all facilities will be properly decommissioned/and removed upon the end of the project life or facility abandonment. Applicant(s)/owner(s)/operator(s) obligations with respect to decommissioning shall include removal of all physical equipment pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements such that it is suitable for an equivalent land use to what existed immediately before construction of such improvements. The applicant/owner/operator shall provide a contractor's cost estimate for demolition and removal of the WECS facility from a licensed engineer approved by the Hamilton County Plan Commission. Financial assurance of decommission shall be provided as required by Section 3-a.
- b. *The petition for Secondary Development Plan approval* shall include:
 1. A final revised site plan as described in (B), Section 2-a-1.
 2. A Security and Safety Plan which must include adequate provisions for site security and safety. If the plan includes using county services, then it should include signatures indicating those parties are aware of their role and are capable of performing it.
 3. Adequate assurance of the completion and continued operation of the WECS project from the date of the commencement of construction through the life of operation of the WECS. The owner/applicant/operator shall demonstrate such adequate assurance of completion and continued operation of the WECS project by providing evidence of: (1) adequate funding of one hundred percent (100%) of the estimated cost of

construction of the WECS; (2) performance bonds or other sureties from the owner/applicant/operator and/or major equipment suppliers and contractors; (3) the existence of written warranties from contractors and/or manufacturers which have demonstrated financial ability to repair and/or replace defective work, materials, and equipment; and (4) adequate casualty, builders risk, business interruption, and liability insurance for the replacement of the WECS and the individual components and the payment of all liabilities occurring during, arising from, or related to a casualty loss. The applicant/owner/operator shall provide cost estimates, bids, contracts, warranties, feasibility studies, engineering studies and reports, insurance certificates, loans and other financing commitments to support the above mentioned facilities.

4. Approval by the Hamilton County Plan Commission and the Hamilton County Commissioners.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 3. - Applicable state and federal permits, approvals and licenses.

After Secondary Development Plan approval is obtained, but before any construction commences or Improvement Location Permits issued, all applicable state and federal permits, approvals and licenses must be obtained and all state and federal statutes and regulations must be complied with and the following requirements satisfied:

- (1) The applicant/owner/operator of the WECS shall maintain liability policies covering (1) bodily injury and property damage and (2) environmental contamination arising from construction, operation, maintenance, and decommissioning of the WECS, with nationally recognized, well-capitalized insurance companies initially approved by the plan commission and annually thereafter by the director of the plan commission and name Hamilton County as an additional insured. Limits on the bodily injury and property damage policy shall be of at least \$2 million per occurrence and \$5 million in the aggregate with a deductible of no more than \$20,000.00 and on the environmental contamination policy shall be of at least \$1 million per occurrence and \$2 million in the aggregate with a deductible of no more than \$50,000.00.
- (2) The applicant/owner/operator shall establish a 24-hour toll-free phone number for the registering of complaints and concerns. This number shall be posted at every road intersection throughout the project area before Improvement Location Permits are issued and before any construction or earth moving can commence. If legitimate complaints are not remedied within 48 hours the county may address these complaints with any expenses incurred to be reimbursed by the WECS applicant.

Figure 406 Required toll-free number - sign example:

<u>1-000-000-000</u>	Orange, Square 30" by
Call to report problems related to Wind Farm construction	30" Sign, insert your 1-800 number in place of the sample one.

- (3) The applicant/owner/operator must attend a pre-construction meeting between the Hamilton County Plan Commission Director, the Hamilton County Plan Commission President, the Hamilton County Building Inspector, the Hamilton County Highway Engineer, the Hamilton County Surveyor and any other public officer or official whose input is deemed appropriate and the WECS applicant/owner/operator will verify that all requirements in the Hamilton County Zoning Ordinance have been met. Once reviewed, if all requirements have been met, the WECS applicant/owner/operator may then obtain Improvement Location Permits/building permits. If any requirements have not been met then further pre-construction meetings will be held until it can be verified that the identified issues have been resolved.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 4. - Plan review.

The rezoning application, the Development Plan (including but not limited to Decommission Plan and each update thereof and the assurance of completion and continued operations) and the Improvement Location Permit/building permit applications shall be reviewed by plan commission staff; counsel; an independent professional engineer, if needed; and any other professionals deemed necessary as selected or approved by the plan commission. Within 30 days of submission, the owner/applicant/operator shall reimburse the plan commission for all costs and expenses associated with the initial or any subsequent review of the Development Plan including but not limited to the employment of a professional engineer, financial consultant, or other professional advisors consulted by the plan commission. A profession engineer shall certify, as part of the Improvement Location Permit application/building permit that the foundation and tower design of the WECS is within accepted professional standards, given local soil roadway and climate conditions.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 5. - Approval.

In order for a commercial WECS Overlay District to be approved the plan commission and the board of commissioners shall determine in writing:

- (1) That the proposed commercial WECS Overlay District will not be injurious to the public health, safety, morals or general welfare of the community;
and
- (2) That the use and value of the area adjacent to the proposed commercial WECS Overlay District will not be affected in a substantially adverse manner;
and
- (3) That the proposed commercial WECS Overlay District does not interfere substantially with the comprehensive plan.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 6. - Adoption by the Hamilton County Board of Commissioners.

The Hamilton County Plan Commission, pursuant to state statutes and this zoning ordinance, merely makes recommendations to the board of commissioners. Nothing contained herein shall be construed as requiring the board of commissioners to adopt a rezone simply because it has been recommended for adoption by the plan commission.

(Ord. No. 11-22-10-A, 11-22-2010)

C. - CONSTRUCTION AND STANDARDS

Section 1. - Responsibility.

Prior to and during construction the applicant/owner/operator shall be responsible for:

- a. Implementing dust control measures during construction per Hamilton County Highway Standards.
- b. Complying with existing septic and well regulations as required by the Hamilton County Health Department and the Indiana Health Department.
- c. Repairing all damages to county regulated waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS. Damages must be completely repaired to original or better condition within 48 hours of notification and approved by the Hamilton County Surveyor and in such a manner so as not to impede the flow of water. WECS owner/operator/applicant shall be responsible for loss or damage proximately resulting from its impairment of such drainage structures.
- d. *Installing permanent, visible markers where directional boring is used.* Markers shall be placed within the line of sight indicating directional changes and borings.
- e. Submitting a weekly plan of work to the plan commission; to the county highway engineer, to the county sheriff, to the county surveyor, to the Soil and Water Conservation District, to the superintendent(s) of the school district(s) in which construction is occurring and to all emergency services within jurisdiction over the areas in which construction is occurring. This plan shall include details of where construction and transportation activities will occur, notification of any oversize or overweight loads entering or exiting the project each day as well as any work on roads and drainage areas including access roads.
- f. *Adhering to the approved Transportation Plan.* The Hamilton County Highway Engineer shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage. Applicant may be required to make spot improvements, such as improving the radi at intersections to accommodate the large load movement. The Hamilton County Highway Engineer may choose to require remediation of road damage during or upon completion of the project and is authorized to collect fees for oversized load permits. If the applicant/owner/operator does not make repairs in 48 hours after notification the county highway engineer is authorized to make repairs and charge the applicant/owner/operator a fee to cover the costs of repair. Such fees shall be established at the start date of construction and may be revised at three month intervals. Further, a corporate surety bond shall be required as approved by the Hamilton County Highway Engineer to insure the county that future repairs are completed to the satisfaction of the county. The cost of bonding is to be paid by the applicant/owner/operator. A \$1,000.00 fine shall be assessed for each occurrence where WECS oversize or overweight construction and maintenance equipment utilizes any route(s) in violation of the approved Transportation Plan. If the applicant/owner/operator or its contractors require material changes from the approved Transportation Plan or if post completion repairs, improvements, or expansions require oversize and overweight loads or involve new routes, an amended Transportation Plan must be approved in the same manner as the initial plan. When all road repairs are completed to the satisfaction of the Hamilton County Highway Engineer a County Highway Remediation Release Form will be issued.
- g. *Adhering to the approved Development Plan.* All proposed changes, modifications, or amendments to the Development Plan must be approved by the director of the Hamilton County Plan Commission and/or may require the amended Development Plan be submitted for approval by the Hamilton County Plan Commission and the Hamilton County Commissioners. The director shall have the authority and discretion, considering all relevant factors, to determine whether the proposed Development Plan change is material.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 2. - Design and installation.

Design and installation shall be as follows:

- a. Commercial WECS towers shall conform to applicable industry standards. Applicant/owner/operator shall submit a manufacturers' Certificate of Design Compliance indicating that the wind turbine complies with Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party.
- b. All commercial WECS towers shall be installed with a tubular, monopole type tower. Meteorological towers shall also be of monopole construction. All structures shall be uniform in design and appearance. Maximum height for commercial WECS tower including total height of blades is 300 feet.
- c. All commercial WECS towers shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls, (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
- d. All electrical components and collectors of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards. All WECS collector power lines between WECS towers shall be located underground.
- e. Towers and blades shall be painted with non-reflective white or gray color. The application shall comply with all applicable Federal Aviation Administration color requirements. No advertising or signage shall be allowed on a commercial WECS tower, except for manufacturers name on the nacelle.
- f. A visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- g. All commercial WECS tower designs must include features to deter climbing or be protected by anti-climbing devices such as: 1) fences with locking portals at least eight feet high, 2) anti-climbing devices 15 feet vertically from the base of the WECS tower, and 3) locked WECS tower doors.
- h. Red strobe lights are requested during the night to reduce impacts on migrating birds and red pulsating incandescent lights shall be avoided. White strobe lights at night are not allowed. All lighting shall also be in compliance with applicable Federal Aviation Administration regulations. All security lights shall be shielded so that no glare extends beyond the boundaries of the wind farm facilities.
- i. At any non-co-applicant residential structure, public school, or public library, the audible A-weighted sound pressure levels as a result of the sound emitted by the WECS shall not exceed either, the greater of 45 decibels or five (5) decibels above the Ambient Baseline Sound Pressure Level of the wind farm project area. The Ambient Baseline Sound Pressure Level, if used, shall be determined by an Acoustical Sound Specialist funded by the applicant/owner/operator. All methods for measuring and reporting acoustic emissions shall be equal to or exceed the minimum standards for precision described in the International Electrotechnical Commission IEC 61400-11 Standard: *Wind turbine generator systems - Part 11: Acoustic noise measurement techniques*. Noise and vibration levels shall also be in compliance with all other applicable county, state and federal regulations.
- j. The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be 50 feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.
- k. Setbacks shall be as follows:
 1. No commercial WECS shall be constructed within any setback, dedicated public easement or proposed public right-of-way without an approved variance from the Hamilton County North or South Board of Zoning Appeals.
 2. Except as provided herein, installation of an commercial WECS or a temporary or permanent meteorological tower may not be nearer than 1.5 times the height of the WECS including the blade at its highest point, to any property lines, proposed right-of-way line, co-applicant residences, railroad right-of-way, overhead electrical transmission or distribution lines. Also, the minimum setback distance for all substations, maintenance structures, storage yards, and other buildings that are a direct functional part of the WECS shall be not less than 500 feet from any non-co-applicant resident or public building. New structures built adjacent to wind power facilities shall maintain these same minimum setback requirements. The setback distance will be followed except in specific instances allowed by the board of zoning appeals at a variance hearing.
 3. Each individual WECS tower shall require an area of ground (site area) of no less than 40.0 acres using existing roads, property lines and/or water courses as area/site boundaries.
 4. The commercial WECS tower shall not be any nearer than 1.5 times the height of the WECS tower including the blade at its highest point to any other WECS tower.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 3. - Post-construction and continued maintenance.

Post-construction and continued maintenance requirements:

- a. Prior to the issuance of the Improvement Location Permit/building permit the owner/applicant/operator shall secure and provide to the Hamilton County Plan Commission a performance bond, surety bond, letter of credit, or other forms of financial assurance that is acceptable to the plan commission and the "decommissioning security" equal to the estimated cost of decommissioning the WECS pursuant to the Decommission Plan. The decommissioning security, in computing the estimated cost of decommissioning, shall consider and deduct the net salvage value of the WECS. The amount of the decommissioning security shall be adjusted annually by January 31 of each year by an amount equal to the increase in the CPI Index. "CPI Index" shall mean the Consumer Price Index for all "Urban Consumers, U.S. City Average, All Items", issued by the Bureau of Labor Statistics of the United States Department of Labor, or, if discontinued or no longer published, such other governmental index that most closely matches the manner in which inflation had been previously tracked as selected by the Hamilton County Plan Commission. All applicants/owners/operators shall

provide an updated Decommissioning Plan every five (5) years commencing with the operation of the WECS. The updated Decommissioning Plan shall be reviewed and approved by a licensed engineer approved by the Hamilton County Plan Commission and provide an estimate of the cost of decommissioning of the WECS and the net salvage value of the WECS (the professional engineer). A new decommissioning security in an amount equal to the cost of the estimated cost of decommissioning after deducting the net salvage value of the WECS shall be provided within 60 days of the approval of the updated Decommissioning Plan or by no later than January 31 of each year.

- b. All waste whether generated from supplies, equipment, parts, packaging, operation or maintenance of the facility, including old parts and equipment, shall be removed from the site within 15 days upon written notice to the project manager. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 4. - As-built plan requirements.

1. Upon the completion of each commercial WECS tower and all associated equipment areas the applicant/owner/operator shall submit to the Hamilton County Plan Commission office a copy of the final as-built construction plans with the exact measurements showing location of utilities and all structures erected.

(Ord. No. 11-22-10-A, 11-22-2010)

Section 5. - Change in ownership.

1. It is the responsibility of the applicant/owner/operator listed on the application to inform the Hamilton County Plan Commission Director of all changes in ownership and operation during the life of the project including the sale or transfer of ownership or operation.

(Ord. No. 11-22-10-A, 11-22-2010)

D. - WIND ENERGY CONVERSION SYSTEM (WECS) - MEDIUM

A WECS facility of not more than one turbine with a total name plate generating capacity of greater than 20 kW but no more than one Megawatt (MW) for the purpose of generating supplemental electricity for the parcel on which the facility is located shall be a self supporting monopole structure.

Maximum total height (including blades and supporting structure)—140 ft.

Setback - Cannot be located in the front yard or in the front of any existing or future structures or buildings. Side and rear yard setback of not less than 1.5 times the total height of the tower and rotor blades.

Maximum noise level - 30 dbs at the property line.

Color - Non-reflective white or gray.

Removing in-active WECS - When any part of the WECS is not in use or not adequately maintained for a period of six (6) continuous months the entire WECS facility shall be removed from the property or disassembled and stored within a completely enclosed building.

Approvals - Permitted in all A, O, C and M Zone Districts with Special Use approval from the Hamilton County Board of Zoning District.

Permits required - Improvement Location Permit/building permit.

(Ord. No. 11-22-10-A, 11-22-2010)

E. - WIND ENERGY CONVERSION SYSTEM (WECS) - SMALL

A WECS facility consisting of not more than one turbine and with a total name plate generating capacity of no more than 20 Kilowatts (kW) for the purpose of generating supplemental electricity for the parcel on which the facility is located shall be a self supporting monopole structure or installed or mounted on a non-accessory structure.

Maximum total height (including blades and supporting structure/building) - 60 ft. or less if self supporting; 95 ft. or less (including height of building/structure on which the small WECS facility is located) if installed or mounted on a non-accessory structure.

Setback - Cannot be located in the front yard or in front of any existing or future structures/buildings. Side and rear yard setback can be no less than 1.5 times the total height of the tower and rotor blades and building/structures on which the small WECS facility is located.

Maximum noise level - 30 dbs at all property lines.

Color - Non-reflective white or gray.

Removing inactive or un-maintained WECS - When any part of the WECS is not in use or not adequately maintained for a period of six (6) continuous months the entire WECS facility shall be removed from the property or disassembled and stored within a completely enclosed building.

Approvals - Plan commission director.

Permits required - Improvement Location Permit/building permit required.

Permitted in all zone districts.

Shall not be installed or mounted on any accessory structure.

(Ord. No. 11-22-10-A, 11-22-2010)

F. - DEFINITIONS

- A. *Wind Energy Conversion System (WECS)* means all necessary devices that together convert wind energy into electricity and deliver the electricity to a utility's transmission lines, if applicable, including but not limited to the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS tower to the substation(s), switching stations, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WECS project.
- B. *Applicant* means the entity or person who submits to the county, any application for the siting or construction of any WECS or substation or thereafter operates or owns a WECS.
- C. *Financial assurance* means reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.
- D. *Operator* means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
- E. *Owner* means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or (iii) a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) within one year of such event.
- F. *Professional engineer* means a qualified individual who is licensed as a professional engineer in the State of Indiana.
- G. *Substation* means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- H. *Switching station* means an apparatus/structure in the system similar to a substation but not necessarily increasing voltage into the grid.
- I. *WECS project* means the collection of WECS(s) and substations as specified in the siting approval application pursuant to this ordinance.
- J. *WECS tower* means the support structure to which the nacelle and rotors are attached, free standing monopole structure that supports a wind turbine generator.
- K. *WECS tower height* means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

(Ord. No. 11-22-10-A, 11-22-2010)