

## CHAPTER 800

### ZONING ORDINANCE: GENERAL PROVISIONS

**800-1. Title**

These regulations (Monroe County Code Chapters 800 through 849 and all accompanying maps, which are on file in the Administrator's office), and all ordinances and regulations supplemental or amendatory thereto, shall be known and may be cited as the "Monroe County Zoning Ordinance" and are generally referred to herein as "the Zoning Ordinance," "this ordinance," "the ordinance" or "these regulations."

**800-2. Purpose**

These regulations are hereby adopted in order to:

- (A) promote the orderly, responsible, and beneficial development and use of land within the County Jurisdictional Area;
- (B) promote the public health, safety, morals, comfort, convenience and general welfare of the County;
- (C) protect the character and stability of residential, institutional, business, industrial and natural areas;
- (D) minimize or avoid congestion in the public streets and to ensure safe, convenient and efficient traffic circulation;
- (E) secure adequate light, air, convenience of access, and safety from fire, flood and other danger, which may include providing adequate open spaces for light, air and outdoor uses;
- (F) preserve and enhance the scenic beauty, aesthetics and environmental integrity of the County Jurisdictional Area;
- (G) encourage compatibility between different land uses and to protect the scale and character of existing development from the encroachment of incompatible uses;
- (H) regulate and restrict the location and intensity of use of buildings, structures and land for trade, residence and other uses;
- (I) define the powers and duties of administrative officers and bodies as provided herein, and to establish procedures for the implementation and enforcement of these regulations; and,
- (J) further such other purposes as are stated hereinafter within specific provisions of these regulations.

The Zoning Ordinance shall be interpreted, administered and enforced in a manner that is consistent with the foregoing purposes.

**800-3. Prohibited Uses and Acts**

Except as provided in these regulations, no building, structure or premises may be used for any purpose other than those permitted in the zoning district in which the building, structure or premises is located. No land or lot area may be reduced, diminished, used or developed except in accordance with all applicable provisions of these regulations. No building or structure may be altered, erected, constructed, installed, moved, replaced or maintained except in accordance with all applicable provisions of these regulations.

**800-4. Authority and Jurisdiction**

These regulations, enacted pursuant to the Indiana home rule and planning enabling legislation (Indiana Code § 36-1-3-4 and Indiana Code § 36-7-4-1, et seq., as amended), and pursuant to the Monroe County Code and all other applicable authorities and provisions of Indiana statutory and common law, shall apply to all land use within the County Jurisdictional Area.

**800-5. Inclusion of and Relationship to Other Ordinances**

- (A) The Zoning Ordinance shall be interpreted to include any and all other provisions of the Monroe County Code which are necessary for an understanding of this ordinance and the attainment of its purposes. The Board of Commissioners of the County of Monroe, Indiana, intends that all Monroe County Code provisions relating to land use, and all orders, rules, and regulations established pursuant to said provisions, be read as part of a uniform system of Monroe County land use regulation.
- (B) All departments, officials and employees of Monroe County, Indiana, that are vested with the duty or authority to issue permits, certificates or approvals, shall conform to the provisions of this ordinance and shall issue no permit, certificate or approval for any use, structure or activity if the same would be in conflict with the provisions of this ordinance. Any permit, certificate or approval issued in conflict with the provisions of this ordinance shall be null and void and, in no event, shall act as a waiver of the standards and requirements of these regulations.

**800-6. Interpretation, Conflict and Separability**

- (A) In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- (B) These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. Where the conditions imposed by, or pursuant to, these regulations are different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute or other provision of law, the provisions which are more restrictive and which impose the higher/greater standards shall control.
- (C) Private covenants, restrictions and/or agreements, whether by deed or other instrument, which impose any requirements or standards different than those established under this ordinance, shall not be construed to modify the provisions of this ordinance or impose any enforcement obligations thereunder upon the Commission, the Board and the Plan Department staff unless the Commission or the Board had approved or accepted, in writing, and had specifically accepted the responsibility for enforcement of, the terms and conditions of any such private covenant, restriction or agreement.

- (D) The provisions of this ordinance are separable. If any part or provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The County hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

**800-7. Computation of Time**

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day of the specified period of time. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded.

**800-8. Saving Provision**

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing planning and zoning regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the County under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the County except as shall be expressly provided for in these regulations.

**800-9. Repealer**

Upon the adoption of these regulations according to law, the Monroe County Zoning Ordinance that was adopted on August 29, 1986, as amended, is hereby repealed, except for such sections herein expressly retained or as necessary to affect the transition rules of Section 13 of this Chapter.

**800-10. Conditions**

The attachment of reasonable conditions to the use and development of land within the County Jurisdictional Area as part of the approval of rezoning petitions, special exceptions, conditional uses, home occupations, temporary uses, variances, outline plans, development plans, plat vacations and amendments, or as otherwise authorized, is an exercise of valid police power delegated to the County by the State. The applicant has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the County and to the safety and general welfare of present and future landowners and citizens of the County. The failure to comply with any such conditions may be cause for denial of the permits and approvals prescribed by these regulations and shall constitute a violation of the Zoning Ordinance.

**800-11. Notices**

For purposes of this ordinance, if written notice is required to be given to any person, such requirement shall be considered satisfied as of the date of deposit of the written notice in the United States mail, postage pre-paid, addressed to the person or agent thereof, at his last known address or principal place of delivery.

**800-12. Form of Certificates, Notations, Applications and Findings**

The Department shall establish the form of all certificates, notations, applications and findings required or permitted by these regulations. All such forms must be approved by the Commission and must be consistent with these regulations.

**800-13. Transition Rules**

In determining the applicability of this Zoning Ordinance with respect to the previously applicable zoning regulations, the following rules shall apply:

- (A) When a use lawfully existing on the effective date of this Zoning Ordinance was classified as a permitted use prior to the effective date of this Zoning Ordinance, and such use is classified as a "Conditional Use" by this Zoning Ordinance, such use shall be deemed a lawful nonconforming use. Such use may be granted a conditional use permit in the manner prescribed by Chapter 813 of these regulations or, alternatively, may continue subject to the nonconforming use provisions of Chapter 803 of these regulations.
- (B) When a use lawfully existing as a permitted use on the effective date of this Zoning Ordinance and this Zoning Ordinance, or any amendment thereto, no longer classifies such use as a permitted use in the zoning district in which it is located, such use shall be deemed a lawful nonconforming use and shall be subject to the nonconforming use provisions of Chapter 803 of these regulations.
- (C) Where any building, structure or lot lawfully existing on the effective date of this Zoning Ordinance does not meet all development standards set forth in this Zoning Ordinance, or any amendment thereto, such building, structure, or lot shall be deemed lawfully nonconforming and shall be subject to the nonconforming use provisions of Chapter 803 of these regulations.
- (D) When, before the effective date of this Zoning Ordinance, a complete application has been filed for an improvement location permit for a building or structure which conforms to all applicable regulations in effect prior to the effective date of this Zoning Ordinance, the building or structure may be completed in accordance with the plans on the basis of which the application was submitted, subject to the provisions of Subsection 803-2(F) of these regulations. Upon completion, said building or structure may be occupied for the use which was specified on the improvement location permit application, provided said use at the time of application was classified as permitted, or if classified as a conditional use or as a special exception use, had been approved by the Plan Commission and/or Board of Zoning Appeals. Provided, also, if the use originally intended no longer complies with all requirements of this Zoning Ordinance such use shall be a lawful nonconforming use subject to the nonconforming use provisions of Chapter 803 of these regulations or, alternatively, as a conditional use subject to the conditional use provisions of Chapter 813 of these regulations. However, in the event that said application or permit expires or is suspended or revoked in accordance with Chapter 818 of these regulations, any new permit application that is submitted after the effective date of this ordinance shall be subject to the regulations in this ordinance.
- (E) All variances granted prior to the effective date of this Zoning Ordinance shall remain in full force and effect subject to the conditions of variance approval. However, such variance shall apply only to the specific variance of use or development standard granted.

- (F) All conditional use permits granted prior to the effective date of this Zoning Ordinance shall remain in full force and effect subject to the conditions of conditional use approval. Expansion or change in use shall require compliance with this Zoning Ordinance.
- (G) All special exceptions granted prior to the effective date of this Zoning Ordinance shall remain in full force and effect subject to the conditions of special exception approval. Expansion or change in use shall require compliance with this Zoning Ordinance.
- (H) An outline plan approved under the previous zoning ordinance and shown on the previous zoning maps shall constitute an approved outline plan subject to the standards and conditions of outline plan approval. Subsequent development plans for the site shall comply with the previous zoning ordinance provisions concerning development plans or, alternatively, the developer may choose to comply with the development plan provisions of this ordinance, provided that the proposed development plan does not conflict with the standards and conditions applicable to the approved outline plan. A development plan approved under the previous ordinance shall constitute an approved development plan subject to the standards and conditions of development plan approval. Where an outline plan has been approved but has expired, prior to the effective date of this Zoning Ordinance, the outline plan shall be void and may not provide a basis for development plan approval.
- (I) A preliminary and/or final plat approved prior to the effective date of this Zoning Ordinance, whether or not yet recorded, shall remain in full force and effect, subject to the standards and conditions of plat approval. Final plats may be recorded as approved in accordance with the Subdivision Control Ordinance. Preliminary plats shall be entitled to final plat approval subject to the conditions of preliminary plat approval and subject to the subdivision control ordinance and the zoning ordinance provisions that were in effect at the time of preliminary approval. Lots in such subdivisions shall be established in their platted size and configuration as lots of record. All subsequent resubdivision, vacation and/or amendment of such plats shall be made under the provisions of the current comprehensive land use plan, the current subdivision control ordinance and this Zoning Ordinance. A full and complete application for preliminary plat approval conforming to all applicable regulations in effect at the time of application shall be entitled to review under the regulations in effect at the time of application with respect to lot size and configuration. Upon approval, lots in such plats shall be established in their platted size and configuration as lots of record.

**800-14. City/County Jurisdictional Transition Rules**

The following rules are intended to guide developers and property owners in the transition of the “Two Mile Fringe” from City to County jurisdiction. These rules apply to situations in which projects begun under the City of Bloomington Zoning Ordinance regulations are to be processed.

- (A) All petitions filed with the City Plan Commission or Board of Zoning Appeals shall remain under the jurisdiction of the City until such time as the petition has completed the approval process. All permits required following the approval process shall be processed and administered by the County.
- (B) All unfinished planned unit developments or subdivision plats which received preliminary approval from the City after May 1, 1995, shall have until December 31, 1997 to seek final plan or plat approval with the City, either in phases or as a whole. After such date, all final plat or development plan approvals shall be sought from the County.

- (C) All unfinished planned unit developments or subdivision plats begun with the City prior to May 1, 1995, shall seek final plat or development plan approval from the County.
- (D) Appeals to City planning staff or Plan Commission decisions shall be filed with the City Board of Zoning Appeals.

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**Applicability**

- (A) This Zoning Ordinance, unless otherwise noted, shall apply to all public, private and institutional development, with the following exception:
  - (1) road development projects by the Monroe County Highway Department.

However, all Monroe County Highway Department road development projects shall remain subject to the provisions of Chapter 808: Flood Damage Prevention.

**[end of chapter]**

## CHAPTER 801

### ZONING ORDINANCE: DEFINITIONS

#### 801-1. Usage

- (A) Unless otherwise specifically provided, or unless clearly required by the context:
- (1) words and phrases that are defined in this chapter shall be given their defined meaning when used in this ordinance;
  - (2) words and phrases that are not defined in this chapter but that are defined in other chapters of this ordinance, or in the Subdivision Control Ordinance, or in the Monroe County Code, shall be given their defined meanings when used in this chapter;
  - (3) technical words and phrases that are not defined in this chapter, or in other chapters of this ordinance, or in the Subdivision Control Ordinance, or in the Monroe County Code, but that have established and appropriate meanings in law shall be given such meanings when used in this chapter; and,
  - (4) words and phrases that are not otherwise specifically defined shall be taken in their plain, ordinary and usual sense.
- (B) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations;" the word "regulations" means "these regulations."
- (C) A "person" includes a governmental entity, a corporation, a partnership, and an incorporated association of persons such as a club as well as an individual; "shall" is always mandatory; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

#### 801-2. Definitions

The following definitions generally apply to the provisions of this ordinance. However, several chapters (e.g., 802, 807, 808, 809, 810, and 837) of this ordinance contain specific definitions which apply to certain terms that are used primarily in those chapters.

**AASHTO.** American Association of State Highway and Transportation Officials.

**Abandon** means to intentionally, permanently, and completely, cease all business activity associated with a wireless support structure.

**Accessory Building or Structure.** A subordinate building or structure customarily incidental to and located on the same lot with the principal building.

**Accessory Equipment** means any equipment serving or being used in conjunction with a wireless communications wireless support structure or facility. Accessory equipment includes, but is not limited to, utility or transmission equipment, power supplies,

generators, batteries, cables, guy wires, equipment buildings, cabinets and storage sheds, shelters or other structures.

**Accessory Use.** A subordinate use customarily incidental to and located on the same lot with the principal use.

**Adaptive Reuse.** The reuse of a site or building for a use other than for which it was originally built, purposed or designed.

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

**Administrative Approval** means the zoning approval that the Administrator or the Administrator's designee is authorized to grant after Administrative Review.

**Administrative Review** means the non-discretionary evaluation of an application by the Administrator or designee, without a public hearing.

**Administrative Subdivision.** See Subdivision, Administrative.

**Administrator.** The officer appointed by and/or delegated the responsibility for the administration of these regulations by the Commission. This term shall be construed to include those planning staff members working under the direction of the Director pursuant to and in accordance with Monroe County Code Chapter 824.

**Adult Oriented Business.** An adult arcade, adult media store, adult retail store, adult cabaret, adult motel, adult motion picture theater, adult theater, lingerie modeling studio, massage parlor, sexual encounter establishment, escort agency, or semi-nude model studio as defined by Chapter 837 of this ordinance. The definition of Adult Oriented Business shall not include: an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy or research; or the practice of massage in any licensed hospital, or by a licensed physician, surgeon, chiropractor, or osteopath, or by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor, or osteopath, or by trainers for any amateur, semiprofessional, or professional athlete or athletic team or school (including schools with students 18 years of age and older, e.g., college or university) athletic program.

**Advisory Plan Commission.** A plan Commission serving a single local government jurisdiction established as defined under the Indiana Code §36-7-4-102, as amended.

**Agency.** See Public Agency.

**Agribusiness.** A commercial or manufacturing establishment which provides needed services or supplies for agricultural production.

**Agricultural Use.** A use involving the science and art of the production of plants and animals including to an incidental extent the preparation of these products for human use and their disposal by marketing or otherwise. This use may include, but is not limited to, farming, horticulture, forestry, dairying, sugar making, aquaculture, viticulture, poultry, and exotic animals.

**Alley.** A public or private vehicular right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other



street.

**Altered Sinkhole.** A sinkhole which has been filled, excavated or otherwise disturbed.

**American National Standards Institute (ANSI).** A private organization that develops widely accepted standards for many pieces of modern technological equipment, or its successor bodies.

**Amplitude.** The maximum displacement of the earth from the normal rest position. Displacement is usually reported as inches per mils.

**Amusement Establishment.** Any establishment where the use of amusement devices for compensation exceed fifty (50) percent of the establishment's activities.

**Amusements, Outdoor.** Outdoor commercial recreational activities including, but not limited to, miniature golf, bungee jumping, or amusement parks. This definition does not include any activities offered by the public sector in a park or playground.

**Animal.** Any live, non-human vertebrate creature, domestic or wild.

**ANSI.** See American National Standards Institute.

**Antenna** means any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.

**Antenna Array.** One or more whips, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (whip), directional antenna (panel) and parabolic antenna (disc). The Antenna Array does not include the Support Structure as defined in this chapter.

**Apartment.** A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit, complete with kitchen and bathroom facilities.

**Applicant.** The owner of land, or his agent or legal representative, who seeks an approval, permit, certificate or determination from the Commission or Board, under the provisions of this ordinance.

**Architectural Feature.** A prominent or significant part of element of a building, structure, or site.

**Arterial, Primary.** A street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the County; and/or as a route for traffic between communities; a major thoroughfare.

**Arterial, Secondary.** A street intended to collect and distribute traffic in a manner similar to primary arterials, except that they are designed to carry traffic from collector streets to the system of primary arterials and typically service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches and offices.

**Arterial, Street.** Either a Primary Arterial or a Secondary Arterial as defined in this section.

**Attached Wireless Communications Facility (Attached WCF).** An Antenna Array that is

attached or affixed to an existing building or structure (including but not limited to a utility pole, sign or water tower), along with any transmission cables and accompanying pole or device that attaches or affixes the Antenna Array to the existing building or structure.

**Average Density Procedures.** Procedures for calculating overall density of development prescribed in the Zoning Ordinance as a flexible tool for maintaining overall densities while allowing individual lot sizes to vary from the minimum size allowed in a given zone.

**A-Weighted Sound Level (dB(A)).** In decibels, a frequency-weighted sound pressure level, determined by the use of the metering characteristics and A weighted network specified in ANSI S1.4-1971 "Specifications for Sound Level Meters" and the latest revision thereof.

**Awning.** A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

**Banner.** Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners

**Bare Root.** Dormant plants dug from growing fields, trimmed, freed of all soil at the roots, and protected from drying out until planting.

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

**Base station** means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.

**Basin Sinkhole.** A sinkhole shaped like a basin, usually characterized by smooth slopes and a flat bottom owing to a soil mantle on the bedrock.

**Beacon.** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

**Berm.** An earthen mound designed to provide visual interest, screen undesirable views, and decrease noise.

**Blind Valley.** The portion of the valley containing a sinking stream that comprises a depression that is below the threshold and characterized by closed or depression contours.

**Block.** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

**Board.** The Monroe County Board of Zoning Appeals.

**Board of County Commissioners.** The duly elected Board of Commissioners of the County of Monroe, Indiana, referred to herein as "County" so as not to be confused with the Monroe County Advisory Plan Commission which is referred to herein as "Commission" or the Monroe County Board of Zoning Appeals which is referred to herein as "Board."

**Bond.** Any form of financial guaranty including a cash deposit, surety bond, collateral,

property, or instrument of credit in an amount and form satisfactory to the Plan Commission.

**Bufferyard (Landscape Buffer).** A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

**Buildable Area.** A designated area of a lot that is compact in form and necessary for the safe construction or placement of structures and associated utility infrastructure.

**Building.** Any roofed structure built for the support, shelter, or enclosure of persons or property. Any portion of a structure that is completely separated from other portions of the structure by a division wall without openings shall be deemed to be a separate building.

**Building Area.** The total areas taken on a horizontal plane at the mean grade level of the principal buildings and all accessory buildings, exclusive of uncovered porches, terraces, steps, roof overhangs, and balconies.

**Building Code.** The County ordinance or group of ordinances that establish and control the standards for constructing buildings, utilities, mechanical equipment and all forms of structures and permanent installations and related matters, within the County, also referred to herein as the "County Building Code."

**Building Coverage.** See Lot Coverage.

**Building, Detached.** A building which is completely surrounded by open space and which is located on the same lot as another building.

**Building Height.** The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest elevation of the roof in the case of a slant or flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade and the front of the building.

**Building Historic.** A building of historic importance designated by the Board of Review.

**Building Line.** The line that establishes the minimum permitted distance on a lot between the front-most portion of any building or structure and the street right-of-way line. See Front Yard; Frontage.

**Building Permit.** A certificate issued by the building permit official of a governing body that permits a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within the governing body's jurisdiction, or cause the same to be done.

**Building Permit Official.** The local government official authorized to issue building permits or his/her designee.

**Building, Principal.** See Principal Building.

**Building, Temporary.** A temporary building is a structure designed, built, created or occupied for short and/or intermittent periods of time and shall include tents, lunch wagons, dining cars, trailers and other roofed structures on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purpose of this definition, "roof" shall include

an awning or other similar covering whether or not it is permanent in nature.

**Bulk.** Bulk is the term used to determine the size of lots; the size and placement of buildings or structures, and the location of same with respect to one another, and includes the following:

- (A) size and height of buildings;
- (B) location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
- (C) gross floor area of buildings in relation to lot area (floor area ratio);
- (D) all open spaces allocated to buildings;
- (E) amount of lot areas and lot width provided per dwelling unit.

**Business.** Any occupation, employment, or enterprise which occupies time, attention, labor and/or materials for compensation whether or not merchandise is exhibited or sold, or services are offered.

**Caliper.** The diameter of a tree trunk. Caliper measurements are taken six inches above finish grade for trees up to four inches in diameter and twelve inches above grade for larger diameter trees.

**Canopy.** Any structure, mobile or stationary, attached to and deriving its supports from framework or posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements, or a roof-like structure of permanent nature which projects from the wall of a structure and overhangs the public way.

**Capacity of a Storm Drainage Facility.** The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property for a given storm.

**Capital Improvements Program.** A proposed schedule of all future, major County capital improvements projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All projects that require the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the more durable, longer lived physical assets for the community shall be considered as major projects.

**Carrier on Wheels or Cell on Wheels ("COW") or Mobile Station** means a portable self-contained wireless communications facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna wireless support structure.

**Cave Spring.** A spring that discharges from a solution-enlarged opening.

**Center Line.** The mid-point in the width of a public right-of-way. This shall be determined by recorded subdivision plats, or by the historic center line for all unplatted rights-of-way. In the event that acquisition of additional right-of-way has taken place on one side of a right-of-way, the original center line prior to such acquisition shall be considered the center line for the purposes of this Zoning Ordinance.

**Certificate of Occupancy.** The official authorization to occupy a structure as issued by the Monroe County Building Commissioner.

**Certificate of Zoning Compliance.** A written certification that a structure, use or lot is, or will be, in compliance with the requirements of this ordinance.

**Change in Use.** For any portion of a building, structure or lot:

- (A) Any change from a residential use to any non-residential use;
- (B) Any change from one residential land use to another, any increase in the number of units, and any increase in the number of bedrooms for any unit;
- (C) Any change from one use to another use having a higher requirement for off-street parking as specified in Chapter 806;
- (D) Any establishment of a use on a previously unused site, or the inclusion of a new use in addition to an existing use;
- (E) Any use which requires conditional use approval; and
- (F) Any change from one class of use to another class of use or any change from a use listed in the class of use table to any use not listed or any change from a use not listed in the class of use table to any other use not listed in the table.

**Classes of Use**

Class A

Antiques	Florists Shops
Apparel	Gift Shop
Appliance Stores, small	Hardware
Arts and Crafts	Jewelry
Auto Parts/Supplies, New	Offices
Bicycle Shops	Pet Shops (Domestics)
Books, Newsstands	Sporting Goods

Class B

Bakery	Liquor Store
Dairy Products	Used Merchandise Sales
Drugstore, Sundry	Variety Store
Grocery and Meats	Video Rental

Class C

Auto/Truck/Marine Sales and Rental  
Farm Equipment  
Mobile Home Sales

Class D

Appliance Repair, small	Furniture Repair
Automobile Repair	Hotel/Motel
Bed and Breakfast	

Class E

Business Service	Personal Service
Laundry and Dry Cleaning	Printing (Job, Service)

Class F

Amusement Arcades  
Bars and Taverns  
Eating, Drinking, Restaurant

Class G

Apparel Manufacturing  
Beverage Bottling  
Clocks and Scientific Equipment Manufacturing  
Drugs, Pharmaceutical, and Medical Equipment Manufacturing  
Electronic Equipment Manufacturing  
Musical Instruments  
Printing, Newspapers  
Research Laboratories

Class H

Bakery, Dairy Products, Confectionery  
Furniture Manufacturing  
Grain Mills Manufacturing  
Machinery Tool and Die  
Metal Fabrication  
Millwork, Veneer, Sawmills

**Channel.** A natural or artificial watercourse that periodically or continuously contains moving water, or that forms a connecting link between two bodies of water, and that has a defined bed and banks which serve to confine the water.

**Charter Buses.** Passenger-carrying motor vehicles utilized by a group of persons who, under a single contract, have acquired the exclusive use to travel together as a group to a specified destination or for a particular itinerary.

**Checkpoint Agency.** A public agency or organization that is called upon by the Commission to provide expert counsel with regard to a specific aspect of community development or that is required by law to give its assent before a particular land development or use may take place.

**Cluster.** A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

**Cluster Subdivision.** A form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development, and the remaining area is devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture.

**Collector Street.** A street intended to move traffic from local streets to secondary arterials. (A collector street serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it and no driveway access to it is permitted unless the property is to be in multifamily use for four (4) or more dwelling units).

**Collocation** means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

**Commercial Message.** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**Commercial Use.** See Business.

**Commission.** The Monroe County Advisory Plan Commission, unless the context indicates to the contrary.

**Commission Attorney.** The licensed attorney designated by the Commission to furnish legal assistance for the administration of this ordinance.

**Compound Sinkhole.** An assemblage of two or more sinkholes that lie within an individual larger sinkhole.

**Comprehensive Plan.** The inclusive physical, social, and economic plans and policies in graphic and verbal statement forms for the development of the County prepared and adopted by the Commission pursuant to the State Acts, and including any part of such plan and/or policies separately adopted and any amendment to such plan and/or policies, or parts thereof.

**Concealed Wireless Communications Facility** means any wireless communications facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed so that the purpose of the facility or wireless support structure for providing wireless services is not readily apparent to a casual observer.

**Concentrated Surface Flows.** Drainage of water over plane surfaces that is more focused and of a greater depth than sheet flow. The velocity of the flow is a function of the watercourse slope and the type of channel.

**Conditional Use.** A use specifically designated as a conditional use in the zoning ordinance which, without compliance with Chapter 813 of the Monroe County Zoning Ordinance, cannot be properly classified as a permitted use in a particular zoning district, and which may be conducted only pursuant to a conditional use permit granted by the Board of Zoning Appeals.

**Condominium.** The division of building(s) and the related land into horizontal property interests meeting the requirements of condominiums as prescribed by Indiana Code § 32-1-6-1 through 31.

**Condominium Association.** The community association that administers and maintains the common property and common elements of a condominium.

**Confined Feeding.** The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where food is supplied to the animals only by means other than grazing.

**Congregate Housing.** Institutional housing consisting of apartments, rooms, medical service facilities, and dining services for residents who require such housing because of age or medical condition.

**Conservation Easement, Conditional.** The grant of a property right stipulating that the described land will remain in its natural state and precluding future or additional residential development. Approved agricultural, business, and industrial uses — including future Light and Heavy Industrial development—may occur within the areas covered by the temporary conservation easement.

**Conservation Easement, Permanent.** The grant of a property right stipulating that the described land will remain in its natural state and precluding future or additional development. Areas used for non-animal related agricultural uses may continue that use after the application of the conservation easement.

**Construction.** The on-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting and landscaping.

**Construction/Demolition Waste.** Solid waste resulting from the construction, remodeling, repair, or demolition of structures. Such waste may include, but is not limited to, scrap lumber, bricks, concrete, stone, glass, wallboard, roofing, plumbing fixtures, wiring, and nonasbestos insulation.

**Contiguous.** Adjoining or in actual contact with.

**Copy.** The wording or image on a sign surface in either permanent or removable form.

**County Attorney.** The licensed attorney designated by the County to furnish legal assistance for the administration of these regulations in lieu of the Commission having its own attorney.

**County Auditor.** The County official empowered to examine and settle all accounts and demands that are chargeable against the County and not otherwise provided for by statute.

**County Building Code.** See Building Code.

**County Drainage Board.** The Monroe County Drainage Board.

**County Engineer.** The person designated by the County to furnish engineering assistance in the administration of these regulations.

**County Government.** That governmental body of the County empowered to adopt planning and public policy ordinances: namely, the Board of County Commissioners, herein referred to as the County.

**County Health Officer.** See Health Officer.

**County Housing Code.** See Housing Code.

**County Jurisdictional Area** means the areas of Monroe County, Indiana, in which the County exercises planning and zoning jurisdiction, namely: all unincorporated areas of Monroe County, Indiana, that are not under the jurisdiction of another duly established plan commission; any area of Monroe County, Indiana, that was incorporated after August 29, 1986 and whose governing body has not adopted a zoning ordinance; and, any area of Monroe County, Indiana, made subject to the County's planning and jurisdiction by way of interlocal agreement. NOTE: Pursuant to I.C. 36-7-4-1104b), the planning and zoning ordinances of Indiana political subdivisions may not regulate or restrict the use of property that is owned by the state or by any state agency.

**County Recorder.** The County official empowered to record and file land description plats.

**Critical Area.** An area with one or more of the following environmental characteristics: (1) steep slopes; (2) flood plain; (3) soils classified as having high water tables; (4) soils classified as highly erodible, subject to erosion, or highly acidic; (5) land incapable of meeting percolation requirements; (6) land formerly used for landfill operations or hazardous industrial use; (7) fault areas; (8) stream corridors; (9) estuaries; (10) mature stands of native vegetation; (11) aquifer recharge and discharge areas; (12) wetlands and wetland transition areas; and (13) habitats of endangered species.



**Critical Duration Storm.** The storm duration that requires the greatest detention storage.

**Cul-de-sac.** A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

**Cultivated Landscape Area.** Planted areas that are frequently maintained by mowing, pruning, fertilizing, etc.

**Culvert.** A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal, or other impediment.

**Curb Level.** The level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the curb level shall be the average of the levels of the curbs at the center of the front line on each street. Where no curb has been established, the mean level of land immediately adjacent to the building shall be considered the curb level.

**Cut.** See Excavation.

**Day-time hours.** 7:00 a.m. to 7:00 p.m., local time.

**Dead-end Street.** A street or a portion of a street with only one (1) vehicular traffic outlet, and no turnaround at the terminal end.

**Decibel (dB).** A unit of measure, on a logarithmic scale to the base 10, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which, for purposes of this regulation, shall be twenty (20) micronewtons per square meter ( $\mu\text{N}/\text{m}^2$ ).

**Deciduous.** A plant with foliage that is shed annually before the plant becomes dormant.

**Demolition.** Any act or process which destroys or partially destroys a structure.

**Density Bonuses.** The allowance of additional density in a development in exchange for the provision by the developer of other desirable amenities from a public perspective, e.g., public open space, plazas, art, landscaping, etc.

**Density, Design.** Density determined by dividing the total acreage within the residential cluster (including any public easements or rights-of-way existing or proposed) by the total number of dwelling units.

**Density, Gross.** Density determined by dividing the total acreage within the site (including any public easements or rights-of-way existing or proposed) by the total number of dwelling units.

**Density, Net.** Density determined by dividing the total acreage within the site (excluding any public easements or rights-of-way existing or proposed) by the total number of dwelling units.

**Density Value (D Value).** A measure of landscaping intensity based on mature size of plant material. Density value of individual plantings is established in the tables in Section 844-1. The density value of a portion of a development site is the aggregate of the density values of individual plantings in that portion of the site.

**Department.** See Public Agency.

**Detention Basin.** A facility constructed or modified to restrict the flow of storm water through

the facility's outlet to a prescribed maximum rate and, concurrently, to detain the excess waters that accumulate behind the facility's outlet.

**Detention Storage.** The temporary detaining or storage of storm water in storage basins, on rooftops, on streets, on parking lots, on school yards, on parks, in open spaces, or on other areas, under predetermined and controlled conditions, with the rate of drainage therefrom regulated by appropriately installed devices.

**Developer.** The owner of land to be developed, the person whom causes the land to be developed, and/or the person whom develops land.

**Development** means any man-made change to improved or unimproved real estate including but not limited to:

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

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

**Director.** The Planning Director of the County or a designee of the Planning Director of the County.

**Discrete Impulses.** A ground transmitted vibration stemming from a source where specific pulses do not exceed sixty (60) per minute (or one per second).

**Distance.** The area measured horizontally between two points.

**District.** Any specifically described area of the County Jurisdictional Area as indicated by the Official Zoning Maps of Monroe County, Indiana.

**District, Overlay.** An additional zoning designation, with corresponding regulations, that may applied to any zoning district, districts, or parts of such districts. Overlay districts shall be indicated on the Official Zoning Maps. The overlay district regulations may relax or further restrict the number or types of uses allowed as well as the way permitted activities operate

within the overlay district boundaries.

**District, Underlying.** The zoning district to which an overlay district is added.

**Dormitory.** A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.

**Drainage Board.** The Drainage Board of Monroe County, Indiana, and any agent or subordinate employee to whom it specifically delegates a duty or responsibility authorized by this ordinance.

**Drainage Area.** The area served by a drainage system; a watershed or catchment area.

**Drip Line.** A vertical line extending from the outermost branches of a tree to the ground.

**Drive-In Establishment.** A place of business which is operated for the sale and purchase at retail, of food and other goods, services, or entertainment and which is designed and equipped so as to allow patrons to be served or accommodated while remaining in their automobiles.

**Drive-In or Drive-Through Restaurant.** A restaurant which is laid out and equipped to serve food and beverage to patrons in automobiles.

**Drives, Private.** Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with other streets within public rights-of-way.

**Driveway.** An access to a public road for one residence or one tract of land.

**Driveway, Shared.** A single access to a public road shared by two tracts of land.

**Drop Manhole.** A manhole having a vertical drop pipe that connects an inlet pipe to an outlet pipe and that is located immediately outside the manhole.

**Dry Bottom Detention Basin.** A detention basin that is designed to be completely dewatered after it has performed its planned detention function during or immediately following a storm event.

**Dump Truck.** A vehicle used for transporting loose material typically equipped with a hydraulically operated box-bed. The fuel source can be either separate from or combined with the fuel supply that propels the vehicle.

**Duration.** The time period of a rainfall event.

**D Value.** See Density Value.

**Dwelling Unit Equivalent (D.U.E.).** Establishes a density value for dwelling units based upon the number of bedrooms in the unit. This value may be applied to the units per acre measurement in order to meet the dwelling unit requirement. Where specifically allowed in this ordinance, the following proportions shall be used in calculating the dwelling unit maximums:

3 or more bedroom unit = 1 unit

2 bedroom unit with less than 750 square feet = 0.66 units

1 bedroom unit with less than 500 square feet = 0.50 units

Efficiency unit with less than 400 square feet = 0.33 units  
Boarding room unit with less than 250 square feet = 0.25 units

**Dwelling Unit.** One or more rooms, including a kitchen and bathroom, located within a building providing complete living facilities for one family or containing facilities and equipment for living, sleeping, cooking and eating.

**Dwelling, Modular Unit.** A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location on a permanent foundation.

**Dwelling.** A building, or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings or multiple-family dwellings, but not including hotels or motels.

**Easement.** A right of use over designated portions of the property of another for a clearly specified purpose.

**Ecosystem.** A characteristic assemblage of plant and animal life within a specific physical environment, and all interactions among species, and between species and their environment.

**Electrical transmission tower** means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

**Elevation Certificate** is a certified statement that verifies a structure's elevation information.

**Emergency Equipment.** Emergency or fire equipment that is necessary for the preservation of life or property or the execution of emergency governmental functions performed under emergency conditions.

**Employee.** A person working for another person or a business firm for pay.

**Encroachment,** for purposes of Chapter 808, means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Environmental Constraints.** Features, natural resources, or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

**Equipment Compound** means the area that surrounds or is near the base of a wireless support structure and encloses wireless communication facilities.

**Equipment Facility.** Any accessory structure used to contain ancillary equipment for WCF which may include cabinets, small shelters, pedestals or other similar structures.

**Erosion.** Detachment and movement of soil or rock fragments by water, wind, ice, temperature changes, and gravity.

**Erosion Control/Grading Plan.** A plan that fully indicates necessary land treatment measures, including a schedule of the timing for their installation, which will effectively

minimize soil erosion and sedimentation caused by land disturbing activities.

**Escrow.** A deposit of cash with the Commission in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be held by the County Auditor.

**Evergreen.** A plant with foliage that persists and remains green year-round.

**Event Center.** A building (which may include on-site kitchen/catering facilities) where indoor and outdoor activities such as weddings, receptions, banquets, corporate events and other such gatherings are held by appointment.

**Excavation.** Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

**Existing Structure.** Previously erected wireless support structure or any other structure, including but not limited to, buildings and water tanks, to which wireless communications facilities can be attached. The term does not include a utility pole or an electrical transmission tower.

**Exterior Architectural Appearance.** The architectural character, general composition, and general arrangement of the exterior of a structure, including the kind, color, and texture of the building material and the type and character of all windows, doors, light fixtures, signs and appurtenant elements, visible from public streets and thoroughfares.

**Facade.** The portion of any exterior elevation on the building extending from grade to top of the parapet, wall or eaves and the entire width of the building elevation.

**Fall Zone.** The area within which the wireless support structure is designed to collapse.

**Family.** A "family" consists of one or more persons each related to the other by blood, marriage, or adoption (including foster children), together with such relative or the representatives of the respective spouses who are living with the family in a single dwelling and maintaining a common household. A family may also be composed of not to exceed three (3) persons not so related, provided that such unrelated persons live in a single dwelling and maintain a common household and a single housekeeping unit. A family includes any domestic servants and not more than one (1) gratuitous guest residing with the family; such servants shall be included in the unrelated person limitation of this definition, and shall not be in addition thereto.

**Family Care Facility.** A non-medical facility for the housing of no more than eight (8) unrelated persons (inclusive of residential staff), who, due to advanced age, handicap, impairment due to chronic illness, or status as a minor who is unable to live with parents or guardians, require assistance and/or supervision, and who reside together in a family-type environment as a single housekeeping unit. Excluded from the definition of family care facilities are homes in which residents are criminal offenders or former criminal offenders. Excluded from this definition are persons whose disability arises from current use or addiction to a controlled substance as this term is used in the United States Code and Indiana statutes.

**Farm.** A farm is a parcel of land used for growing or raising agricultural products, including the related structures located thereon.

**Farm Conservation Plan.** A plan which provides for use of land, within its capabilities, and treatment, within practical limits, according to chosen use to prevent further deterioration of soil and water resources.

**Faster Meter Response.** The dynamic characteristics specified as “FAST” in ANSI s1.4-1971 “Specifications for Sound Level Meters” and the latest revision thereof.

**FBFM.** Flood Boundary and Floodway Map.

**Feasibility Report.** A written report prepared by a registered professional engineer or a registered land surveyor pertaining to the suitability of the site for various types of water and sewage disposal systems; for drainage retention or detention; and the subsoil conditions for various methods of street construction.

**Fee Take Line.** The property line at an approximate elevation of 560 Mean Sea Level (MSL), which separates the shoreline area under the jurisdiction of the U.S. Army Corps of Engineers from land regulated by other government agencies. Where this line does not approximate the 560 MSL elevation, the Fee Take Line shall be interpreted to be the 560 MSL elevation line.

**Fence.** A free-standing barrier resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes.

**Filled Sinkhole.** A sinkhole of any type that is wholly or partially filled with alluvium, colluvium (heterogenous soil and rock fragments deposited by mass-wasting and sheetwash), lacustral or paludal sediments.

**Final Plat Approval.** Plan Commission approval of a final plat of a subdivision the construction of which has been completed or substantially completed.

**Finding of Fact.** Information obtained with respect to a matter or a statement or a writing made by any person or entity required to make a finding under the terms of this ordinance.

**Flag.** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

**Flag Lot.** A lot with two distinct parts:

1. The flag, which is the only building site; and is located behind another lot; and
2. The pole, which connects the flag to the street; provides the only street frontage for the lot; and at any point is less than the minimum lot width for the zone.

**Flood.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

**Floor Area Ratio (FAR).** The number obtained by dividing the floor area of a building or other structure by the gross area of the site on which the building or structure is located. When more than one (1) building or structure is located on a lot, then the floor area ratio is determined by dividing the total floor area of all the buildings or structures by the gross area of the site.

**Footing Drain.** A drain pipe installed around the exterior of a basement wall foundation in order to relieve water pressure caused by high groundwater elevation.

**Foundation.** The supporting member of a wall or structure.

**Frequency.** The number of times that a displacement completely repeats itself in one second of time. Frequency may be designated in cycles per second (cps) or Hertz (Hz).

**Frontage.** That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot. Lots shall not be considered to front on stub ends of streets and in the case of corner lots will be considered to front on both intersecting streets.

**Frontage Street.** A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway.

**Front Yard.** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line.

**Funnel Sinkhole.** A funnel-shaped sinkhole that is usually steep sided and likely to have an obvious opening or throat in the bottom.

**Garage.** An accessory building designed and used primarily for the storage of motor vehicles that is owned and used by the occupants of the principal use building and in which no occupation or business is conducted. This does not include any parking area located within the principal use building, unless the garage is the principal use building on the lot.

**Garage, Municipal.** A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the general public.

**Garage, Private Customer and Employee.** A structure that is accessory to a nonretail commercial or manufacturing establishment, building, or use and is primarily for the parking and storage of vehicles operated by the customers, visitors, and employees of such building and that is not available to the general public.

**Garage, Private Residential.** A detached accessory building or portion of the main building used only for the storage of motor driven vehicles which are the property of and for the private use of the occupants of the lot on which the private garage is located and that is not a separate commercial enterprise available to the general public. If the occupants of the lot have fewer vehicles than the storage spaces contained in said garage, the unused spaces may be used by, or rented to others.

**Garage, Public.** A structure, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

**Garage, Repair.** Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

**Garage, Storage.** A storage garage is any building used for the storage only of motor vehicles pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold.

**Geotechnical Consultant.** An expert in a specific area of environmental concern pertinent to a specific site, having appropriate specific education and/or experience in the judgement of the approving authority.

**Governing Body.** The body of the relevant local government having the power to adopt ordinances.

**Grade.** The inclination or slope of a ground surface usually expressed in terms of the percentage of vertical rise (or fall) relative to a specific horizontal distance.

**Grading.** The stripping, cutting, filling, spreading or stockpiling of soil or earth on a tract, parcel or lot to create new grades.

**Grading Plan.** See Erosion Control/Grading Plan.

**Gross Floor Area.** The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, computed as follows.

(A) For determining floor area ratio, the sum of the following areas:

- (1) the ground floor area when any portion of the basement or ground floor used for a dwelling, business, or commercial purpose except for home occupation;
- (2) elevator shafts and stairwells at each floor;
- (3) floor space (including any basement floor space) used for mechanical equipment (except equipment, open or closed, located on the roof);
- (4) penthouses;
- (5) attic space having headroom of seven feet, ten inches or more;
- (6) interior balconies and mezzanines;
- (7) enclosed porches; and,

(8) floor area devoted to accessory uses. Space devoted to off-street parking or loading shall not be included in the floor area. The floor area of structures devoted to bulk storage of materials shall be computed by counting each ten feet or height, or fraction thereof, as being equal to one floor.

(B) For determining off-street parking and loading requirements, the sum of the following areas:

- (1) floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks, or closets;
- (2) any basement floor area devoted to retailing activities; and,
- (3) floor area devoted to the production or processing of goods or to business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as otherwise noted herein), off-street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, or business or professional offices.



**Gross Leasable Area (GLA).** The total floor area for which a tenant pays rent and that is designed for the tenant's occupancy and exclusive use. This term does not include public or common areas, such as utility rooms, stairwells and pedestrian malls.

**Ground Floor.** The first floor of a building other than a cellar or basement.

**Ground Cover.** Plants, other than turfgrass, normally reaching an average maximum height of not more than 24 inches at maturity.

**Ground Floor Area.** The area of a building in square feet, as measured in a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of open porches, breeze-ways, terraces, garages and exterior or interior stairways.

**Guest, Permanent.** A permanent guest is a person who occupies or has the right to occupy a hotel or apartment hotel accommodation as his domicile and place of permanent residence.

**Guest Room.** A guest room is any room offered or used to provide sleeping accommodations to guests. For example, a guest room may be a bedroom, or any other room equipped with a bed, sofa, futon, cot, mattress, or sleeping pallet.

**Habitable Elevation.** The height of the highest space in any existing or future building which is designed for use as a residence or working area of persons.

**Handcrafted Item:** An object that requires use of the hands, hand tools and human craft skills in its production, and which is not mass produced by mechanical means.

**Hardship or Unnecessary Hardship.** Significant economic injury that:

- (A) Arises from the strict application of this ordinance to the conditions of a particular, existing parcel of property;
- (B) Effectively deprived the parcel owner of all reasonable economic use of the parcel; and
- (C) Is clearly more significant than compliance cost or practical difficulties.

**Hazardous and Toxic Materials.** Any substance or material that, by reason of its toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

**Health Department and County Health Officer.** The Monroe County Health Department and the person designated by the County to administer the state and local health regulations within the County.

**Heavy Equipment.** Motorized equipment having a gross weight of more than six tons.

**Heeled-in.** A means of preventing roots of bare root plants from drying out before planting. Typically, done by laying the plant on its side with its roots in a shallow trench, and then covering the roots with soil, sawdust, or other material, moistened to keep roots damp.

**Height, Building.** The vertical distance from the average grade level adjoining the building; to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and the ridge for gable, hip and gambrel roofs.

**Height, Bulk, Area and Density Requirements.** Those regulations and standards concerning minimum lot areas, maximum height of structures, minimum lot widths and

depths, minimum front, side, and rear yard setbacks, maximum lot coverage, and other such regulations and standards concerning the design and placement of structures on a parcel or lot.

**Height, WCF.** The vertical distance of a WCF or Support Structure, as measured from the ground elevation at the base of the WCF or Support Structure to the top of the structure, including Antenna Array(s).

**Highway, County.** Any street which is under the jurisdiction of the Monroe County Highway Department.

**Highway, Limited Access.** A freeway, or expressway, providing for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right to access to or from the same, except as such points and in such manner as may be determined by the public authority having jurisdiction over such a highway.

**Highway, State.** Any street which is under the jurisdiction of the Indiana Department of Highways.

**Historic District.** An area which contains or which surrounds an area which contains buildings, structures or places in which historic events occurred or having special public value because of notable architectural or other features relating to the general, archeological, economic, social, political, architectural, industrial or cultural history of Monroe County, Indiana, of such significance as to warrant conservation or preservation, and which, by virtue of the foregoing, has been designated as a Historic District by the Monroe County Commissioners pursuant to the provisions of the Zoning Ordinance.

**Historic Preservation Board of Review.** The Monroe County Historic Preservation Board of Review.

**Historic structure** means any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**Homeowners Association.** A community association, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.

**Housing Code.** The County ordinance that controls the continuing safety and healthfulness of buildings for human occupation within the County's jurisdiction. Also referred to herein as the "County Housing Code."

**Immediate Sinkhole Drainage Area.** Any area that contributes surface water directly to the sinkholes, not including areas that contribute surface water indirectly to a sinkhole (e.g. by streams).

**Impact.** An earth borne vibration generally produced by two (2) or more objects striking each other so as to cause separate and distinct pulses.

**Impact Areas.** Areas defined and mapped by the Drainage Board which are unlikely to be easily drained.

**Impervious.** A material through which water cannot pass, or through which water passes with difficulty.

**Impervious Lot Coverage.** The percentage of a lot's area covered by any building or

structure or any impermeable surface other than water bodies.

**Improvement Location Permit.** A permit certifying that the site plans of a proposed building, structure, site improvement or use of land have been examined for compliance with all requirements of this ordinance.

**Improvements.** Any building, structure, parking facility, fence, gate, wall, work or art, underground utility service or other object constituting a physical betterment of real property, or any part of such betterment. See Lot Improvements or Public Improvements.

**Impulsive Sound.** Either a single pressure peak or a single burst (multiple pressure peaks) for a duration less than one second.

**Indiana Code.** The Burns Indiana Statutes Code Edition, which codifies all Indiana statutes for reference purposes. The latest edition with any amending supplements must be referred to for the laws "now" in force and applicable. (Usually abbreviated as I.C. herein).

**Indiana Utility Regulatory Commission (IURC).** The IURC regulates those telecommunications which are also considered public utilities. Where the telecommunications service being provided is a public utility, such as telephone service, including local, long distance or cellular telephone service, then those services fall under IURC jurisdiction.

**Individual Sewage Disposal System.** A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device approved by the Health Department to serve the disposal needs of one single-family residential dwelling. An individual sewage disposal system is a private sewage disposal system.

**Industrial Park.** A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation and open space.

**Inlet (Storm Water Inlet).** An opening into a storm sewer system through which surface storm water runoff enters the system.

**Interested Parties.** Those persons who are to be notified by mail of a public hearing, or other action, on a proposed subdivision of land; namely, the applicant or developer of the property to be subdivided and the fee simple owners (executive officer or board of governmental owner) of those properties that share a common boundary line or point with the property to be subdivided or that would share a common boundary line or point with the property to be subdivided but for the existence of a public or private street or a distinct parcel owned by the applicant or developer (see Commission Rules for Procedure). If an abutting property consists of "common areas" that are owned and/or maintained by a subdivision/condominium property owners' association, the association, rather than the individual subdivision lot/condominium owners, shall be deemed the "interested party" for purposes of notice, unless, additionally, the Administrator orders that certain individual owners be provided with notice as interested parties. The identity of interested parties shall be determined from the following sources: (1) the subdivision application; (2) the Auditor's Plat Books; and (3) the Auditor's Transfer Books.

**Intermittent Stream.** A surface watercourse which flows typically only after significant precipitation events or during a particular season, and which evidences a discernable stream bed. This does not encompass man-made drainage ways or natural swales which lack a discernable stream bed.

**Junction Chamber.** A converging section of conduit, usually large enough for a person to enter, used to facilitate the flow from one or more conduits into a main conduit.

**Junkyard.** A junkyard is an open area where junk, waste, scrap, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, bottles, and inoperable equipment or machines or motor vehicles. A junkyard includes automobile wrecking or salvage yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment, but does not include uses established entirely within enclosed buildings or composting operations.

**Karst.** A type of terrain, usually formed on carbonate rocks (limestone, dolomite, calcareous shale), gypsum, and other rocks by dissolution, and that is characterized by sinkholes, underground drainages, and caves.

**Karst Valleys.** Valley-like areas characterized by numerous sinkholes and intermittent sinking streams along adjacent hillsides that have no over land stream outlet.

**Karst Window.** A collapsed sinkhole that exposes a cave stream or an intermittent cave stream.

**Kennel.** An establishment wherein any person engages in the business of boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling dogs, cats and/or other small domesticated household pets (not farm animals).

**Lake Bodies.** The areas covered by Griffy Reservoir and Lake Monroe at normal pool elevation.

**Lake Monroe Watershed.** All areas of Monroe County within the Monroe County planning jurisdiction within the watershed boundaries as located by the Environmental Systems Applications Center, Indiana University, Bloomington. All land within the Lake Monroe Watershed has been classified into the following areas:

**Area 1.** All land lying within 1,000 feet (measured horizontally) of the Fee Take Line.

**Area 2.** All land lying between 1,000 feet and 2,500 feet (measured horizontally) of the Fee Take Line. Also, all land lying within 1,000 feet (measured horizontally) of the Regulatory Floodway.

**Area 3.** The entire Lake Monroe Watershed outside of Areas 1 and 2.

**Area 4.** Two tracts of land totaling 1,605 acres as designated on the Environmental Constraints/Lake Watershed Overlay Zone map, which shall be designated for higher density development subject to conditions as given in these regulations.

**Land.** Any ground, soil or earth, including marshes, swamps, drainage ways, and areas not permanently covered by water, within the County Jurisdictional Area.

**Land Disturbing Activity.** Any man-made change of the land surface including clearing, cutting, excavating, filling, or grading of land or any other activity that alters land topography or vegetative cover, but not including agricultural land uses such as planting, growing, cultivating and harvesting crop, growing and tending gardens and minor landscaping modifications.

**Landscape Area.** Land that has been decoratively or functionally altered by contouring and

planting shrubs, trees or vines, and with a living or nonliving ground cover.

**Landscape Buffer.** See Bufferyard.

**Landscape Plan.** A component of a development plan on which is shown: proposed landscape species (such as quantity, spacing, size at time of planting, and planting details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

**Landscaping.** The improvement of a lot, parcel or tract of land with a combination of living plants (such as grass, shrubs, trees and/or other plant material) and nonliving material (such as rocks, mulch, walls, fences, or ornamental objects) designed and arranged to produce an aesthetically pleasing effect.

**Land Use Certificate.** A certificate signed by the Administrator stating that the occupancy and use of the land, building or structure referred to therein complies with the provisions of this ordinance.

**Lateral Storm Sewer.** A sewer to which inlets are connected but to which no other storm sewer is connected.

**Legal Drain.** Any drain moving in excess of 30 cubic feet per second during a 10 year storm.

**Light Equipment.** Motorized equipment weighing six tons or less.

**Livestock Auction Market.** An established place of business and contiguous surroundings, where domestic animals are consigned to be sold at public auction upon a commission basis to be paid by the consignor at which place the operator of the business acts as agent for consignor, and said place has been inspected and approved on the basis of maintaining minimum standards, in conformance with regulations adopted by the State Board of Health.

**Local Street.** A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

**Lot.** A tract, plot, or portion of a subdivision or other parcel of land, the boundaries of which have been established by some instrument of record, that is intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

**Lot Area.** The area of horizontal plane bounded by the vertical planes through front, side and rear lot lines.

**Lot, Corner.** A lot situated at the intersection of two (2) streets. A corner lot has a front yard on each abutting street. Corner lots must observe the minimum front yard setback from both streets, and observe the minimum side yard setback from the remaining property lines.

**Lot Coverage.** The percentage of the lot area that is covered by the building or structure, exclusive of open courts, terraces or decks. See Floor Area and Open Space.

**Lot Depth.** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line. The lot depth of a multiple frontage lot may be determined from any of its front lot lines.

**Lot, Improvement.** Any building, structure, work of art, or other object, or improvement of

the land on which such objects are situated that constitute a physical betterment of real property.

**Lot, Interior.** A lot other than a corner lot with only one frontage on a street other than an alley.

**Lot Line.** A lot line is a property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley line.

**Lot of Record.** A lot which was created by subdivision, the plat of which has been approved as required by applicable County, City, and State law and recorded in the Office of the Monroe County Recorder; or a parcel of land, the bounds of which have been legally established by a separate deed and duly recorded in the Office of the Monroe County Recorder. "*Legally established*" means not in violation of any County, City, or State subdivision regulations existing at the time the lot was established by deed. Also, a parcel described by a single deed containing more than one (1) metes and bounds description shall be one (1) lot of record unless the parcels described by separate descriptions have, in the past, been lawfully-established, separate parcels of record.

**Lot, Through.** A lot having frontage on two parallel or approximately parallel streets. A through lot has a front yard on each abutting street, watercourse or lake.

**Lot Width.** The horizontal distance between the side lot lines measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building line. The width of a multiple frontage lot shall be determined at all of its building lines.

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

**Major Drainage System.** A drainage system that carries runoff from an area greater than or equal to one square mile.

**Major Street.** See Collector Street or Arterial Street.

**Major Street Plan.** See Official Zone Map.

**Major Subdivision.** See Subdivision, Major.

**Manhole.** A storm sewer structure through which a person may enter to gain access to an underground storm sewer or enclosed structure.

**Manufactured Home.** A dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the federal Manufactured Home Construction and Safety Standards Law of 1974 (42 USC 5401 et seq.).

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

**Manufacturing, Heavy.** The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than minimal impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, visual impact, odors, glare, or health and safety hazards, or that otherwise do not constitute "light manufacturing", and which may include open uses and

outdoor storage. Heavy manufacturing generally includes processing and fabrication of products made from extracted or raw materials or products involving flammable or explosive materials and processes. This definition shall not include any use that is otherwise listed specifically in a zoning district as a permitted or conditional use.

**Manufacturing, Light.** The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within an enclosed building, except as may be authorized pursuant to Chapter 813. Light manufacturing generally includes processing and fabrication of finished products predominantly from previously prepared materials and includes processes. This definition shall not include any use that is otherwise listed specifically in any zoning district as a permitted or conditional use.

**Map.** A representation of the earth's surface, or any part thereof, in signs and symbols, on a plane surface, at an established scale, with a method or orientation indicated.

**Market value** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**Marker.** A stake, pipe, rod, nail, or any other object which is not intended to be a permanent point for record purposes.

**Marquee.** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

**Master Plan.** See Comprehensive Plan.

**Minor Drainage System.** A drainage system that carries runoff from an area of less than one square mile.

**Minor modification** means any improvements to existing structures that do not qualify as a substantial modification, does not result in an increase to the fall zone to an extent that would result in a violation of the setback requirement and is eligible for administrative review and approval.

**Minor Subdivision.** See Subdivision, Minor.

**Mobile Home.** A single family residential unit with all of the following characteristics:

- (A) designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachments to outside systems;
- (B) designed to be transported after fabrication on its own wheels;
- (C) arriving at the site where it is to be occupied as a dwelling complete, conventionally designed to include major appliances, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities and the like; and,
- (D) designed for removal to and installation or erection on other sites.

**Modular Home.** Any single family unattached manufactured home that is without wheels and chassis but that is designed for transportation on streets after fabrication.

**Monopole** means a single, freestanding pole-type structure supporting one or more Antenna. For purposes of this Ordinance, a Monopole is not a Tower.

**Monument.** A physical structure which marks the location of a corner or other survey point.

**Mulch.** Nonliving organic and synthetic materials customarily used in landscape design to retard erosion, conserve moisture, prevent weeds from growing, and aid in establishing plant cover.

**Municipal Sewage Disposal System.** See Public Sewage Disposal System.

**Municipal Water System.** See Public Water System.

**Net Selling Price.** The selling price of a house and its accompanying land minus the costs incurred for land acquisition and construction.

**Night-time Hours.** 7:00 p.m. to 7:00 a.m., local time.

**Noise Pollution.** A level of noise which subjects those in close proximity to such decibel levels that impair their health, general welfare and enjoyment of their property for its intended use.

**Noncommercial Message.** A sign which carries no message, statement, or expression related to the commercial interests of the sign owner, lessee, author or other person responsible for the sign message.

**Nonconforming Sign.** See Sign, Nonconforming.

**Nonconforming Use.** See Use, Nonconforming.

**Normal Pool Elevation.** The mean elevation of a lake body's surface. The normal pool elevation for Griffy Reservoir is 630 feet and the normal pool elevation for Lake Monroe is 538 feet.

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

**Octave Band Sound Pressure Level.** The sound pressure level for the sound being measured contained within the specified octave band. The reference pressure is twenty (20) micronewtons per square meter ( $\mu\text{N}/\text{m}^2$ ).

**Odor Concentration.** The number of cubic feet that one cubic foot of sample will occupy when diluted to the odor threshold. It is measured in the number of odor units in one cubic foot of the sample and expressed in odor units per cubic foot.

**Odor Unit.** One cubic foot of air at the odor threshold.

**Off-Site.** Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

**Off-Street Loading and Unloading Space.** An open hard-surface area of land, other than a street, driveway, or public way, the principal use of which is for standing, loading and



unloading of motor trucks, tractors and trailers or other motor vehicles, to avoid undue interference with the public use of streets and alleys. Such space shall not be less than twelve (12) feet in width, thirty (30) feet in length for short berths and fifty (50) feet in length for long berths and fifteen (15) feet in height, exclusive of access aisles and maneuvering space.

**Off-Street Parking Schedule.** General off-street parking requirements, as delineated in the Zoning Ordinance that indicate the number of parking spaces required per use.

**Official Master Plan.** See Comprehensive Plan.

**Official Zone Map.** The map or maps established by the County pursuant to law showing the existing and proposed streets, highways, parks, drainage systems, and set-back lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the County or additions thereto resulting from the approval of subdivision plats by the Commission and the subsequent filing of such approved plats.

**On-Site.** Any premises located within the area of the property that is the subject of an application for development.

**Opacity.** A condition which renders material partially or wholly impervious to transmittance of light and causes obstruction of an observer's view. For the purposes of these regulations, the following equivalence between opacity and Ringelmann shall be employed.

Opacity Percent	Ringelmann No.
100.5	
201	
301.5	
402	
603	
804	
1005	

**Open Drain.** A natural or artificial open channel that carries surplus water and that was established under or made subject to any drainage statute or ordinance.

**Open Space.** Total horizontal area of all portions of the lot not covered by buildings, structures, streets, parking areas or paved walkways.

**Open Space, Usable.** That portion of a zoning lot which is not covered by building or paved areas. For the purposes of this ordinance, outdoor roof gardens, patios and decks may be counted, providing a maximum of 100 square feet per dwelling unit may be included as usable open space. Pools and other recreational facilities may be included in the usable open space provided that a minimum of thirty (30) percent of the usable open space must be devoted to landscaping.

**Ordinance.** Any legislative action, however denominated, of a local government which has the force of law.

**Ordinary Maintenance** means ensuring that communications facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing wireless

communications facility and relocating the antennas of approved communications facilities to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include minor and substantial modifications.

**Ornamental Tree.** A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

**Original Parent Parcel.** The lot prior to the utilization of the Sliding Scale Option subdivision method.

**Outfall.** The point or location at which storm water runoff discharges from a sewer or drain. The term also applies to the outfall sewer or channel which carries the storm runoff to the point of outfall.

**Owner.** Any person or other legal entity having legal title to or significant proprietary interest in the land subject to a zoning determination under these regulations.

**Owners Association.** See Condominium Association or Homeowners Association.

**Parcel.** A part or portion of land having a legal description formally set forth in a conveyance instrument (e.g., a deed) together with the boundaries thereof, in order to make possible its easy identification.

**Parent Parcel Remainder-** The largest lot created under the Sliding Scale Option subdivision method.

**Park.** A tract of land, designated and used by the public for active and passive recreation.

**Parking Area.** An open hard-surfaced area of land, other than a street, driveway, or public way, the principal use of which is for the storage (parking) of passenger automobiles or commercial vehicles under two-ton capacity by the public, whether for compensation or not, or as an accommodation to clients or customers.

**Parking Area, Private.** A private parking area is an open, hard-surfaced area, other than a public way or street, designed, arranged and made available for the storage (parking) of private passenger automobiles only, of occupants of the building or buildings for which the parking area is developed and is accessory.

**Parking Area, Public.** A public parking area is an open, hard-surfaced area, other than a public way or street, intended to be used for the temporary, daily, or off-street parking of passenger automobiles and commercial vehicles under one and one-half (1-1/2) tons rated capacity, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

**Parking Lot.** An improved surface upon which passenger vehicles are parked, and at which a fee may be charged.

**Parking Space, Automobile.** Hard surfaced space within a parking area or a building of not less than one hundred fifty-seven and one-quarter (157.25) square feet, being eight and one-half (8-1/2) feet by eighteen and one-half (18-1/2) feet, with a vertical clearance of at least seven (7) feet, exclusive of access drives, aisles, ramps, columns, or office and work area, for the storage of one passenger automobiles or commercial vehicles under two-ton capacity.

**Particle Velocity.** A characteristic of vibration that depends on both displacement and frequency. If not directly measured, it can be computed by the frequency by the amplitude

times the factor 6.28. The particle velocity will be in inches per second, when the frequency is expressed in cycles per second and the amplitude in inches.

**Particulate Matter.** Any solid or liquid material, other than water, which exists in finely divided form.

**Party Wall.** A wall which is common to but divides contiguous buildings.

**Peak Flow.** The maximum rate of flow of water at a given point in a channel or conduit resulting from a particular storm or flood.

**Pennant.** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string, usually in series, designed to move in the wind.

**Performance Standard.** A criterion or limit established to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, and glare or heat generated by, or inherent in uses of land or buildings.

**Permit authority** means the Monroe County board, commission, or employee that, or who, makes legislative, quasi-judicial, or administrative decisions concerning the construction, installation, modification, or siting of wireless facilities or wireless support structures.

**Person.** An individual, firm, limited liability company, corporation, association, fiduciary or governmental entity.

**Pesticide.** A chemical substance used to kill a plant or animal that is a nuisance or harmful to humans.

**Plan Commission.** See Commission.

**Planned Unit Development.** A means of land regulation which permits large scale, unified land development in a configuration and possibly a mix of uses not otherwise permitted "as of right" under the County Zoning ordinance but requiring under that ordinance a special review and approval process. A Planned Unit Development may be established for predominantly residential, commercial or industrial purposes.

**Plat.** A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.

**Plat Committee.** The Monroe County Plat Committee, appointed by the Plan Commission, which may hear subdivision proposals which do not involve the opening of new public ways and that comply in all other respects with this ordinance and the Subdivision Control Ordinance.

**Plant Community.** A natural association of plants that are dominated by one or more prominent species, or a characteristic physical attribute.

**Practical Difficulties**, for variance purposes, means a significant development limitation that:

- (A) arises from conditions on the property that do not generally exist in the area (i.e., the property conditions create a relatively unique development problem);
- (B) precludes the development or use of the property in a manner, or to an extent, enjoyed by other conforming properties in the area;
- (C) Cannot be reasonably addressed through the redesign or relocation of the development/building/structure (existing or proposed); and,
- (D) May not be reasonably overcome because of a uniquely excessive cost of complying with the standard.

**Preferred Frequencies.** Those frequencies in Hertz preferred for acoustical measurements which, for the purposes of this regulation, consist of the following set of values: 20, 25, 31.5, 40, 50, 63, 80, 100, 125, 160, 200, 250, 315, 400, 500, 630, 800, 1000, 1250, 1600, 2000, 2500, 3150, 4000, 5000, 6300, 8000, 10,000, 12,500.

**Preliminary Approval.** An approval (or approval with conditions imposed) granted to a subdivision by the Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in this ordinance.

**Preliminary Plat.** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

**Primary Area.** The portion of a Historic District in which historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares and/or neighborhoods are located.

**Primary Conservation Areas.** Unbuildable land, including but not limited to, wetlands and land that is generally inundated (land under ponds, lakes, creeks, etc.); all of the floodway and floodway fringe within the 100-year floodplain; steep slopes; karst areas; and soils subject to slumping, expansion, or erosion.

**Principal Use.** The main use of land or structures as distinguished from a subordinate or accessory use.

**Principal Building.** A building or structure or, where the context so indicates, a group of buildings or structures, in which the principal use of a lot or parcel is conducted.

**Probation**, for purposes of Chapter 808, is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

**Prominent Discrete Tone.** Sound, having a one-third octave band sound pressure level which when measured in a one-third octave band at the preferred frequencies, exceeds the arithmetic average of the sound pressure levels of the two (2) adjacent one-third octave bands on either side of such one-third octave band by:

- (a) 5 dB for such one-third octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive. Provided, such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band or;
- (b) 8 dB for such one-third octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive. Provided, such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band or;
- (c) 15 dB for such one-third octave band with a center frequency from 215 Hertz to 125 Hertz, inclusive. Provided, such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band.

**Public Agency.** An agency or government department acting under the aegis of and representing an elected or appointed council, commission, or other policy-making or advisory body of federal, state or local government to whom it is responsible.

**Public Improvement.** Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**Public Utilities.** A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare, such as electric, gas, telephone, water, sewer, solid waste disposal, schools, and public transit.

**Qualified Geologist.** A person who has met or exceeded the minimum geological educational requirement and who can interpret and apply geologic data, principles, and concepts and who can conduct field or laboratory geologic investigations; and who by reason of experience and education, has an understanding of local karst geology.

**Radius of Curvature.** The length of radius of a circle used to define a curve.

**Rainfall Intensity.** The cumulative depth of rainfall occurring over a given duration, normally expressed in inches per hour.

**Reach.** Any length of watercourse, channel or storm sewer.

**Rear Yard.** A yard, as defined herein, encompassing the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rear lot line. The rear yard of a corner lot shall be designated on the preliminary plat.

**Reception Window.** The area within the direct line between a satellite antenna and those orbiting communications satellites carrying available programming.

**Recreational Area.** A place designed and equipped for the conduct of sports and leisure-time activities.

**Recreational Facility, Outdoor.** A use of land for recreational purpose, either public or private, where such use requires no structure for the principal activity. Related functions such as changing rooms or restrooms, and maintenance may be housed in buildings or structures. Uses so defined shall include but not be limited to golf courses, outdoor tennis courts, and swimming pools, but shall not include uses such as miniature golf, bungee jumping, amusement parks or other similar commercial recreation uses.

**Recreational vehicle.** A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. For purposes of Chapter 808, recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

**Recreational Vehicle Park.** A lot, tract, or parcel of land used or offered for use in whole or in part with or without charge, for the parking of occupied recreational vehicles, tents, or similar devices used for temporary living quarters for recreational camping or travel purposes.

**Registered Land Surveyor.** A land surveyor properly licensed and registered or, through reciprocity, permitted to practice in the State of Indiana.

**Registered Professional Engineer.** An engineer properly licensed and registered in the State of Indiana or, through reciprocity, permitted to practice in the State of Indiana.

**Regulated Area.** All of the land under the jurisdiction of the Drainage Board.

**Regulated Drain.** See Legal Drain.

**Release Rate.** The amount of storm water released from a storm water control facility per unit of time.

**Replacement** means removing the pre-existing wireless support structure and constructing a new wireless support structure of proportions and of equal height or such other height that would not constitute a substantial modification to a pre-existing wireless support structure in order to support a wireless communications facility or to accommodate collocation.

**Replacement Cost.** The cost to build a structure which has been destroyed or partially destroyed with a new structure which conforms to modern building standards and which is otherwise substantially similar to the structure which was destroyed or partially destroyed. Calculation of the replacement cost shall be based on the most current Building Valuation Data Report as published in the most current copy of BOCA (The Building Official and Code Administration Magazine).

**Residential Neighborhood.** All lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

**Restrictive Covenant.** Limitations of various kinds on the usage of lots or parcels of land within a subdivision which are proposed by the subdivider, and, in the case of public health, safety and welfare, by the Commission, that are recorded with the plat and run with the land.

**Resubdivision.** A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line, or setback; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**Retention.** The permanent on-site storage of storm water.

**Return Period.** The average interval of time within which a given rainfall event will be equaled or exceeded once.

**Right-of-way.** A strip of land occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for other special uses. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat such right-of-way is established.

**Ringelmann Chart.** The chart published and described in the Bureau of Mines, US Department of Interior, information Circular 8333.

**Riparian Conservancy Areas (RCA).** An area of Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways unless modifications are deemed necessary by the Drainage Board to improve drainage.

**Rise Pit.** A spring characterized by an upwelling of water, which may be permanently flowing or intermittent.

**Road(s).** See Street(s).

**Runoff Coefficient.** A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drainage system to the total amount of rain falling. A coefficient of 0.5 implies that 50 percent of the rain falling on a given surface appears as storm water runoff.

**Rural Area.** An area that may not be classified as an urban area.

**Sale or Lease.** Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, intestate succession, or other written instrument.

**Same Ownership.** Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**Screen.** A method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

**Secondary Area.** The portion of a Historic District which surrounds the primary area and which the control of the development or the change of which is necessary or desirable to the preservation of the primary area of the Historic District.

**Secondary Conservation Areas.** Land otherwise buildable under local, state, and federal regulations but placed under a conservation easement as part of the Cluster Subdivision Ordinance provisions.

**Sectionalizing or Phasing.** A process whereby an Applicant seeks final approval on only a portion of a plat which has been granted preliminary approval.

**Sediment.** Soil material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site or origin by air, water, or gravity, as a product of erosion.

**Sediment Basin.** A barrier or dam built at suitable locations to retain rock, sand, gravel, silt, or other materials.

**Seismograph.** An instrument which measures vibration characteristics simultaneously in three (3) mutually perpendicular planes. The seismograph may measure displacement and frequency, particle velocity, or acceleration.

**Semitrailer.** A semitrailer is a vehicle without motive power, designed for carrying property and for being drawn by a motor vehicle, and so constructed that some part of the weight of the semitrailer and that of the semitrailer's load rests upon or is carried by another vehicle.

**Setback.** A line parallel to and equidistant from the relevant lot line (front, back, side) or right-of-way line, between which no buildings or structures may be erected, except as expressly provided in these regulations. Setback distances are generally set forth in the height, bulk and density provisions of this ordinance.

**Sewage.** The water-carried waste derived from ordinary living processes, including, but not limited to, human excreta and waste water derived from water closets, urinals, laundries, sinks, utensil washing, washing machines, bathing facilities or similar facilities or appliances.

**Sewage Disposal System.** Any arrangement of devices and structures used for receiving, treating, disposing or storing of sewage.

**Sewage Disposal System, Private.** Any sewage disposal system not constructed, installed, maintained and operated and owned by a municipality, a taxing district or a corporation or organization possessing a "Certificate of Territorial Authority" issued by the Indiana Utilities Regulatory Commission and established for that purpose. A private sewage disposal system is typically an individual sewage disposal system that may be either a subsurface septic system or mound septic system that is surface constructed of material brought to the site.

**Sewage Disposal System, Public.** Any conduit for sewage constructed, installed, maintained, operated, owned or defined as a public sewage disposal system by a municipality, taxing district or a corporation or organization possessing a "Certificate of Territorial Authority" issued by the Indiana Utilities Regulatory Commission and established for that purpose.

**Shade Tree.** A tree, usually deciduous, planted primarily for its high crown of foliage or overhead canopy.

**Shaft.** A vertical-sided pit of any diameter that extends downward more than a few feet.

**Sheet Flow.** Drainage of water over plane surfaces at a very shallow depth, usually under one inch.

**Shopping Center.** A group of commercial establishments planned, constructed and managed as a total entity, with customer and employee parking provided on-site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

**Short-Term Lodging Agreement.** An agreement under which rooms are provided for a fee, rate, or rental, and are occupied for overnight lodging or habitation purposes for a period of less than thirty (30) days.



**Shrub.** A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

**Side Lot Lines.** Any lines separating two lots other than front or rear lot lines.

**Sign.** Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. The definitions of various types of signs that are set forth in this Section may not be interpreted as a limitation on the scope of the foregoing definition of "sign."

**Sign, Animated.** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

**Sign, Building Marker.** Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

**Sign, Building.** Any sign attached to any part of a building, as contrasted to a freestanding sign.

**Sign, Canopy.** Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

**Sign, Changeable Copy.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

**Sign, Directional.** A sign containing information limited to the name of the business, the nature of the business, the business logo, if any, and the distance and direction to the use being advertised.

**Sign, Externally Illuminated.** A sign that is illuminated by an external source of light intentionally directed upon the sign face.

**Sign, Freestanding.** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

**Sign, Governmental.** Traffic or other civic signs, signs required by law or emergency, railroad crossing signs, legal notices, and any temporary, or non-commercial signs as are authorized under policy approved by the County, State, or Federal government.

**Sign, Ground.** Any sign other than a pole sign in which the entire bottom is in contact with or is close to the ground and is independent of any other structure.

**Sign, Incidental.** A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

**Sign, Integral Roof.** Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

**Sign, Internally Illuminated.** A sign whose light source is either located in the interior of the sign so that the light goes through the face of the sign, or which is attached to the face of the sign and is perceived as a design element of the sign.

**Sign, Marquee.** Any sign attached to, in any manner, or made a part of a marquee.

**Sign, Nonconforming.** Any sign lawfully existing on the effective date of the ordinance, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

**Sign, Off-Premises.** A sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located, or which business, commodity, service or entertainment forms only minor or incidental activity upon the premises where the sign is displayed.

**Sign, On-Premises.** A sign which advertises or directs attention to a business, commodity, or service conducted, offered, or sold on the premises, or directs attention to the business or activity conducted on the premises.

**Sign, Pole.** A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is nine (9) feet or more above grade.

**Sign, Portable.** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

**Sign, Projecting.** Any sign affixed to a building or wall in such a manner that its leading edge extends more than twelve inches beyond the surface of such building or wall.

**Sign, Residential.** Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises or provided to the premises where the sign is located, if offering such service at such location conforms to all requirements of the zoning ordinance.

**Sign, Roof.** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

**Sign, Snipe.** A temporary sign illegally tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or other objects.

**Sign, Suspended.** A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

**Sign, Temporary.** "Temporary sign" means any sign that is intended to be displayed for a limited period of time and is not permanently anchored or secured to a building or not having supports or braces permanently secured to the ground, including but not limited to: banners, pennants, or advertising displays including portable signs.

**Sign, Wall** Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined with the limits of an outside wall or any building or structure, which is supported by such wall or building and which displays only one sign surface.

**Sign, Window** Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

**Single-Family Attached Structure.** A group of two (2) or more dwelling units attached by a wall, which is one or more stories in height, with each dwelling unit accessible by its own separate exterior entrance at grade level.

**Single-Family Detached Structure.** A freestanding single-family dwelling unit.

**Sinkhole.** Any depression in a karst area formed by the subsurface removal of soil or rock by erosion, dissolution or mass wasting (collapse, in part).

**Sinkhole Cluster Area.** An area containing two or more sinkholes located in close proximity, generally interconnected by groundwater conduits.

**Sinkhole Conservancy Area (SCA).** An area of land that is limited in use to activities described in Chapter 829 of the Monroe County Zoning Ordinance.

**Sinkhole Eye.** A visible opening, cavity, or cave in the bottom of a sinkhole, sometimes referred to as a swallow hole.

**Sinkhole Flooding Area.** The area inundated by runoff from a storm with an annual exceedance probability of 1% and a duration of forty-eight (48) hours assuming no outflow from the sinkhole.

**Sinkhole Ponding Elevation.** The maximum elevation of either the elevation as determined by using currently accepted methods of the Natural Resources Conservation Service to calculate the total volume of runoff from the sinkhole drainage area to the sinkhole utilizing an eight inch (8") rainfall and no sink outlet or the historical elevation of the published flood elevation. Maximum ponding elevation is established by overflow conditions.

**Sinkhole Rim.** The perimeter of the sinkhole depression. This includes the area defined by the elevation of the highest closed contour prior to man-made disturbance and/or the elevation at which the sinkhole, if it were a closed system, would overflow if it were flooded.

**Sinkhole Watershed.** The ground surface area that provides drainage to the sinkholes.

**Sinking Stream.** A stream that flows across the land surface in a karst area and sinks into subsurface channels or caverns within the carbonate bedrock.

**Siphon.** A closed conduit, a portion of which lies above the hydraulic grade line, resulting in a pressure less than atmospheric and requiring a vacuum within the conduit to start flow. A siphon utilizes atmospheric pressure to effect or increase the flow of water through a conduit. An inverted siphon might be used to carry storm water flow under an obstruction such as a sanitary sewer.

**Site.** The entire area included in the legal description of the parcel(s) of land on which development has been proposed or is being constructed; or the controlled area where runoff originates.

**Site Triangle.** The imaginary triangular area formed at a street corner by projecting the curb lines of the two intersecting streets to where the two projected lines would cross. From that intersecting point, one measures twenty-five (25) feet back along both curbs and then the two (2) end points are then connected. Within this imaginary triangle, no visual obstructions taller than three (3) feet are allowed.

**Sliding Scale Option Small Lot.** In the AG/RR, CR and FR zoning districts, individual small lots ranging in size from two and a half (2.5) to five (5) acres which can only be created through the Sliding Scale Option Subdivision.

**Small cell facility** means: (1) a personal wireless service facility (as defined by the Federal Telecommunications Act of 1996, as in effect on July 1, 2015); or, (2) a wireless service facility that satisfies the following requirements: (A) each antenna, including exposed elements, has a volume of three (3) cubic feet or less; (B) all antennas, including exposed elements, have a total volume of six (6) cubic feet or less; (C) the primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less. For purposes of part (2)(C) of this definition, the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure: electric meters; concealment equipment; telecommunications demarcation boxes; ground based enclosures; back up power systems; grounding equipment; power transfer switches; and cut-off switches.

**Small cell network** means a collection of interrelated small cell facilities designed to deliver wireless service.

**Smoke.** Small gas borne particles resulting from incomplete combustion, consisting predominantly but not exclusively of carbon, ash, and other combustible material, that form a visible plume in the air.

**Soil.** All unconsolidated mineral and organic material of any origin.

**Social Service Uses.** Any community serving activity, other than those separately defined herein, conducted by a non-profit organization which provides a service to a segment of the community's population having particular needs as a result of specific circumstances, such as low income, illness, developmental disability, and the like.

**Solar Farm.** A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV) or other conversion technology, for the primary purpose of wholesale sales of generated electricity.

**Sound.** An oscillation in pressure in air.

**Sound Pressure Level.** In decibels, twenty (20) times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is twenty (20) micronewtons per square meter ( $\mu\text{N}/\text{m}^2$ ).

**Special Exception.** A use which may be permitted in certain zones subject to the conditions specified in the Zoning Ordinance.

**Specimen Tree.** A particularly impressive or unusual example of a species due to its size, shape, age, or any other trait that epitomizes the character of the species.

**Spillway.** A waterway in or about a hydraulic structure, used for the release of excess water.

**Spring.** An outflow of subterranean water.

**Spring Cave.** A cave with a flow of water from the entrance

**Stable.** A structure and/or land use in or on which horses are kept primarily for breeding, boarding, training and/or giving lessons.

**Stacked Unit Structure.** A group of two (2) or more dwelling units attached through the ceiling or floor with one physically located above the other.

**State Acts.** Such legislative acts of the State of Indiana as they affect these regulations.

**State Plane Coordinates System.** A system of plane coordinates, based on the Transverse Mercator Projection for the Western Zone of Indiana, established by the United States Coast and Geodetic Survey for the State of Indiana.

**Steady State Vibration.** A vibration which is continuous, as from a fan, compressor, or motor.

**Stealth Design.** Stealth Design shall include those design and construction techniques used to disguise WCF and Support Structures and/or conceal an Antenna Array. Examples include, but are not limited to, rooftops, flagpoles, light poles, bell and clock towers, signs, water towers, silos, steeples, and chimneys.

**Stilling Basin.** A basin used to slow water down or to dissipate its energy.

**Storage Duration.** The length of time that water may be stored in a storm water control facility, computed from the time water first begins to be stored.

**Storm Sewer.** A closed conduit for conveying collected storm water.

**Storm Water Drainage System.** All methods, natural or man-made, used for conveying storm water to, through or from a drainage area to any of the following: conduits and appurtenant features; canals; channels; ditches; streams; culverts; streets; or pumping stations.

**Storm Water Runoff.** The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

**Straight Truck.** A straight truck is any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more.

**Stream/vegetation Interface Line.** The line where the unvegetated streambed meets streamside vegetation. Where plants are widely dispersed, this line shall begin where vegetation covers 75 percent of the ground plane.

**Street.** A land right-of-way that provides the principal means of access to abutting property. Rights-of-way for utility, pedestrian, or bicycle easements are not considered streets.

**Street, Dead-end.** A street or a portion of a street with only one (1) vehicular-traffic outlet.

**Street, Classification.** For the purpose of providing for the development of the streets, highways, and rights-of-way in the County, and for their future improvement, reconstruction,

realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, and right-of-way, and those located on approved and filed plats, have been designated on the Official Map of the County or Thoroughfare Plan and classified therein. The classification of each street, highway, and right-of-way, is based upon its location in the respective zoning districts of the County and its present and estimated future traffic volume and its relative importance and function as specified in the County Comprehensive Plan and/or its Thoroughfare Plan component. The required improvements shall be measured as set forth for each street classification on the Official Map.

**Street Frontage.** The distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

**Street Right-of-Way Width.** The distance between property lines measured at right angles to the center line of the street.

**Stripping.** Any activity which significantly disturbs vegetated or likewise stabilized soil surface, including clearing and grubbing operations.

**Structural Alteration.** Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.

**Structure.** Any construction or any production or piece of work that is artificially made or built up or that is composed of parts joined together for occupancy, use, or ornamentation, whether installed on, above, or below the surface of a parcel of land (e.g., without limitation, buildings, roads, culverts, fences, etc.).

**Subdivider.** Any person who, having a proprietary interest in land, causes it, directly or indirectly, to be divided into a subdivision.

**Subdivision.** The division of a lot of record into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, allocation, distribution, transfer, hold for investment or development, either on the installment plan or upon any and all other plans, terms, and conditions, including re-subdivision. Subdivision includes 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.

**Subdivision Agent.** Any person who represents or acts for or on behalf of a subdivider or developer in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services, and who is not involved in developing, marketing or selling real property in the subdivision.

**Subdivision, Administrative.** A subdivision of land that is specifically exempted from the preliminary and final plat approval procedures and requirements of the Subdivision Control Ordinance. An administrative subdivision must be one of the following types of division:

~~(A) A division of land into two (2) or more tracts of which all tracts are at least five (5) acres in size; (Repealed by Ordinance 2015-02)~~

**(B) A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;**

(C) A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;

(D) A division of land for federal, state or local government to acquire street right-of-way;

(E) A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division. The lots created shall have only one principal use building on each site (See Principal Building); and,

(F) A division of land into cemetery plots for the purpose of burial of corpses.

**Subdivision, Major.** Any division of land including but not limited to subdivisions of five (5) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

**Subdivision, Minor.** Any subdivision containing not more than four (4) lots in which all lots have at least 50 feet of frontage on an existing street that is an improved right-of-way maintained by the County (or other local government) or by a 50' wide access easement, and not involving:

- 1) any new street,
- 2) the extension of municipal facilities for non-residential use,
- 3) the creation of any public improvements other than sidewalk or street trees, and
- 4) conflict with the Comprehensive Plan, Official Zone Map, Zoning Ordinance, or this ordinance.

**Subdivision, Nonresidential.** A subdivision intended for nonresidential use.

**Subdivision, Sliding Scale Option.** In the AG/RR, CR and FR zoning districts, an optional method of subdivision which establishes a parent parcel remainder and up to three (3) sliding scale small lots.

**Subdivision, Traditional.** A subdivision utilizing the major, minor, or administrative subdivision methods established by these regulations rather than utilizing the Sliding Scale Option subdivision provisions.

**Subject Property.** The land, building or structure concerning which an application for a permit, certificate, review or other determination authorized by the Zoning Ordinance or the Subdivision Control Ordinance, has been filed.

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

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

alteration will not preclude the structures continued designation as a "historic structure".

**Substantial modification** of a wireless support structure means the replacement of a wireless support structure and/or the mounting of a wireless facility on a wireless support structure in a manner that: (1) increases the height of the wireless support structure by the greater of: (A) ten percent (10%) of the original height of the wireless support structure; or, (B) twenty (20) feet; (2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of: (A) twenty (20) feet; or, (B) the width of the wireless support structure at the location of the appurtenance; (3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet; or, (4) any improvement that results in a structure which fails to meet the General Standards and Design Requirements for Wireless Communication Facilities set forth in Chapter 834 of this Ordinance. The term does not include the following: (1) Increasing the height of a wireless support structure to avoid interfering with an existing antenna; (2) Increasing the diameter or area of a wireless support structure to: (A) shelter an antenna from inclement weather; or, (B) connect antenna to the wireless support structure by cable.

**Subsurface Drainage.** A system of pipes, tiles, conduits, or tubing installed beneath the ground surface used to collect groundwater from individual parcels, lots or building footings.

**Support Structure.** Any structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device used to attach an Attached WCF to an existing building or structure shall be excluded from this definition.

**Surface Drainage.** A system by which the stormwater runoff is conducted to an outlet. The term encompasses the proper grading of parking lots, streets, driveways, yards, etc., so that stormwater runoff is removed without ponding and flows to a drainage swale, open ditch or storm sewer.

**Swallow Hole.** The terminus of a sinking stream; the throat where the stream is diverted into subterranean routes or passages.

**Temporary Improvement.** Improvements built and maintained by a subdivider during construction of the subdivision and intended to be replaced by a permanent improvement prior to release of the performance bond, or turnaround improvements at the ends of stub streets intended to be replaced when the adjoining area is developed and the through street connection made.

**Temporary Use.** A use established for a fixed period of time, with the intent to discontinue such use upon the expiration of such time that does not involve the construction or alteration of any permanent structure. Temporary uses are regulated as special exceptions.

**Temporary WCF.** Any portable Antenna Array or Attached WCF that is designed for temporary placement and does not require the construction of a Support Structure.

**Terminal Sinkhole.** The lowest sinkhole in a sinkhole cluster to which any surface water overflowing from other sinkholes in the cluster will flow.

**Thoroughfare Plan.** See Official Zone Map.

**Tiled Drain.** A tiled channel that carries surplus water and that was established under or made subject to any drainage statute or ordinance.



**Tower** means a lattice-type structure, guyed or freestanding, that supports one or more Antennas.

**Toxic Substance.** Any gas, liquid, solid, semisolid substance or mixture of substances, which if discharged into the environment could, alone or in combination with other substances likely to be present in the environment, cause or threaten to cause bodily injury, illness, or death to members of the general public through ingestion, inhalation, or absorption through any body surface. In addition, substances which are corrosives, irritants, strong sensitizers, or radioactive substances shall be considered toxic substances for the purpose of this regulation.

**Tractor (semi-tractor).** A tractor is a motor vehicle designed and used primarily for drawing or propelling trailers, semitrailers, or vehicles of any kind and are registered with a semi-tractor license plate.

**Traffic Impact Analysis.** A study and analysis of how a given use, plan or development will affect traffic in the surrounding area (circulation patterns, amount of vehicle trips generated, amount of vehicles, etc.).

**Transitional Lot.** A specified lot or lots, adjoining a specified lot, or lots, in another district. The "transitional" identification is used when special transitional regulations are applied to deal with possible conflicts of uses at district boundaries. Transitional buffer yards may be imposed at these locations to act as a buffer between uses.

**Tree.** A large, woody plant having one or several self-supporting stems or trunks and numerous branches; may be classified as deciduous or evergreen.

**Tree Protection.** Measures taken, such as temporary fencing and the use of tree wells, to protect existing trees from damage or loss during and after project construction.

**Tributary.** Contributing storm water from upstream land areas.

**Truck Stop/Travel Plaza.** A development oriented to the service of trucks, including the sale of fuel to truck drivers, and provision for support facilities for truck drivers. They may also be utilized by non-truck traffic and the interstate traveler. Business activities which are customarily accessory and clearly incidental and subordinate to the truck stop or travel plaza, may include but not be limited to: scales, truck wash, tire repair and sales, barber shop, restaurant with or without alcohol service, shower facility, convenience store, truckers lounge (for services such as television/exercise/internet access etc.), motel/hotel, laundry, chain rental, vehicle fuel and consumer propane bottle dispensing. The facility may allow for the temporary, daily, or overnight parking (excluding for the loading and unloading of cargo) of commercial motor vehicles which are en-route to or from a destination along an interstate freeway system, for free or for a fee that may be independent of any other use on the premises. The term "truck" shall mean a commercial vehicle driven by a 'truck driver' who is required to have a Class "A" CDL (Commercial Driver's License) license or equivalent.

**Understory.** Assemblages of natural low-level woody, herbaceous, and ground cover species that exist in the area below the canopy of the trees.

**Unregulated Safety Relief Valve.** A safety relief valve used and designed to be actuated by high pressure in the pipe or vessel to which it is connected and which is used and designed to prevent explosion or other hazardous reaction from pressure buildup, rather than being used and designed as a process pressure blowdown.

**Urban Area.** An area subject to utility services as shown on the Urban Services Boundary Map or an area within 660 feet of utility service facilities as shown on the Urban Services Boundary Map.

**Urban Services Boundary.** The boundary of a region within which public sewer services are generally available.

**Urbanization.** The development, alteration, or improvement of any parcel of land for residential, commercial, industrial, institutional, recreational or public utility purposes.

**Use.** Any purpose for which a structure or a tract of land may be designated, arranged, intended, maintained, or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in a structure or on a tract of land.

**Use, Nonconforming.** Any use of land, building or structure which use is not permitted in the zoning district in which the use is located.

**Use, Permitted.** Any use of land, building or structure which use is permitted in the zoning district in which the use is located.

**Use, Principal.** The main use of land, building or structure as distinguished for a subordinate or accessory use.

**Utility pole** means a structure that is owned or operated by public utility, communications service provider, municipality, electric membership corporation, or rural electric cooperative and that is designed and used to carry lines, cables, or wires for telephony, cable television, or electrical transmission, or to provide lighting. The term does not include a wireless support structure or an electrical transmission tower.

**Utility Structure.** Any structure owned and/or operated by a public utility regulated by the Utilities Regulatory Commission (URC), excepting all WCF and/or Support Structures.

**Variance.** A deviation from any term or standard contained in the Zoning Ordinance authorized by the Board of Zoning Appeals.

**Vegetation, Native.** Any plant species with a geographic distribution indigenous to all or part of Monroe County. Plant species that have been introduced by man are not native vegetation.

**Viable.** When referring to a tree, shrub, or other type of plant, is a plant that, in the judgement of the zoning inspector, is capable of sustaining its own life processes, unaided by man, for a reasonable period of time.

**Vibration.** A reciprocating motion transferred through the earth, both in horizontal and vertical planes.

**Voluntary Abandonment of Nonconforming Use.** Any cessation or interruption of a pre-existing nonconforming use that is not necessitated by litigation or a dispute over the right to possession of property. However, any such interruption shall be considered voluntary unless the parties make a good faith effort to promptly resolve the dispute or terminate the litigation.

**Volunteer.** One who enters into any service of his own free will, or offers himself for any service or undertaking without remunerative compensation.

**Vulnerable Land.** Natural features where human activities degrade characteristics of the feature resulting in harm to the feature whether it is fauna, flora, or human life. Vulnerable Land includes floodplains, karst, steep slopes, riparian areas, wetlands, poor soils, threatened species habitat, critical water supply watersheds as well as potential and existing reservoirs. Vulnerable Land also includes land for which there is a public expectation of a long-term sustainable use for a specific purpose. This category of Vulnerable Land includes historic sites, public open spaces, potential reservoirs to assure our potable water supply, our best agricultural and forest land, drainage ways, mineral resources, and transportation corridors.

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

**Watershed.** See Drainage Area.

**Water surface elevation,** for purposes of Chapter 808, means the height, in relation to the North American Vertical Datum of 1988 (NAVD 88) or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**Water System, Private.** A plumbing system for providing potable water to a lot or parcel of property that is not constructed, installed, maintained, operated and owned by a municipality, a taxing district or a corporation or organization possessing a "Certificate of Territorial Authority" issued by the Indiana Utilities Regulatory Commission and established for that purpose. A private water system is typically a well drilled to serve a single lot.

**Water System, Public.** A conduit for water that is constructed, installed, maintained, operated, owned or defined as a public water system by a municipality, taxing district or a corporation or organization possessing a "Certificate of Territorial Authority" issued by the Indiana Utilities Regulatory Commission and established for that purpose.

**WCF Overlay.** See Chapter 802.

**Wet Bottom Detention Basin** (retention basin). A detention basin that is designated to retain a permanent pool of water after it has performed its planned detention function during or immediately following a storm event.

**Wet Weather Spring or Rise.** An intermittent spring that discharges storm waters.

**Wetlands.** Those areas inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation specifically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. This term does not include lands having the following general diagnostic environmental characteristics:

- (A) Vegetation: the prevalent vegetation consists of plant species that are typically adapted for life only in aerobic soils. These mesophytic and/or xerophytic macrophytes cannot persist in predominantly anaerobic soil conditions.
- (B) Soils: soils, when present, are not classified as hydric, and possess characteristics associated with aerobic conditions.

- (C) **Hydrology:** although the soil may be inundated or saturated by surface water or ground water periodically during the growing season of the prevalent vegetation, the average annual duration of inundation or soil saturation does not preclude the occurrence of plant species typically adapted for life in aerobic soil conditions.

**Wireless Communications.** Any wireless services as defined in the Federal Telecommunications Act which includes FCC licensed commercial wireless telecommunications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and other similar services that currently exist or that may in the future be developed.

**Wireless communication facility or wireless facility** means the set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

**Wireless support structure** means a freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.

**Woodlands, Existing.** Existing trees and shrubs of a number, size, and species that accomplish the same general function as new plantings.

**Woodlot.** A tree-covered area to be kept in an undeveloped state in the Planned Residential Overlay districts, having a minimum area of 0.50 acres, and having predominantly complete tree crown coverage resulting from trees having a caliper of five (5) inches or greater, and having a dimension at its narrowest point of at least one-fourth (1/4) of its largest dimension. This term does not include a tree line of trees in a narrow row.

**Yard.** A space on the same lot with a principal building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

**Yard Factor.** The length in feet of a given yard (measured at the yard's mid-point, for a yard with varying width and depth) divided by 100, for the purpose of determining landscaping requirements.

**Zone Lot.** A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.

**Zoning Map.** See Official Zone Map.

**Zoning Ordinance.** The County ordinance setting forth the regulations controlling the use of land in the County Jurisdictional Area, also referred to as the "Monroe County Zoning Ordinance."

**[end of chapter]**

## CHAPTER 802

### ZONING ORDINANCE: ZONES AND PERMITTED USES

#### 802-1. Establishment of Zones

- (A) The County Jurisdictional Area is hereby classified and divided into the following eighteen (18) zones (also referred to as "districts"):

AG/RR	Agriculture/Rural Reserve;
FR	Forest Reserve;
CR	Conservation Residential;
ER	Estate Residential;
LR	Low Density Residential;
SR	Suburban Residential;
MR	Medium Density Residential;
HR	High Density Residential;
UR	Urban Residential;
LB	Limited Business;
GB	General Business;
PB	Pre-Existing Business;
IP	Institutional/Public;
LI	Light Industrial;
HI	Heavy Industrial;
ME	Mineral Extraction;
PUD	Planned Unit Development and
REC	Recreation.

- (B) In addition to the zones listed above, portions of the County Jurisdictional Area may be classified according to one or more of the following overlay zones (also referred to as "overlay districts"):

SFHA	Special Flood Hazard Area;
HP	Historic Preservation (Primary or Secondary);
ECO	Environmental Constraints Overlay;
BI	Business and Industrial Overlay; and
WCF	Wireless Communications Facilities Overlay.

- (C) In addition to the zones and overlay districts listed above, Chapter 833 of the Monroe County Zoning Ordinance incorporates those sections of the City of Bloomington Zoning Ordinance which would apply to the zoning effective for those areas of the County formerly under the City of Bloomington's planning and zoning jurisdictional control, as amended. Refer to Chapter 833 of the zoning ordinance for regulations pertaining to these areas.

- (D) The foregoing zones and overlay zones are defined as follows:

**Agriculture/Rural Reserve (AG/RR) District.** The character of the Agriculture/Rural Reserve (AG/RR) District is defined as that which is primarily intended for agriculture uses including, but not limited to, row crop or livestock production, forages, pasture, forestry, single family residential uses associated with agriculture uses and limited, very low density, rural non-farm related single family uses and not in (major) subdivisions. Its purposes are to encourage the continuation of agriculture uses, along with the associated single family residential uses, to discourage the development of residential subdivisions and non-farm-related nonresidential uses, to protect the environmentally sensitive areas, such as floodplain and steep slopes, and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the AG/RR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the agriculture-related uses. The development of new non-farm residential activities proximate to known mineral resource deposits or extraction operations may be buffered by increased setback distance.

**Forest Reserve (FR) District.** The character of the Forest Reserve (FR) District is defined as that which is primarily intended for the preservation of forests, recreational areas, parks and greenways, limited agricultural uses and very, very low density single family residential uses. Its purposes are to permit limited single family residential development on very large lots, to discourage the development of residential subdivisions and nonresidential uses, to protect environmentally sensitive areas, such as floodplain and steep slopes and to maintain the character of the surrounding neighborhood. Development in the FR District is hindered by extreme topography, poor access and the availability of few or no public services. Therefore, the number of uses permitted in the FR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the low-density residential and public open space uses.

**Conservation Residential (CR) District.** The character of the Conservation Residential (CR) District is defined as that which is primarily intended to provide a residential option (planned unit or cluster development) at environmentally sound locations while protecting the environmentally sensitive watersheds of Lake Griffey and Monroe Reservoir. Its purposes are to protect the environmentally sensitive watershed, especially the floodplain and steep slopes, to permit limited single family residential development on very large lots or in subdivisions (planned unit or cluster development) at environmentally sound locations, to discourage the development of nonresidential uses, to discourage the development of sanitary sewer systems except for existing development and to maintain the character of the surrounding neighborhood. Development in the CR District is hindered by concern over the watershed environment, and, in some cases, extreme topography, poor access and the availability of few or no public services. Therefore, the number of uses permitted in the CR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the watershed environment and low-density residential uses. The development of new residential activities proximate to known mineral resource deposits or extraction operations may be buffered by increased setback distance.

**Estate Residential (ER) District.** The character of the Estate Residential (ER) District is defined as that which is primarily intended for low density, single family residential development on relatively flat land in areas that have some, but not full, public services, generally along or near major County roads or state highways. Its purposes are to permit limited single family residential development on large lots, to discourage the development of sanitary sewer systems except for existing development, to discourage the development of residential subdivisions and non-farm nonresidential uses, to protect environmentally sensitive areas, such as floodplain, karst, and steep slopes and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the ER District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the low-density residential uses. The development of new residential activities proximate to known mineral resource deposits or extraction operations may be buffered by increased setback distance.

**Suburban Residential (SR) District.** The character of the Suburban Residential (SR) District is defined as that which is primarily intended for existing, possibly nonconforming, recorded single family residential subdivisions and lots of record. Its purposes are to accommodate existing, substandard subdivision developments and lots, to permit the build-out of single family residential uses in those developments and lots, to encourage the development of sanitary sewer systems for the existing development in the Lake Lemon area, to discourage the development of nonresidential uses, to protect environmentally sensitive areas, such as floodplain, karst, and steep slopes, and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the SR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the residential uses. The need for expanding this district beyond the areas designated on the Official Zone Maps on the date of the adoption of the zoning regulations is not anticipated or encouraged.

**Low Density Residential (LR) District.** The character of the Low Density Residential (LR) District is defined as that which is primarily intended for residential development in areas in and surrounding urban service areas, where public sewer service is available or planned in the near future. Its purposes are to encourage the development of moderately-sized residential lots in areas where public services exist to service them efficiently, to discourage the development of nonresidential uses, to protect the environmentally sensitive areas, including floodplain, watersheds, karst, and steep slopes, and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the LR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the residential uses. The development of new residential activities proximate to known mineral resource deposits or extraction operations may be buffered by distance.

**Medium Density Residential (MR) District.** The character of the Medium Density Residential (MR) District is defined as that which is primarily intended for residential development in areas in urban service areas, where public sewer service is available. Its purposes are: to encourage the development of moderately-sized residential lots in areas where public services exist to service them efficiently; to discourage the development of nonresidential uses; to protect the environmentally sensitive areas, including floodplain, watersheds, karst, and steep slopes; and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the MR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the residential uses. The development of new residential activities proximate to known mineral resource deposits or extraction operations may be buffered by distance.

**High Density Residential (HR) District.** The character of the High Density Residential (HR) District is defined as that which is primarily intended for residential development in areas in urban service areas, where public sewer service is currently available. Its purposes are: to encourage the development of smaller-sized residential lots in areas where public services exist to service them efficiently; to discourage the development of nonresidential uses; to protect the environmentally sensitive areas, including floodplain, watersheds, karst, and steep slopes; and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the HR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the residential uses. The development of new activities proximate to known mineral resource deposits or extraction operations may be buffered by distance.

**Urban (Multifamily) Residential (UR) District.** The character of the Urban (Multifamily) Residential (UR) District is defined as that which is primarily intended for multifamily and high density residential development in areas within urban service areas, near business nodes and concentrations where public sewer service is currently available. Its purposes are: to encourage the development of multifamily and two-family residential lots and developments in areas where public services exist to service them efficiently; to encourage the integration and mixing of high-density residential development with local nonresidential uses in an appropriate and comprehensive manner; to protect the environmentally sensitive areas, including floodplain, watersheds, karst, and steep slopes; and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the UR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the residential uses. The development of new activities proximate to known mineral resource deposits or extraction operations may be buffered by distance.

**Limited Business (LB) District.** The character of the Limited Business (LB) District is defined as that which is primarily intended to meet the essential business needs and convenience of neighboring residents. Limited business uses should be placed into cohesive groupings rather than on individual properties along the highways and access control should be emphasized. Its purposes are: to encourage the development of groups of nonresidential uses that share common highway access and/or provide interior cross-access in order to allow traffic from one business to have access to another without having to enter the highway traffic; to discourage single family residential uses; to protect environmentally sensitive areas, such as floodplain, karst, and steep slopes; and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the LB District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the adjacent residential uses.

**General Business (GB) District.** The character of the General Business (GB) District is defined as that which is primarily intended to meet the needs for heavy retail business uses. General business uses should be placed into cohesive groupings rather than on individual properties along highways in order to take advantage of major thoroughfares for traffic dissemination. Access control should be emphasized. The purposes of the GB District are: to encourage the development of groups of nonresidential uses that share common highway access and/or provide interior cross-access in order to allow traffic from one business to have access to another without having to enter the highway; to discourage single family residential uses; to protect environmentally sensitive areas, such as floodplain, karst and steep slopes; and to maintain the character of the surrounding neighborhood. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the adjacent residential uses.

**Institutional/Public (IP) District.** The Institutional/Public (IP) District is defined as that which is primarily intended to accommodate uses of a governmental, civic, public service, or public institutional nature, including major public facilities, public utilities, and local government-owned property.

**Light Industrial (LI) District.** The character of the Light Industrial (LI) District is defined as that which is primarily intended for industrial uses that have minimal exterior movement of vehicles and goods. Its purposes are: to establish areas for the exclusive development of light industries; to discourage residential and commercial uses; to protect environmentally sensitive areas, such as floodplain, karst, and steep slopes; and to maintain the character of the surrounding neighborhood. Uses shall be restricted to activities that are not a nuisance because of dust, fumes, noise, odor, refuse matter, smoke, vibration, water-carried waste or other adverse effects on surrounding uses. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with adjacent non-industrial uses. The LI District shall provide open space, landscaping and buffering in order to achieve desirable site development.

**Heavy Industrial (HI) District.** The character of the Heavy Industrial (HI) District is defined as that which is primarily intended for industrial uses that have extensive exterior movement of vehicles and goods. Its purposes are: to establish areas for industrial development; to discourage residential and commercial uses; to protect environmentally sensitive areas, such as floodplain, karst, and steep slopes; and to maintain the character of the surrounding neighborhood. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with adjacent uses. The intensity of uses associated with the HI District required imposing strict measures, such as extensive setbacks, buffers, and landscaping, to control adverse environmental and visual impacts.



**Mineral Extraction (ME) District.** The character of the Mineral Extraction (ME) District is defined as that which is primarily intended for limestone extraction and stone processing activities and, where known limestone reserves exist but have not been tapped, limited agriculture uses. Its purposes are: to protect areas of known limestone reserves from encroachment by incompatible residential and business development; to discourage residential, commercial and industrial uses; to protect environmentally sensitive areas, such as floodplain, karst, and steep slopes; and to maintain compatibility with the character of the surrounding neighborhood to the greatest extent possible. The list of possible uses is severely limited due to the intensive nature of the extractive operations.

**Planned Unit Development (PUD) District.** The character of the Planned Unit Development (PUD) District is defined as an area where the placement of large scale, unified land developments, typically involving a configuration and/or mix of uses not otherwise permitted "as of right" under the Zoning Ordinance, may nevertheless promote the purposes of the Zoning Ordinance and may be considered by the County and the Commission. Additional clarification of the process for approval of Planned Unit Developments is detailed in Chapter 811 of this Ordinance.

**Pre-Existing Business (PB) District.** The Pre-Existing Business (PB) District is defined as that which is primarily intended to accommodate commercial and business service uses that were in operation prior to the adoption of this zoning ordinance. The intent of the PB District is to identify locations of commercial activity that are not supported by the Comprehensive Land Use Plan, but where commercial and service operations continue to exist. This District is identified for the purposes of maintaining commercial activities with business zoning, while at the same time not allowing for the expansion of new business activity proximate to the location of the PB District. Expansion of the business is permitted within the lot of record. The type of business may change to one of equal or lower intensity as identified on Table 2-1 *Permitted Land Uses*.

**Recreation (REC) District.** The character of the Recreation District is defined as that which is primarily intended to meet the essential recreation needs and convenience of county residents. Its purposes are: to discourage single family residential uses; to protect environmentally sensitive areas, such as floodplain, karst, and steep slopes; and to maintain the character of the surrounding neighborhood while meeting the essential recreation needs and convenience of County residents. Therefore, the number of uses permitted in the REC District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the adjacent residential uses.

**Special Flood Hazard Area (SFHA) Overlay District.** The character of the Special Flood Hazard Area (SFHA) Overlay District is defined as those lands within the County Jurisdictional Area which are subject to inundation by the regulatory flood. The SFHAs are generally identified as such on the Monroe County and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated December 17, 2010, as amended. The SFHAs are shown on a FHBM or FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO."

**Historic Preservation (HP) Overlay District.** The character of the Historic Preservation (HP) Overlay District is defined as areas which contain (Primary) or which surround (Secondary) areas which contain buildings, structures or places in which historic events occurred or having special public value because of notable architectural or other features relating to the general, archeological, economic, social, political, architectural, industrial or cultural history of Monroe County, Indiana, of such significance as to warrant conservation or preservation, and which, by virtue of the foregoing, have been designated as an Historic Districts by the Monroe County Commissioners pursuant to the provisions of the Zoning Ordinance.

**Environmental Constraints Overlay (ECO) District.** The character of the Environmental Constraints Overlay (ECO) District is defined as those areas of Monroe County, Indiana, that are within both the Monroe Reservoir and Lake Griffey watershed boundaries, as located by the Environmental Systems Applications Center, Indiana University, Bloomington, and the County Jurisdictional Area. The ECO District is divided into four areas based on topography and proximity to Monroe Reservoir and Lake Griffey and to stream beds that convey water to Monroe Reservoir and Lake Griffey.

**Business and Industrial Overlay (BI) District.** The character of the Business and Industrial Overlay (BI) District is defined as those areas of Monroe County, Indiana, that are identified on the Comprehensive Land Use Plan as well suited for business and industrial uses. Limited residential development is permitted, but only in cluster subdivisions to allow for future business and industrial development.

**Wireless Communications Overlay (WCF) District.** The character of the Wireless Communications Overlay (WCF) District is defined as that which is intended for wireless communications uses, including but not limited to: placement of wireless communications facilities, antenna arrays, support structures, and equipment facilities as needed to provide wireless communications services. Its purpose is to identify those areas that are designated for wireless communications facilities as permitted uses, encourage co-location of facilities, discourage the proliferation of towers, and accommodate the needs of wireless communications services providers. Conditions placed on permitted and conditional uses are designed to promote the purpose of the district and promote public health, safety and welfare. The geographical extent of the WCF overlay is defined on the Monroe County Zoning Maps.

- (E) The zone and overlay zone boundaries are shown on the Zone Maps.

## **802-2. Establishment of Zone Maps**

- (A) The zone maps adopted with this ordinance are hereby established as the Official Zone Maps and Zoning Districts (hereinafter "Zone Maps") of Monroe County, Indiana. The Zone Maps designate the respective zoning districts in accordance with this ordinance. In addition, the Flood Insurance Rate Map for Monroe County, Indiana, prepared by the Federal Emergency Management Agency, is also designated as part of the Official Zone Maps.
- (B) The Zone Maps are specifically identified follows:
- Zoning Map of Bean Blossom Township;
  - Zoning Map of Benton (North) Township;
  - Zoning Map of Benton (South) Township;
  - Zoning Map of Bloomington Township;
  - Zoning Map of Clear Creek Township;
  - Zoning Map of Indian Creek Township;
  - Zoning Map of Perry Township;
  - Zoning Map of Polk Township;
  - Zoning Map of Richland Township;
  - Zoning Map of Salt Creek Township;
  - Zoning Map of Van Buren Township;
  - Zoning Map of Washington Township; and
- Zone Map identified as the "Flood Insurance Rate Map of Monroe County, Indiana," shall be identified as the "Monroe County and Incorporated Areas Flood Insurance Rate Map, prepared by the Federal Emergency Management Agency."

## **802-3. Determination and Interpretation of Zone Boundaries**

- (A) In determining the boundaries of districts, and establishing the provisions applicable to each district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the County Jurisdictional Area.
- (B) Where uncertainty exists as to the exact boundaries of any district as shown on the Zone Maps, the following rules shall apply:
- (1) Unless otherwise indicated, the zone boundary lines are the section, half and quarter section lines, the center lines of streets or such lines extended;
  - (2) Where zone boundary lines divide a lot having frontage only on a street in the more restricted zone, the provisions of this ordinance covering the less restricted portion of such lot shall extend to the entire lot;
  - (3) Where zone boundary lines divide a lot having frontage on a street in the less restrictive zone, the provisions of this ordinance covering the less restricted portion of such lot may extend to the lot, but in no case for a distance of more than thirty (30) feet;
  - (4) In the case of further certainty, the Commission shall interpret the intent of the Zone Map as to the location of the boundary in question.

#### 802-4. Performance Standards for Permitted Uses

All permitted uses established or placed into operation after the effective date of this ordinance shall comply with the following performance standards in the interest of protecting public health, safety and welfare, and lessening injury to property. No use in existence on the effective date of this ordinance shall be so altered as to conflict (or increase and existing conflict) with these standards.

- (A) **Fire Protection.** Firefighting equipment and prevention measures acceptable to the local fire department shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive materials is conducted.
- (B) **Electrical Disturbance.** No use shall cause electrical disturbance adversely affecting radio, television or other equipment in the vicinity of the use.
- (C) **Noise.** No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, heat, shrillness, or vibration. Such noise shall be muffled or otherwise controlled so as not to become detrimental, provided however, that public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.
- (D) **Vibration.** No use shall cause vibrations or concussions detectable beyond lot lines without the aid of instruments.
- (E) **Air Pollution.** No use shall discharge across lot lines fly-ash, dust, smoke, vapors, noxious, toxic or corrosive matter, or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property and/or in conflict with relevant air quality standards established by State and/or Federal agencies.
- (F) **Heat and Glare.** No use shall produce heat or glare in such manner as to create a nuisance perceptible from any point beyond the lot lines of the property on which the use is conducted. In nonresidential areas, any lighting used to illuminate an off-street parking area, loading area, driveway, or service drive shall be shielded with appropriate light fixtures directing the light down and away from adjacent properties in order that the illumination at any property line shall not exceed one (1) foot candle. All exterior lighting shall be hooded and shielded so that the light source (i.e. bulb, filament, etc.) is not directly visible from the residential property lines. In residential areas, exterior lighting at any property line shall not exceed one (1) foot candle.
- (G) **Water Pollution.** No use shall produce erosion or other pollutants in such quantity as to be detrimental to adjacent properties and conflict with relevant water pollution standards established by State and/or Federal agencies.
- (H) **Waste Matter.** No use shall accumulate within the lot, or discharge beyond the boundary lines of the lot on which the use is located, any waste matter, whether liquid or solid, in violation of applicable public health, safety and welfare standards and regulations.

**802-5. Permitted Land Uses**

(A) The chart and conditions of Table 2-1 are incorporated in this section and are adopted as the basic land use regulations for the County Jurisdictional Area. The chart and conditions, which may be generally referred to as the "County Land Use Schedule," identify the types of land uses that are permitted within the County Jurisdictional Area. A measure of intensity associated with the land use is noted after each particular use.

(B) To determine the zone(s) in which a particular use is allowed, find the use in the list of uses along the left-hand side of Table 2-1 and read across the use row to find the zone column designations.

(C) Legend:

Use allowed in particular zone	P
Use not allowed	[blank]
Standard Conditions of use	1 through 57

(D) The uses listed in Table 2-1 are defined as follows:

**(1) AGRICULTURAL USES**

**Accessory Use.** A use which is customarily accessory, and clearly incidental and subordinate, to the principal agricultural use on the same lot.

**Agriculture.** Farming, including plowing, tillage, cropping, livestock, and installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting).

**Agricultural-related industry.**

(1) *Packaging plants:* May include but are not limited to the following activities: washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agricultural product remains essentially unaltered. Does not include processing activities, slaughterhouses, animal reduction yards, or tallow works.

(2) *Processing plants:* May include but are not limited to those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughterhouses or rendering plants.

(3) *Storage facilities:* Includes controlled atmosphere and cold storage warehouses and warehouses for the storage of processed and/or packaged agricultural products.

**Agricultural Uses, Land Animal Related.** Commercial agricultural activities involving the production of animals and the preparation of products for human use, including dairying, poultry, livestock, or other such operations, but excluding meat processing and packaging operations.

**Agricultural Uses, Non-Animal Related.** Agricultural and farming activities involving the production and preparation of plants for human use, including horticulture, nurseries, forestry, sugar making, viticulture, grains and seed crops, fruits and vegetables of all kinds, greenhouse applications, and lands devoted to soil conservation and forestry management; all such uses exclude the processing and packaging of plants as food stuffs, with the exception of viticulture operations and small-scale marketing of processed fruit products, as in fruit markets.

**Agritourism /Agritainment.** Farming-related activities offered on a working farm or other agricultural setting for entertainment or educational purposes.

**Aquaculture.** The commercial cultivation and processing of aquatic life, including fish, shellfish and seaweed.

**Christmas Tree Farm.** An agricultural use involving the raising or harvesting of Christmas trees for sale on-site or transport to market.

**Commercial Facilities for the sale, repair, and service of agricultural equipment, vehicles, feed, or supplies.** Establishments selling, renting, or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

**Commercial Non-Farm Animals.** Animal production for human use, not including animals for agricultural use as listed above, but including animals for commercial production, such as bees and apiary products, fur animals, and exotic animals.

**Composting Operation.** An establishment for the composting of waste materials accumulated as the result of the care of lawns, shrubbery, vines, and trees. However, property on which the principal use is residential and on which composting of such materials, accumulated exclusively on-site, is conducted, shall not be considered a composting operation.

**Confined Feeding Operations.** The confined feeding of 150 or more cattle, 300 or more of swine and sheep, or 10,000 or more fowl, per facility.

**Equestrian center.** Commercial horse, donkey, and mule facilities including: horse ranches, boarding stables, riding schools and academies, horse exhibition facilities, pack stations. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

**Equine Services.** Operations involved in the shelter and care of horses, as well as breeding, training, and for giving lessons, including stables, stud farms, and other related uses.

**Feed Lot.** An area restricted by fencing or other structure in which animals are fed, watered, and otherwise maintained for the purpose of growing for market.

**Feed Mill.** A facility where various feed stuffs are inventoried and processed for the purpose of providing complete or partial animal rations. This facility sells its product either directly to the user or may provide the service of delivery to the user. Sale of other agricultural items may be included and shall be an incidental accessory use. Limited, portable operation of feed mills as non-commercial uses on farms is allowed as an accessory use.

**Horse farm.** A building or structure and/or land whose operator keeps equines primarily for breeding.

**Kennels, including commercial animal breeding operations.** The boarding, breeding, raising, grooming, or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

**Nursery/greenhouse.** An establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

**Orchard.** A group of fruit or nut trees grown and cultivated for the sale of harvested produce.

**Pick-your-own operation.** An establishment where commercially grown fruit or vegetables are picked by the customer for purchase at the place of production.

**Roadside Stand, Permanent:** A permanent structure, operated on a seasonal or year-round basis, which allows for local agricultural producers to retail their products and agriculture-related items directly to consumers and enhance income through value-added products.

**Roadside Stand, Temporary:** A non-permanent structure (tent or table), operated on a seasonal basis which allows for local agricultural producers to retail their products and agriculture-related items directly to consumers and enhance income through value-added products.

**Stockyard.** A place where livestock is assembled and at which place facilities are maintained for the handling of such livestock either for purchase or sale at competitive bidding, or purchase by the owners operating the stockyards and such places shall be deemed to include concentration points where livestock is assembled for the purpose of redistribution or resale by means other than competitive bidding, but such places shall not be deemed to include sale barns.

**Winery.** An agricultural processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.

## (2) RESIDENTIAL USES

**Accessory Apartment.** A separate and complete dwelling unit contained within the structure of a single family dwelling unit, and containing only one bedroom.

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

**Accessory Livestock, Non-Farm Animals.** Keeping domestic livestock, or poultry for personal use in a manner that is customarily accessory and clearly incidental and subordinate to the principal rural residential uses on the same lot.

**Accessory Use.** A use which is customarily accessory, and clearly incidental and subordinate, to the principal residential use on the same lot.

**Boarding House.** A dwelling or part thereof in which, for compensation, temporary lodging and meals are provided.

**Elderly Housing.** For purposes of this provision, 'Elderly Housing' is defined as housing subject to an age-restriction in accordance with the age-restricted housing rules of the Housing for Older Persons Act of 1995 (42 U.S.C. § 3601). Includes the use of a site for a residential development to house elderly persons who are capable of caring for themselves and maintaining independent households. A typical development would include separate dwelling units, containing independent cooking, bathroom, and sleeping facilities, to be occupied by only one (1) person or couple.

**Guest House.** An accessory building containing a lodging unit with or without kitchen facilities, used to house occasional visitors or nonpaying guests of the occupants of a dwelling unit on the same site.

**Home Based Business.** An accessory occupational use conducted in a residential dwelling by the inhabitants that is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site. A home based business is conducted in the primary residential structure or one accessory structure, that shall not have more than two employees living off-site, permitting on-site sales of merchandise constructed on-site or are incidental to services performed on-site, and are identified with minimal advertising signs as given in Chapter 807.

**Home Occupation.** An accessory occupational use conducted in a residential dwelling by the inhabitants that is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site. A home occupation is based entirely within the primary residential structure, limited to not more than twenty-five (25) percent of the total square footage of the residential structure, with not more than two (2) employees living off-site, incidental sales of goods permitted, but no external signs identifying the business are permitted.

**Manufactured Home Park.** A site containing spaces with required improvements and utilities that may be leased for the long-term placement of manufactured houses and that may include services and facilities for the residents.

**Multifamily Dwelling.** The use of a lot for three (3) or more dwelling units, within one (1) or more buildings, other than a manufactured home.

**Residential Storage Structure.** A structure to be used for private noncommercial storage by the property owner. Does not require the presence of a principle use on the same lot. Structure shall not exceed 1750 square feet in the AG/RR, FR or CR zoning districts and 875 feet in all other permitted zoning districts.

**Single Family Dwelling.** The use of a lot for only one (1) dwelling unit, including site-built housing or manufactured housing, herein defined as a dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at a building site, which meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), including single and double wide mobile homes and modular homes.

**Temporary Dwelling.** The temporary use of a manufactured home as a residence on a lot previously occupied by permanent dwelling that is destroyed to such an extent as to be unlivable or the temporary placement and occupancy of a manufactured home as a second main structure on a lot as described in Chapter 814-7.

**Two Family Dwelling.** The use of a lot for two (2) dwelling units, within a single building, including duplex manufactured housing.

### (3) PUBLIC AND SEMIPUBLIC FACILITIES

**Accessory Use.** A use which is customarily accessory, and clearly incidental and subordinate, to the principal public, semipublic, or office use on the same lot.

**Airport.** A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers.

**Cemetery.** Land used or intended to be used for burying the human dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with and within the boundaries of the cemetery.



**Central Garbage/Rubbish Collection Facility.** Public or private establishments contracted to remove solid waste from residential or commercial uses and transport such wastes to a locally operated public or private landfill or other waste collection facility, designated for consolidation of garbage and recycled matter.

**Charitable, Fraternal, or Social Organization.** A facility for administrative, meeting, or social purposes for a private or nonprofit organization, primarily for use by administrative personnel, members and guests.

**Community Center.** A facility designed for educational, recreational, cultural, and social activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

**Cultural Facility.** A library, museum, or similarly registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

**Day Care Facility.** A facility, or use of a building or portion thereof, for daytime care of individuals. This term includes nursery schools, pre-schools, day care centers for children or adults, and similar uses, but excludes public and private primary or secondary educational facilities and child care homes as defined by the State of Indiana Code.

**Funeral Home.** An establishment engaged in undertaking services, such as preparing the human dead for burial, and arranging and managing funerals.

**Governmental Facility.** A government owned or operated building, structure, or land used for public purpose.

**Group Home.** A housing unit classified further as one of the following:

- (a) **Group Home, Class I.** A facility providing 24-hour care in a protected living arrangement for not more than fifteen (15) residents. This classification includes foster homes, homes for the physically and mentally impaired, homes for the developmentally disabled, congregate living facilities for persons 60 years of age and older, and maternity homes.
- (b) **Group Home, Class II.** A facility providing 24-hour care in a protected living arrangement for not more than fifteen (15) residents. This classification includes homes for juvenile delinquents, halfway houses providing residence in lieu of institutional sentencing, halfway houses providing residence to those needing correctional and mental institutionalization. This classification also includes emergency shelter during crisis intervention for not more than fifteen (15) victims of crime, abuse, or neglect, and residential rehabilitation for alcohol and chemical dependence for 15 or fewer individuals.

**Hospital.** A facility providing medical, psychiatric or surgical services for sick or injured persons primarily on an inpatient basis, including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research and administration, and services to patients, employees, and visitors.

**Medical Clinic.** An establishment providing medical, psychiatric or surgical services exclusively on an outpatient basis, including emergency treatment and diagnostic services.

**Nursing Home.** A privately operated establishment providing long-term personal and nursing care for the elderly, or for other individuals incapacitated in some manner for medical reasons.

**Postsecondary Educational Institution.** A school offering educational instruction beyond the secondary level, having regular sessions with regularly employed instructors, which is licensed by the State of Indiana.

**Religious Facilities.** A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

**Remote Garbage/Rubbish Removal Facility.** Public or private establishments contracted to remove solid waste from residential or commercial uses and transport such wastes to a locally operated public or private landfill or other waste collection facility, designated for local collection and transportation to central collection facilities for disposal and recycling.

**Retirement Center.** A facility designed for educational, recreational, social, and other similar types of activities for retired persons.

**School (K-12).** A school offering educational instruction in grades kindergarten (K) through twelve (12), or any portion thereof, having regular sessions with regularly employed instructors, that teach those subjects that are fundamental and essential in general education, and which are licensed by the Indiana Department of Education.

**Solar Farm.** A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV) or other conversion technology, for the primary purpose of wholesale sales of generated electricity.

**Temporary Care Facility.** A facility designed to allow persons needing temporary special supervision or care to live together in a homelike, non-institutional setting in order to conduct their lives in the least restrictive environment possible in a manner most like that of persons not needing special supervision or care.

**Utility Service Facility.** Electrical switching facilities and primary substations, and other services which are necessary to support principal development and involve minor structures such as lines and poles. This definition excludes generating plants.

**Wastewater Treatment Facility.** Facility designed for the treatment and discharge of wastewater.

**Water Treatment Facility.** Facilities designed for the collection, treatment, and transport of potable water.

**Wired Communication Services (formerly Telephone and Telegraph Services).** A facility for the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of the transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to the transmission. Examples include telephone networks, cable television or internet access, and fiber-optic communication.

**Wireless Communications Facilities (WCF).** Any unstaffed facility for the transmission and/or reception of wireless communications services, usually consisting of an Antenna Array, transmission cables, equipment facilities, and a Support Structure.

#### (4) BUSINESS AND PERSONAL SERVICES

**Accessory Use.** A use which is customarily accessory, and clearly incidental and subordinate, to the principal business or personal service use on the same lot.

**Air Cargo and Package Service.** An establishment primarily engaged in the hauling and delivery of cargo and packages between persons, companies, and corporations, while acting a distinct party to the transaction.

**Aircraft Charter Service.** An establishment primarily engaged in the private transportation of passengers and cargo, usually performed under private contract with a person, group of persons, or private company or corporation.

**Airport Transportation Service.** An establishment primarily engaged in the transportation of passengers, luggage, and other small cargo from and to airports.

**Appliance Repair.** An establishment involved in repairing instruments or devices designed for a particular use, such as stoves, fans, or refrigerators that are operated by gas or electric current.

**Artisan Crafts.** Individuals or businesses which primarily produce art- or craft-related items on site. Such uses include (but are not limited to) stone carving, wood crafts, specialty paper products, an artist's studio, glassblowing, and metal sculpting.

**Barber Service.** An establishment involved in cutting and styling men's hair, shaving and trimming beards and performing other related services.

**Beauty Service.** An establishment or department where women's hair-dressing, facials, manicures, and other related services are performed.

**Bed and Breakfast.** An operator occupied residence in which four (4) or fewer guest rooms, and breakfast, are furnished to the public under a short term lodging agreement.

**Boat Storage.** A storage facility utilizing enclosed buildings and/or unenclosed outdoor areas for the seasonal or year-round storage of four or more boats.

**Caterer.** A place of business whose employees provide food and service for various functions, such as banquets, private parties, weddings, and so forth.

**Coin-Operated Cleaning/Laundry.** An establishment providing coin-operated or similar self-service laundry and dry cleaning equipment for use on the premises.

**Composting Operation.** An establishment engaged in the controlled process of degrading organic matter for retail of processed material.

**Convenience Storage.** A storage service primarily for personal effects and household goods within an enclosed storage area having individual access, but excluding uses such as workshops, hobby shops, manufacturing or commercial activities, and may include an on-site apartment for a resident manager.

**Copy Service.** A place of business providing duplication services.

**Dry Cleaning and Laundry Pickup.** An establishment providing dry cleaning and laundry pickup services, but where no dry cleaning and laundering are done on the premises.

**Dry Cleaning and Laundry Service.** An establishment providing dry cleaning and laundering services where dry cleaning and laundering are done on the premises.

**Electrical Repair.** An establishment primarily engaged in repairing electrical and electronic equipment, such as electrical household appliances and equipment.

**Employment Agency.** An agency whose business is to find jobs for people seeking employment or to find people to fill jobs that are available.

**Equipment Rental.** An establishment involved in renting small tools and equipment, such as plumbing tools, lawn and garden equipment, janitorial equipment, and so forth; and small furniture and appliances, such as baby beds, chairs and tables, televisions and videocassette recorders, videodiscs, and so forth.

**Estates Services.** A business which provides estate planning and financial services, and organizes and conducts estate sales and management services, under contract.

**Exterminating Service.** A service related to the eradication and control of rodents, insects, and other pests.

**Financial Service.** An establishment primarily engaged in providing financial and banking services. Typical uses include banks, savings and loan institutions, stock and bond brokers, loan and lending activities and similar services.

**Greenfill.** The placement of more than 2,000 pounds of organic material brought from an off site location that has the effect of altering the natural topography of existing low areas or ravines. Organic material includes such items as tree limbs, tree stumps, tree branches and leaves, shrubs, undergrowth, etc... For the purpose of this definition, incidental grass clippings, leaves, tree trimmings from on site maintenance are not included in this definition. Greenfill is considered a land disturbing activity, subject to the provisions of this ordinance.

**Gunsmith.** An individual or establishment that designs, makes or repairs small firearms. The retail or wholesale sale and trading of firearms is prohibited.

**Hotel.** A building, or portion thereof, in which five (5) or more guest rooms (typically accessible from an interior hallway) are furnished to the public under a short-term lodging agreement

**Industrial Equipment Repair.** An establishment primarily engaged in repairing industrial equipment, including repairing heavy-construction and earth-moving equipment.

**Insurance Agency.** An agency whose business is to insure persons or property.

**Interior Decorating.** An establishment involved in the art or practice of planning and supervising the design and implementation of architectural interiors and their furnishings.

**Kennel, including Commercial Animal Breeding Operations.** An establishment wherein any person engages in the business of boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling dogs, cats, and/or other small domesticated household pets (not farm animals).

**Legal Service.** An establishment engaged in offering legal advice or legal services, the head or heads of which are members of the bar.

**Locksmith.** An individual who makes or repairs locks.

**Massage Studio.** An establishment offering massage therapy and/or body work by a massage therapist certified under IC 25-21.8 or under the direct supervision of a licensed physician, surgeon, chiropractor, or osteopath.

**Motel.** A building, or portion thereof, in which five (5) or more guest rooms (typically accessible from an outdoor parking lot) are furnished to the public under a short-term lodging agreement

**Office.** An establishment primarily engaged in providing professional, financial, administrative, clerical and other similar services.

**Office Equipment Repair.** An establishment involved in repairing office equipment, such as typewriters, copying machines, computers, calculators, and so forth.

**Parking Facility.** An area on a site with or without a principal use, which includes one or more off-street parking spaces together with driveways, aisles, turning and maneuvering areas, clearances, and similar features. A parking facility includes parking lots, parking garages, and parking structures, and includes both publicly and privately owned facilities.

**Pet Services.** Establishments engaged in grooming and boarding, when totally within a building, of dogs, cats, birds, fish, or similar small animals customarily used as household pets. Typical uses include dog bathing and clipping salons and pet grooming shops.

**Photographic Service.** An establishment primarily engaged in developing films, in making photographic prints and enlargements for the trade or for the general public, and in renting photographic equipment.

**Physical Therapy Facility.** A place where treatment of disease and injury by mechanical means such as exercise, heat, light, and massage is provided.

**Real Estate Agency.** An agency primarily engaged in renting, buying, selling, managing and appraising real estate for others.

**Real Estate Sales Office or Model Home Office.** The temporary use of a mobile office, or similar structure, or a model home, as a sales office during the development of a new subdivision, office building, shopping center, industrial complex, and so forth.

**Rehabilitation Therapy Facility.** A place used to assist humans to achieve or to restore good health or useful life through therapy, treatment and education.

**Shoe Repair.** A place of business primarily engaged in repairing footwear.

**Small Engine and Motor Repair.** An establishment involved in repairing lawn mowers, garden equipment, model airplane engines, and so forth.

**Tailoring.** An establishment primarily engaged in making and selling men's and women's clothing to individual order.

**Taxidermist.** One who prepares, stuffs, and mounts the skins of animals, especially vertebrates.

**Temporary / Seasonal Activity.** Any sale made by a person, firm or corporation engaging in the temporary business of selling seasonal products or engaging in events either retail or outdoor in nature, on property owned or leased by the person, firm, or corporation. The following list identifies the kinds of temporary / seasonal activity:

- Outdoor art or craft show or exhibit;
- Christmas tree sales;
- Fireworks sales;
- Car Tent sales;
- Food Trucks;
- Outdoor public, religious, patriotic, or historic assembly or exhibit, including a festival, benefit, fund raising event, or similar use that typically attracts a mass audience;

For temporary uses that are not listed above, the Director shall determine whether an unlisted temporary seasonal activity use should be classified as a temporary seasonal activity. This determination shall be based upon the similarities and differences with the above listed uses and an assessment of the proposed temporary seasonal activity's compatibility with the zoning district and surrounding land uses.

**Tourist Home or Cabin.** A building, or portion thereof, in which four (4) or fewer guest rooms are furnished to the public under the terms of a short-term lodging agreement.

**Travel Agency.** An agency engaged in selling and arranging personal transportation and accommodations for travelers.

**Upholstery Service.** An establishment offering reupholstery and repair services and specific upholstery materials for sale.

**Veterinary Service (Indoor).** An establishment of licensed practitioners primarily engaged in practicing veterinary medicine, dentistry or surgery where all services are performed or provided indoors.

**Veterinary Service (Outdoor).** An establishment of licensed practitioners primarily engaged in practicing veterinary medicine, dentistry or surgery where some services may be performed or provided outdoors, including kennels for small animals.

## (5) RETAIL AND WHOLESALE TRADE

**Accessory Use.** A use which is customarily accessory, and clearly incidental and subordinate, to the principal retail or wholesale trade use on the same lot.

**Agricultural Sale Barn.** A facility where a livestock auction market is conducted and may include agricultural products or equipment sold on a consignment basis.

**Agricultural Supply.** An establishment involved in the retail sale of animal feeds, fertilizers, pesticides, seeds and other farm supplies, and non-mechanized equipment.

**Apparel Shop.** An establishment involved in selling clothing and clothing accessories.

**Appliance Sales.** Establishments involved in selling instruments or devices designed for a particular use, such as stoves, fans or refrigerators that are operated by gas or electric current.

**Auction House.** A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

**Bakery (Retail).** An establishment primarily engaged in the production and retail sale of bakery products.

**Bakery (Wholesale).** An establishment primarily engaged in manufacturing bakery products for sale primarily for home service delivery, or through one (1) or more non-baking retail outlets.

**Bookstore.** A place of business where books and magazines are the main items offered for sale.

**Bottled Gas Storage and Distribution.** An establishment primarily engaged in the retail sale of pressurized gas products, such as natural gas and propane, from bulk gas storage facilities.

**Building Materials.** Establishments involved in selling lumber, and a general line of building materials and supplies, typically sold to contractors, but also to the general public, which may include roofing, siding, shingles, wallboard, paint, cement, and so forth, including incidental storage.

**Cabinet Sales.** Establishments primarily engaged in selling cabinets, none of which are made on the premises.

**Camera and Photographic Supply.** An establishment primarily engaged in selling cameras, film, and other photographic supplies and equipment.

**Confectionery.** An establishment primarily engaged in the retail sale of candy, chewing gum, nuts, sweetmeats, chips, popcorn and other confections. Operation of a soda fountain or lunch counter is common.

**Convenience Store.** Any retail establishment offering for sale prepackaged food products, household items, gasoline sales, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption. The maximum size for a convenience store is 3,500 square feet.

**Department Store.** A retail store carrying a general line of apparel, such as suits, coats, dresses and socks; home furnishings, such as furniture, floor coverings, curtains, draperies, linens and major household appliances; and housewares, such as kitchen appliances, dishes, and utensils. These and other merchandise lines are normally arranged in separate sections or departments with accounting on a departmentalized basis. The departments and functions are integrated under a single management. The stores usually provide their own charge accounts, deliver merchandise and maintain open stocks.

**Drapery Sales.** Places of business where draperies are the main product offered for sale.

**Drugstore.** An establishment engaged in the retail sale of prescription drugs and patent medicines and which may carry a number of related product lines, such as cosmetics, toiletries, tobacco and novelty merchandise, and which may also operate a soda fountain or lunch counter.

**Fertilizer Sales (Bulk).** Establishments involved in the sale of bulk fertilizer and fertilizer materials.

**Fertilizer Sales (Packaged).** Establishments involved in the sale of packaged fertilizer and fertilizer materials.

**Florist (Retail).** An establishment primarily engaged in the retail sale of cut flowers and growing plants.

**Florist (Wholesale).** An establishment primarily engaged in the wholesale distribution of flowers and florist supplies.

**Fruit Market.** An establishment primarily engaged in the retail sale of fresh fruits.

**Furniture Sales.** Establishments where furniture is the main item offered for sale; however, these places of business may also sell home furnishings, major appliances and floor coverings.

**Garden Center.** A place of business where retail and wholesale nursery and garden products are sold. These uses import many of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

**General Flooring Sales.** Places of business where floor coverings or hard wood flooring are the main products offered for sale.

**Gift Shop.** An establishment primarily engaged in the retail sale of combined lines of gifts and miscellaneous small art goods, such as greeting cards and holiday decorations.

**Grocery Store.** A store primarily engaged in the retail sale of various canned foods and dry goods, either packaged or in bulk, such as tea, coffee, spices, sugar and flour; fresh fruits and vegetables; and, frequently, fresh, smoked and prepared meats, fish, and poultry.

**Gunshop.** Any establishment primarily engaged in the sale, trade, or purchase of firearms or ammunition, wholesale or retail.

**Handicrafts.** Places of business that sell articles fashioned by those engaged in handicrafts.

**Hardware.** An establishment less than 30,000 square feet that is primarily engaged in the retail sale of basic hardware lines, such as tools, builders' hardware, gardening tools and paint and glass, housewares and household appliances and cutlery.

**Heavy Machinery Sales.** Establishments primarily engaged in marketing heavy machinery, such as road construction and maintenance machinery, mining machinery, agricultural machinery, industrial machinery and equipment, and so forth.

**Home Improvement Center.** An establishment greater than 30,000 square feet that is primarily engaged in the retail sale of a general line of building materials and supplies, housewares and household appliances and gardening supplies to the general public, which may include roofing, siding, shingles, wallboard, paint, cement, and so forth, including incidental storage. Examples of this use include: Lowe's, Menard's, and Home Depot

**Industrial Supplies.** Establishments primarily engaged in marketing industrial supplies, such as bearings, boxes, gaskets, bottles, rubber goods, welding supplies, metal containers, and so forth.

**Jewelry.** An establishment primarily engaged in selling any combinations of lines of jewelry, such as diamonds and other precious stones mounted in precious metals such as rings, bracelets and brooches; sterling and plated silverware; and watches and clocks.

**Liquor Store.** An establishment primarily engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine and whiskey, for off-premises consumption.

**Marine Supply.** An establishment primarily engaged in the retail sale of motorboats and other watercraft, marine supplies, and outboard motors, including incidental storage.



**Manufactured Housing Sales.** Establishments primarily engaged in the retail sale of new and used mobile homes, new manufactured houses, and new modular homes, including incidental storage.

**Meat Market.** A place of business where fresh, frozen or cured meats are sold and where no animals are butchered on the premises.

**Music Store.** An establishment primarily engaged in selling musical instruments, phonograph records, compact discs, tapes, sheet music and similar musical supplies.

**Office Showroom.** An establishment where office merchandise is exhibited for sale or where sample office supply items are displayed, including incidental storage, provided that a minimum of twenty (20) percent of the building is comprised of finished office space.

**Office Supplies.** Places of business where stationer and office supplies, such as enveloped, typewriter and mimeograph paper, file cards and folders, pens and pencils, and so forth, are the main items offered for sale.

**Optical Goods.** Establishments involved in selling visual devices or products.

**Pet Shop.** Place of business where domestic animals, and products for the health and care of domestic animals, are sold.

**Petroleum Bulk Sales and Storage.** An establishment primarily engaged in the retail sale of petroleum products, such as fuel oil and kerosene, from bulk liquid storage facilities.

**Restaurant.** An establishment engaged in the retail sale of prepared food and drinks for consumption on the premises or for carry-out.

**Restaurant (Drive-in).** An establishment engaged in the retail sale of ready-to-consume food and drinks in disposable containers, for consumption on or off the premises, and has drive-in or drive-through facilities so that patrons may be served while remaining in their automobiles.

**Sporting Goods.** Establishments primarily engaged in selling sporting goods, sporting equipment and accessories.

**Tavern.** A place of business where alcoholic beverages are sold to be drunk on the premises. The establishment may also sell some food items for consumption on the premises.

**Used Merchandise (Antiques).** A place of business where works of art, pieces of furniture, or decorative objects, made during an earlier period, are the main items offered for sale.

**Used Merchandise (Flea Market).** An open-air market for secondhand articles and antiques.

**Used Merchandise (General).** A store primarily engaged in the retail sale of used merchandise, antiques and secondhand goods, such as clothing, furniture, musical instruments, cameras, phonographs, and so forth.

(6) **AUTOMOTIVE AND TRANSPORTATION SERVICES**

**Accessory Use.** A use which is customarily accessory, and clearly incidental and subordinate, to the principal automotive or transportation service use on the same lot.

**Automobile Repair Services, Minor.** The replacement of any mechanical part or repair of any mechanical part including the removal of the engine head or pan, engine transmission or differential; and upholstery service, as an accessory to a residential use.

**Automotive Paint Shop.** An establishment primarily engaged in automotive painting and refinishing.

**Automotive Rentals.** Establishments involved in renting passenger cars, noncommercial trucks, motor homes or recreational vehicles, including incidental parking and servicing of vehicles available for rent.

**Automotive/Boat Repair Shop.** An establishment primarily engaged in general or specialized automotive, motorcycle, or watercraft repairs.

**Automotive Sales.** Establishments primarily engaged in the retail sale of new and used automobiles, noncommercial trucks, motor homes or recreational vehicles, including incidental storage, maintenance and servicing.

**Automotive Supply.** An establishment primarily engaged in the retail sale of automotive parts, tires, and accessories.

**Automotive Tire Sales/Repair.** An establishment primarily engaged in the retail sale and repair or retreading of automotive tires.

**Bus Terminal.** A facility designed to accommodate passengers who arrive and depart on commercial buses, which may include management offices, bus parking or storage areas and personal services for passengers.

**Car Wash.** An area or structure equipped with automatic or self-service facilities for washing automobiles.

**Cold Storage Plant.** A facility designed for storing perishable goods in a cold place for preservation.

**Gasoline Service Station.** An establishment primarily engaged in selling gasoline and lubricating oils and which may sell other merchandise or perform minor repair work.

**Grain Elevator.** A building for buying, selling, storing, discharging and sometimes processing grain.

**Motorcycle Sales.** Establishments primarily engaged in the retail sale of new and used motorcycles, motor scooters, and personal watercraft, including incidental storage, maintenance and servicing.

**Taxicab Stand.** An establishment primarily engaged in furnishing passenger transportation by automobiles not operated on regular schedules.

**Transfer or Storage Terminal.** An establishment primarily engaged in furnishing local and long distance trucking and storage services, including parking and storage areas for vehicles used in the operation of the terminal.

**Truck Stop/Travel Plaza.** A development oriented to the service of trucks, including the sale of fuel to truck drivers, and provision for support facilities for truck drivers. They may also be utilized by non-truck traffic and the interstate traveler. Business activities which are customarily accessory and clearly incidental and subordinate to the truck stop or travel plaza, may include but not be limited to: scales, truck wash, tire repair and sales, barber shop, restaurant with or without alcohol service, shower facility, convenience store, truckers lounge (for services such as television/exercise/internet access etc.), motel/hotel, laundry, chain rental, vehicle fuel and consumer propane bottle dispensing. The facility may allow for the temporary, daily, or overnight parking (excluding for the loading and unloading of cargo) of commercial motor vehicles which are en-route to or from a destination along an interstate freeway system, for free or for a fee that may be independent of any other use on the premises. The term "truck" shall mean a commercial vehicle driven by a 'truck driver' who is required to have a Class "A" CDL (Commercial Driver's License) license or equivalent.

**Trucking Terminal.** A terminal facility used by highway-type, property-carrying vehicles, which may include truck maintenance facilities.

**Wrecker Service.** A service for towing wrecked or disabled automobiles or freeing automobiles stalled in snow or mud.

## (7) **AMUSEMENT AND RECREATIONAL SERVICES**

**Accessory Use.** A use which is customarily accessory, and clearly incidental and subordinate, to the principal amusement or recreational use on the same lot.

**Amphitheater.** An open air structure devoted primarily to the showing of theatrical or musical productions, with the provision of seating areas for patrons. These uses frequently include refreshment stands.

**Camping Facility.** A plot of ground upon which two (2) or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

**Club or Lodge.** A use providing meeting, recreational or social facilities for a private or nonprofit association, primarily for use by members and guests.

**Indoor Shooting Range.** A facility designed and used for shooting at targets with archery and/or firearms, and which is completely enclosed within a building or structure.

**Indoor Theater.** A building for showing motion pictures or for live dramatic, dance, musical, or other productions, which is usually commercially operated.

**Outdoor Drive-in Theater.** An open-air lot devoted primarily to the showing of motion pictures for patrons in automobiles. These uses frequently include refreshment stands.

**Park and Recreational Services.** Publicly- and privately-owned and operated parks, playgrounds, recreational facilities, golf courses and open spaces.

**Private Recreational Facility.** A recreational facility for use by residents and guests of a particular residential development, church, private primary or secondary educational facility or limited residential neighborhood, including both indoor and outdoor facilities.

**Race Track.** A large open or enclosed space used for games or racing events or competitions and partly or completely surrounded by tiers of seats for spectators.

**Recreational Vehicle (RV) Park.** An area designed for transient occupancy by any number of recreational vehicles.

**Resorts.** A facility for temporary guests where the primary attraction is generally recreational features or activities.

**Rodeo.** A facility designed for the entertainment and competition between owners of equine and other farm-related animals.

**Transient Amusement Enterprises.** Carnivals, circuses or other similar transient amusement enterprises.

**(8) MANUFACTURING, MINING, CONSTRUCTION, AND INDUSTRIAL USES**

**Abrasive Products.** Establishments primarily engaged in manufacturing abrasive grinding wheels of natural or synthetic materials, and other abrasive products, such as scouring pads, sandpaper, steel wool, and so forth.

**Accessory Use.** A use which is customarily accessory, and clearly incidental and subordinate, to the principal manufacturing, mining, construction, or industrial use on the same lot.

**Apparel.** An establishment primarily engaged in manufacturing clothing and clothing accessories.

**Appliance Assembly.** An establishment primarily engaged in manufacturing instruments or devices for a particular use, such as stoves, fans or refrigerators that are operated by gas or electric current.

**Beverage Products.** Establishments primarily engaged in manufacturing beverages, beverage bases and beverage syrups.

**Bottling Machinery.** An establishment primarily engaged in manufacturing machinery for use by the food products and beverage manufacturing industries in washing, sterilizing, filling, capping, labeling, and so forth, of food and beverage products; and parts and attachments for the machinery.

**Cement Products.** A use engaged in processing and manufacturing materials or products predominantly from cement.

**Commercial Printing.** Establishments primarily engaged in letterpress and screen commercial or job printing, including flexographic; in printing by the lithographic process, in engraving and plate printing; in gravure printing; or in printing newspapers, periodicals, books, greeting cards, and so forth.

**Construction Trailer.** The temporary use of a mobile home, or similar structure, as a construction office during the development of a new subdivision, office building, shopping center, industrial complex, and so forth.

**Cut Stone and Stone Products.** Establishments primarily engaged in cutting, shaping and finishing marble, granite, slate and other stone for building and miscellaneous uses.

**Dairy Products.** Establishments primarily engaged in manufacturing creamery butter, natural cheese, condensed and evaporated milk, ice cream, and frozen desserts, and special dairy products, such as processed cheese and malted milk; and processing (pasteurizing, homogenizing, vitaminizing, bottling) fluid milk and cream, and related products, for wholesale or retail distribution.

**Electronic Devices and Instruments.** Establishments primarily engaged in manufacturing devices or instruments that work by the methods or principals of electronics.

**Engineering and Scientific Instruments.** Establishments involved in manufacturing instruments used in engineering and scientific procedures.

**Farm Machinery and Equipment.** Establishments primarily engaged in manufacturing farm machinery and equipment, including tractors, for use in preparing and maintaining the soil; planting and harvesting crops; preparing crops for market, on the farm; or for use in performing other farm operations and processes.

**Food Products.** Establishments involved in manufacturing or processing food products.

**Furniture.** An establishment involved in manufacturing furniture.

**General Contractor.** An individual who contracts to perform work or to provide supplies on a large scale, or an individual who contracts to erect buildings.

**Glass and Glassware.** Establishments primarily engaged in manufacturing glass and glassware, pressed, blown or shaped from glass produced in the same establishment; or establishments primarily engaged in manufacturing glass products from purchased glass.

**Grain Mill Products.** Establishments primarily engaged in manufacturing grain mill products such as flour, cereal, meal, and so forth.

**Hard Surface Floor Coverings.** Establishments involved in manufacturing hard surface floor covering, such as tile and linoleum.

**Insulation Products.** Establishments involved in manufacturing insulation products.

**Jewelry Products.** Establishments primarily engaged in manufacturing jewelry and other articles worn on or carried about the person, made of precious metals with or without stones (including the setting of stones where used), including cigarette cases and lighters, vanity cases and compacts; trimmings for umbrellas and canes; and jewel settings and mountings; or establishments primarily engaged in manufacturing costume jewelry made of all materials, except precious stones and rolled gold plate and gold filled materials.

**Laboratories.** Facilities equipped for experimental study in a science or for testing and analysis; facilities providing opportunity for research, experimentation, observation or practice in a field of study.

**Leather Goods.** Establishments primarily engaged in manufacturing leather goods, such as handbags and purses, billfolds, checkbook covers, saddles, horse whips, and so forth, and where no leather tanning or curing is done on the premises.

**Machine Assembly.** An establishment involved in manufacturing and assembling machinery.

**Machine Shop.** A workshop in which material are machined to size and assembled.

**Metal Fabrication.** An establishment involved in fabricating any of the various opaque, fusible, ductile and typically lustrous substances that are good conductors of electricity and heat.

**Metalworking Machinery.** An establishment involved in manufacturing machinery to be used for shaping objects out of metal.

**Mineral Extraction.** The on-site extraction of surface or sub-surface mineral products or natural resources. Typical extractive uses are quarries, borrow pits, sand and gravel operations, and mining operations.

**Motor Vehicle and Equipment Assembly.** Establishments primarily engaged in manufacturing or assembling complete passenger automobiles, trucks, commercial cars and buses and special purpose motor vehicles, including establishments primarily engaged in manufacturing chassis or passenger car bodies, which may also manufacture motor vehicle parts.

**Musical Instruments.** Establishments primarily engaged in manufacturing pianos, with or without player attachments; organs; other musical instruments; and parts and accessories for musical instruments.

**Office and Computer Equipment.** Establishments primarily engaged in manufacturing office equipment such as typewriters, desk calculators, adding and accounting machines, duplicating machines and similar equipment; and/or in manufacturing electronic computer and peripheral equipment and/or major logical components intended for use in electronic computer systems.

**Optical Instruments and Lenses.** Establishments primarily engaged in manufacturing instruments that measure an optical property, including apparatus, except photographic, that projects or magnifies, such as binoculars, prisms and lenses; optical sighting and fire control equipment and related analytical instruments; or establishments primarily engaged in manufacturing eyeglass lenses, frames, or fittings.

**Paper Products.** Establishments involved in manufacturing paper products such as envelopes, paper bags, file folders, stationery, wrapping paper, and so forth, and where no paper is produced on the premises.

**Paving Materials Central Mixing.** Establishments primarily engaged in mixing paving materials to be transported and used at another location.

**Perfumes, Cosmetics and Toiletries Manufacture.** Establishments primarily engaged in the manufacture of perfumes (natural and synthetic), cosmetics, and toiletries; establishments engaged in blending and compounding perfume bases and the manufacture of shampoos and shaving products, whether soap or synthetic detergents.

**Pharmaceuticals.** Establishments primarily engaged in manufacturing, fabricating or processing drugs in pharmaceutical preparations for human or veterinary use. Most of the products of these establishments are finished in the form intended for final consumption, such as ampuls, tablets, capsules, vials, ointments, medicinal powders, solutions and suspensions. Products of this industry consist of two important lines: pharmaceutical preparations promoted primarily to the dental, medical or veterinary professions; and pharmaceutical preparations promoted primarily to the public.

**Plaster Central Mixing.** Establishments primarily engaged in mixing plaster, usually for use by others.

**Plastic Products Assembly.** Establishments primarily engaged in molding primary plastics for the trade and fabricating miscellaneous finished plastics products; establishments primarily engaged in manufacturing fabricated plastics products or plastics film, sheet, rod, nontextile monofilaments and regenerated cellulose products and vulcanized fiber, whether from purchased resins or from resins produced in the same plant.

**Plating and Polishing.** Establishments primarily engaged in all types of electroplating, plating, anodizing, coloring and finishing of metals and formed products for the trade.

**Pottery Products.** Establishments involved in manufacturing pottery and related products such as red earthenware flower pots, fine earthenware cooking ware, bone china, china plumbing fixtures, and so forth.

**Rock Crushing Establishments.** Establishments primarily engaged in the use of rock crushing machinery in relation to the construction and mining industries.

**Sawmill.** An establishment in which timber is sawed into planks, boards, etc., by machinery.

**Ship and Boat Building.** Establishments primarily engaged in building all types of ships and boats, including converting and altering ships and boats.

**Signs and Advertising Displays.** Establishments primarily engaged in manufacturing electrical, mechanical, cutout or plate signs and advertising displays, including neon signs and advertising novelties.

**Structural Clay Products.** Establishments primarily engaged in manufacturing brick and structural clay tile, ceramic wall and floor tile, clay firebrick and other heat-resisting clay products, and so forth.

**Terra Cotta.** An establishment involved in manufacturing glazed or unglazed fired clay use specifically for statuettes and vases and architectural purposes, such as for roofing, facing and relief ornamentation.

**Textiles.** Establishments engaged in preparing fiber and the subsequent manufacturing of yarn, thread, braids, twine and cordage; manufacturing broad woven fabric, narrow woven fabric, knit fabric and carpets and rugs from yarn; dyeing and finishing fiber, yarn, fabric and knit apparel; coating, waterproofing or otherwise treating fabric; integrated manufacturing of knit apparel and other finished articles from yarn; and manufacturing felt goods, nonwoven fabrics and miscellaneous textiles.

**Textile Machinery.** Establishments primarily engaged in manufacturing machinery for the textile industries, including parts, attachments and accessories.

**Tile.** An establishment primarily engaged in manufacturing tile.

**Warehousing and Distribution Activities.** Establishments involved in storing, stocking or distributing of merchandise or commodities.

**Watches and Clocks.** Establishments primarily engaged in manufacturing watches, watch cases, clocks, mechanisms for clockwork operated devices and clock and watch parts, including those engaged in assembling watches and clocks from purchased movements and cases.

**Welding.** Establishments primarily engaged in manufacturing welding equipment, electric welding apparatus and accessories.

**Wood Products.** Establishments primarily engaged in manufacturing products from wood.

(9) **ADULT ORIENTED BUSINESS**

**Adult Oriented Business:** An adult arcade, adult media store, adult retail store, adult cabaret, adult motel, adult motion picture theater, adult theater, lingerie modeling studio, massage parlor, sexual encounter establishment, escort agency, or, semi-nude model studio as defined by Chapter 837 of this ordinance.

(10) **MULTI-USE**

**Business or Industrial Center.** A site developed and operated under single or common ownership to include of a mix of industrial and/or commercial uses where the majority of uses are permitted under the Business and Personal Services, Retail and Wholesale Trade and Manufacturing, Mining, Construction and Industrial use categories, with customer and employee parking provided on-site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

**Commercial / Industrial Adaptive Reuse.** The repurposing of a building or group of buildings to accommodate a mix of industrial and/or commercial uses developed and operated under single or common ownership where the majority of uses are permitted under the Business and Personal Services, Retail and Wholesale Trade and Manufacturing, Mining, Construction and Industrial use categories, with customer and employee parking provided on-site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

**Shopping Center.** A site developed and operated under single or common ownership to include a mix of commercial uses where the majority of uses are permitted under the Business and Personal Services and Retail and Wholesale Trade use categories, with customer and employee parking provided on-site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.



<b>AGRICULTURAL USES</b>	<b>i</b>	<b>AG</b>	<b>FR</b>	<b>CR</b>	<b>ER</b>	<b>LR</b>	<b>SR</b>	<b>MR</b>	<b>HR</b>	<b>UR</b>	<b>LB</b>	<b>GB</b>	<b>LI</b>	<b>HI</b>	<b>IP</b>	<b>ME</b>	<b>REC</b>	<b>Condition</b>
Accessory Use		P	P	P									P	P		P		53
Accessory Structures for Agricultural Use	L	P	P	P														
Agriculture	H	P	P	P														53
Agricultural Event Center, Small	H	C																
Agricultural Event Center, Intermediate	H	C																
Agricultural Event Center, Large	H	C																
Agricultural-Related Industry	H	P	C	P														53
Agricultural Uses-Land Animal	H	P	P	P									P	P		P		22; 53
Agricultural Uses-Non Animal	H	P	P	P									P	P		P		22; 53
Agritourism / Agritainment (i.e. corn mazes, petting zoos, hay tunnels)	H	P	P	P														53
Aquaculture	M	P	P	P														22; 53
Christmas Tree Farm	H	P	C	P														53
Commercial facilities for the sale, repair, and service of agricultural equipment, vehicles, feed, or supplies	H	C	C	C														53
Commercial Non-Farm Animals	M	P	P	P														53
Confined Feeding Operations	H	C																24;44
Equestrian Center	H	C	C	C														53
Equine Services	L	P																
Feed Lot	H	P																24
Feed Mill	L	P											P					6;25
Historic Adaptive Reuse		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	15; 44
Horse Farm	L	P	P	P														53
Nursery/greenhouse	H	P	P	P														53
Orchard	H	P	P	P														53
Pick-your-own operation	H	P	C	P														53
Roadside farm stand, Permanent	M	P	P	P														52
Roadside farm stand, Temporary	L	P	P	P														51
Stockyard	H	P											P					24
Winery	H	P	P	P														53
<b>RESIDENTIAL USES</b>																		
Accessory Apartments	L	P	P	P	P	P	P	P	P									26
Accessory Dwelling Units	L	P	P	P														53; 55
Accessory Livestock	L	P	P	P	P	P	P											43
Accessory Use		P	P	P	P	P	P	P	P	P								5

	i	AG	FR	CR	ER	LR	SR	MR	HR	UR	LB	GB	LI	HI	IP	ME	REC	Condition
Boarding House	L										P	P						
Elderly Housing	L								P	P								57
Guest House	L	P	P	P	P	P												
Historic Adaptive Reuse		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	15; 44
Home Based Business	L	P	P	P	P	P												16
Home Occupation	L	P	P	P	P	P	P	P	P	P								16
Manufactured Home Park	M					P		P	P	P								22.39
Multifamily Dwelling	n/a																	
Residential Storage Structure	L	P	P	P	P		P											15
Single Family Dwelling	n/a	P	P	P	P	P	P	P	P	P								1
Temporary Dwelling	L	P	P	P	P	P	P	P	P	P								3; 53
Two Family Dwelling	n/a	P	P	P	P	P	P	P	P	P								2

<b>PUBLIC AND SEMIPUBLIC</b>	<b>i</b>	<b>AG</b>	<b>FR</b>	<b>CR</b>	<b>ER</b>	<b>LR</b>	<b>SR</b>	<b>MR</b>	<b>HR</b>	<b>UR</b>	<b>LB</b>	<b>GB</b>	<b>LI</b>	<b>HI</b>	<b>IP</b>	<b>ME</b>	<b>REC</b>	<b>Condition</b>
Accessory Use		P	P	P	P	P	P	P	P	P	P	P	P	P				13
Airport	H													P				15
Cemetery	H	P	P	P	P	P		P	P									
Central Garbage/Rubbish	H													C	C	C		33
Charitable, Fraternal, or Social	L											P						
Community Center	L										P	P						28
Cultural Facility	L																P	
Daycare Facility	M									P	P	P	P					22;30;42
Funeral Home	M											P						
Governmental Facility	H	P	P	P	P	P		P	P	P	P			P	P			7;40
Group Home Class I	L						P	P	P	P	P	P						
Group Home Class II	L									P	P	P						
Historic Adaptive Reuse		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	15; 44
Hospital	H											P						
Medical Clinic	L										P	P						
Nursing Home	L											P						
Postsecondary Education	H														P			29
Religious Facilities	H	P	P	P	P	P		P	P	P	P	P						22
Remote Garbage/Rubbish Removal	H	C	C	C							C	C	C	C	C	C		34
Retirement Center	L										P	P						
School (K-12)	H														P			29
Solar Farm	L	C											C	C	C			
Telephone and Telegraph Services	L	P	P	P	P	P		P	P	P	P	P	P	P	P			32
Temporary Care Facility	L											P						
Utility Service Facility	M	P	P	P	P	P		P	P	P	P	P	P	P	P			31
Wastewater Treatment Facility	H	C	C	C									P	P	P			15
Water Treatment Facility	H	C	C	C	P	P		P	P	P	P	P	P	P	P			
Wired Communication Services	M	P	P	P														32
Wireless Communications Facilities		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	32

	i	AG	FR	CR	ER	LR	SR	MR	HR	UR	LB	GB	LI	HI	IP	ME	REC	Condition
<b>Business and Personal Services</b>																		
Accessory Use		P	P	P	P	P					P	P	P	P				13
Air Cargo and Package Service	H											P	P	P				6
Air Craft Charter Service	L											P	P					
Airport Transportation Service	M											P						
Appliance Repair	L										P	P	P					6
Artisan Crafts	M	C	C	C	C		C											15, 22, 44
Barber Service	L										P	P						
Beauty Service	L										P	P						
Bed and Breakfast	L	P	P	P	P	P		P	P		P							8
Boat Storage	M										P						CU	41
Caterer	L										P	P						
Coin Operated Cleaning/Laundry	L										P	P						
Composting Operation	H	P												P		P		31; 53
Convenience Storage	M										P	P	P					4;6;21
Copy Service	L										P	P						
Dry Cleaning and Laundry Pickup	L										P	P						
Dry Cleaning and Laundry Service	L											P						
Electrical Repair	L										P	P	P					6
Employment Agency	M										P	P						
Equipment Rental	M										P	P						7;21
Estate Services	L										P	P						
Event Center	H											P						
Exterminating Service	L											P	P					
Financial Service	M										P	P						
Greenfill	M	P														P		7;15;22;47
Gunsmith	L											P	P					
Historic Adaptive Reuse		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	15; 44
Hotel	M											P						
Industrial Equipment Repair	L												P	P				7;16
Insurance Agency	L										P	P						
Interior Decorating	L										P	P						
Kennel, including commercial animal breeding operations	H	C	C										P	P				10;15; 53
Legal Service	L										P	P						
Locksmith	L										P	P	P					

<b>Business and Personal Services cont.</b>	<b>i</b>	<b>AG</b>	<b>FR</b>	<b>CR</b>	<b>ER</b>	<b>LR</b>	<b>SR</b>	<b>MR</b>	<b>HR</b>	<b>UR</b>	<b>LB</b>	<b>GB</b>	<b>LI</b>	<b>HI</b>	<b>IP</b>	<b>ME</b>	<b>REC</b>	<b>Condition</b>
Massage Studio	M										P	P						
Motel	M											P						
Office	L										P	P	P					
Office Equipment Repair	L											P	P					6
Parking Facility	H										P	P	P	P				31
Pet Services	L											P						
Photographic Services	L										P	P						
Physical Therapy Facility	M										P	P	P					
Real Estate Agency	L										P	P						
Real Estate Sales office Or Model	L	P	P	P	P	P	P	P	P	P	P	P						9
Rehabilitation Therapy Facility	M										P	P	P					
Shoe Repair	L										P	P						
Small Engine and Motor Repair	L										P	P	P	P				6;21
Tailoring	L										P	P						
Taxidermist	L	P	P	P								P	P	P				6
Temporary Seasonal Activity	M	P	P	P							P	P						46; 54
Tourist Home or Cabin	L	P	P	P	C	C		C	C	C								48
Travel Agency	L										P	P						
Upholstery Service	L											P	P					
Veterinary Service (Indoor)	H	C	C	C							P	P	P					15
Veterinary Service (Outdoor)	M	C	C	C									P					10; 15

Retail and Wholesale Trade	i	AG	FR	CR	ER	LR	SR	MR	HR	UR	LB	GB	LI	HI	IP	ME	REC	Condition
Accessory Use		P									P	P	P	P				13
Agricultural Sale Barn	H	P												P				35
Agricultural Supply	H											P						7
Apparel Shop	L										P	P						
Appliance Sales	L											P						
Auction House	H											P	P					
Bakery (Retail)	L										P	P						
Bakery (Wholesale)	L												P	P				7;15
Bookstore	L										P	P						
Bottled Gas Storage/Distribution	L													P				
Building Materials	H											P	P	P				7;31
Cabinet Sales	L											P						
Camera and Photographic Supply	L										P	P						
Confectionery	L										P	P						
Convenience Store	H										P	P						
Department Store	M											P						
Drapery Sales	L											P						
Drugstore	M										P	P						
Fertilizer Sales (Bulk)	M													P				6
Fertilizer Sales (Packaged)	M											P	P					7;21
Florist (Retail)	L										P	P						
Florist (Wholesale)	N											P	P					
Fruit Market	L	P									P	P						
Furniture Sales	L											P						6
Garden Center	H	C	C	C								P	P					53
General Flooring Sales	L											P						
Gift Shop	L										P	P						
Grocery Store	M											P						21
Gunshop	M										CU	CU	CU					
Handicrafts	L										P	P						

<b>Retail and Wholesale Trade cont.</b>	<b>i</b>	<b>AG</b>	<b>FR</b>	<b>CR</b>	<b>ER</b>	<b>LR</b>	<b>SR</b>	<b>MR</b>	<b>HR</b>	<b>UR</b>	<b>LB</b>	<b>GB</b>	<b>LI</b>	<b>HI</b>	<b>IP</b>	<b>ME</b>	<b>REC</b>	<b>Condition</b>
Hardware	M										P	P						6
Heavy Machinery Sales	M												P	P				7
Historic Adaptive Reuse		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	15; 44
Home Improvement Center	H											P						7;31
Industrial Supplies	L												P	P				
Jewelry	L											P						
Liquor Store	M										P	P						
Marine Supply	L											P						31
Manufactured Housing Sales	M											P		P				
Meat Market	L										P	P						
Music Store	L											P						
Office Showroom	M											P	P					
Office Supplies	M											P						
Optical Goods	L											P						
Pet shop	L											P						6;11
Petroleum Bulk Sales and Storage	M													P				
Restaurant	M										P	P						
Restaurant (Drive-in)	H											P						23
Sporting Goods	L										P	P						
Tavern	L											P						
Used Merchandise (Antiques)	L											P						
Used Merchandise (Flea Market)	H											P						19;21
Used Merchandise (General)	L											P						21

<b>Automotive and Transportation</b>	<b>i</b>	<b>AG</b>	<b>FR</b>	<b>CR</b>	<b>ER</b>	<b>LR</b>	<b>SR</b>	<b>MR</b>	<b>HR</b>	<b>UR</b>	<b>LB</b>	<b>GB</b>	<b>LI</b>	<b>HI</b>	<b>IP</b>	<b>ME</b>	<b>REC</b>	<b>Condition</b>
Accessory Use											P	P	P	P				13
Automobile Repair Services, Minor	H	C	C	C														50; 53
Automotive Paint Shop	L												P	P				
Automotive Rentals	M											P						21
Automotive/Boat Repair Shop	H											P	P	P				6
Automotive Sales	H											P						31
Automotive Supply	M											P						7;21
Automotive Tire Repair	M											P	P	P				7;21
Bus Terminal	H											P						21
Car Wash	L											P						21
Cold Storage Plant	L												P	P				
Gasoline Services Station	H											P	P					7
Grain Elevator	L													P				
Historic Adaptive Reuse		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	15; 44
Motorcycle Sales	L											P						6;21
Taxicab Stand	M											P						
Transfer or Storage Terminal	H												P	P				7
Truck Stop/Travel Plaza	H													C				
Trucking Terminal	H												C	P				31
Wrecker Service	M											P	P	P				7
<b>Amusement and Recreational</b>																		
Accessory Use		P	P	P	P	P					P	P	P	P			P	13
Amphitheater	H																CU	
Camping Facility	H	P	C	P													P	27; 53
Club or Lodge	L											P					P	37
Historic Adaptive Reuse		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	15; 44
Indoor Shooting Range	M																P	45
Indoor Theater	M											P						
Outdoor Drive-In Theater	H											P						38
Park and Recreational Services	H	C	C	C	P	P					P	P	P	P			P	14;20
Private Recreational Facility	H	C	C	C	P	P						P					P	20
Race Tracks	H																CU	
Recreational Vehicle (RV) Park	H	C	C	C														53
Resorts	L																CU	
Rodeo	H											P					CU	



Transient Amusement Enterprises	H																	CU	
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<b>Manufacturing, Mining Construction and Industrial</b>	<b>i</b>	<b>AG</b>	<b>FR</b>	<b>CR</b>	<b>ER</b>	<b>LR</b>	<b>SR</b>	<b>MR</b>	<b>HR</b>	<b>UR</b>	<b>LB</b>	<b>GB</b>	<b>LI</b>	<b>HI</b>	<b>IP</b>	<b>ME</b>	<b>REC</b>	<b>Condition</b>
Abrasive Products	L													P				15
Accessory Use		P	P								P	P	P	P		P		13
Apparel	H												P	P				7;16
Appliance Assembly	H												P	P				7;16
Beverage Products	H												P	P				7;16
Bottling Machinery	L												P	P				7;16
Cement Products	M													CU		CU		
Commercial Printing	H											P	P	P				6
Construction Trailer	L				P	P	P	P	P	P	P	P	P	P				17
Cut Stone and Stone Products	H													P		P		15
Dairy Products	M													P				15
Electronic Devises and	L												P	P				7;16
Engineering and Scientific	L												P	P				7;16
Farm Machinery and Equipment	H													P				15
Food Products	M												P	P				15
Furniture	H												P	P				15
General Contractor	M											P	P	P				15
Glass and Glassware	L													P				15
Grain Mill Products	L													P				15
Hard Surface Floor Covering	L													P				15
Historic Adaptive Reuse		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	15; 44
Insulation Products	L													P				15
Jewelry Products	L												P	P				7;16
Laboratories	M												P	P				17;16
Leather Goods	L												P	P				7;16
Machine Assembly	M												P	P				15
Machine Shop	H												P	P				15
Metal Fabrication	H												P	P				15
Metalworking Machinery	M												P	P				15
Mineral Extraction	H															P		15;18
Motor Vehicle and Equipment	H													P				15
Musical Instruments	L												P	P				7;16

<b>Manufacturing, Mining Construction and Industrial cont.</b>	<b>i</b>	<b>AG</b>	<b>FR</b>	<b>CR</b>	<b>ER</b>	<b>LR</b>	<b>SR</b>	<b>MR</b>	<b>HR</b>	<b>UR</b>	<b>LB</b>	<b>GB</b>	<b>LI</b>	<b>HI</b>	<b>IP</b>	<b>ME</b>	<b>REC</b>	<b>Condition</b>
Office and Computer Equipment	H												P	P				7;16
Optical Instruments and Lenses	L												P	P				7;16
Paper Products	M												P	P				15
Paving Materials and Central Mixing	H													CU		CU		
Perfumes, Cosmetics and Toiletries	H													P				7;16
Pharmaceuticals	H													P				7;16
Plaster Central Mixing	L													P				15
Plastic Products Assembly	H												P	P				7;16
Plating and Polishing	L												P	P				15
Pottery Products	L													P				15
Rock Crushing	H													CU		CU		
Sawmill	H	C	C	C														15;22
Ship and Boat Building	H													P				15
Sign and Advertising Displays	L												P	P				7;15
Structural Clay Products	L													P				15
Terra Cotta	L													P				15
Textiles	H													P				15
Textiles Machinery	M													P				15
Tile	L													P				15
Warehousing and Distribution	H												P	P				7;16
Watches and Clocks	L												P	P				7;16
Welding	L												P	P				7;15
Wood Products	M	C	C	C									P	P				7;15
<b>Adult Oriented Business</b>	<b>i</b>																	
Adult Oriented Businesses	L/M										P	P		P				49
<b>Multi-Use</b>	<b>i</b>																	
Business or Industrial Center	H											P	P	P				22
Commercial / Industrial Adaptive Reuse	H											P	P	P				22;56
Shopping Center	H											P						22

## Conditions Pertaining to Permitted Uses in Zoning Districts

1. Permitted on existing lots of record after the issuance of a building permit by the Building Department.
2. For zoning districts that permit two family dwellings, the following conditions shall apply:
  - A. The location of lots designated as two family dwelling lots shall be approved by the Plan Commission as part of its approval of the subdivision plat.
  - B. Exterior building materials of dwelling units to be placed on two family lots shall be of the same type and quality of the existing dwelling unit or, in the case of new two family dwellings, of the same type and quality of dwelling units on adjoining lots.
  - C. Each two-family dwelling shall have a lot area equal to twice that required for a single family residence or greater.
  - D. A two family dwelling proposed on a lot or parcel of record created via the Sliding Scale Subdivision Option may only be constructed on the Parent Parcel Remainder and only if that Parent Parcel Remainder meets the minimum lot size for the zoning district in which it is located.
3. The Building Commissioner may issue a temporary certificate of occupancy permit for the use and occupancy of a mobile home as a single family dwelling unit on a lot previously occupied by a permanent dwelling that is destroyed so as to be unlivable. The Building Commissioner may impose reasonable conditions upon the issuance of the permit in order to provide for the least impact on surrounding property. A permit issued for a temporary dwelling shall be for a period not to exceed six (6) months. After the expiration of the permit, an additional three (3) months may be granted after the approval by the Plan Commission. No site plan is required.
4. On-site apartment shall not exceed one thousand five hundred (1,500) square feet and shall be attached to, and incorporated into, the convenience storage facility.
5. The following conditions shall apply to residential accessory buildings or structures:
  - A. No more than four (4) accessory buildings or structures shall be erected on a lot. This provision shall not apply in the AG/RR, CR, and FR zoning districts which allow a maximum lot coverage of 15,000 square feet without limitation to the number of structures.
  - B. An accessory building or structure equal to or less than 15 feet in height shall be permitted within five (5) feet of rear property line(s).
  - C. Accessory buildings or structures greater than 15 feet in height are subject to all applicable setbacks.
6. All storage of materials shall be indoors. This condition does not apply to automotive repair when the use is located in a Heavy Industrial (HI) district.
7. Outdoor storage areas shall not be visible from streets and/or adjacent properties. This condition does not apply to heavy machinery sales, welding, and wood products when the uses are located in a Heavy Industrial (HI) District.
8. A site plan and notification of adjoining property owners are required. At least one (1) rented room shall be located in the principal dwelling unit. The proposed bed and breakfast shall retain the architectural orientation and form characteristic of the surrounding neighborhood.
9. One (1) real estate sales office or model home office may be situated in a section of a subdivision or on a multifamily site.
10. Outdoor kennels and storage areas shall not be visible from streets and/or adjacent properties.

11. Animals shall be kept indoors.
12. No more than five hundred (500) gallons of a product shall be stored above ground.
13. The following conditions shall apply to a nonresidential accessory use:
  - A. No more than one (1) accessory building per establishment shall be erected on a lot.
  - B. An accessory building shall be at least five (5) feet from all lot lines and from any other building on the same lot.
  - C. No accessory building shall be erected in a required front or side yard.
14. Uses not involving permanent development shall be permitted in the Floodway and Floodway Fringe districts after approval by the Plan Commission, subject to conditions necessary to protect the public interest. A site plan is required.
15. The Plan Commission may attach additional conditions to its approval in order to prevent injurious or obnoxious dust, fumes, gases, noises, odors, refuse matter, smoke, vibrations, water-carried waste or other objectionable conditions and to protect and preserve the character of the surrounding neighborhood.
16. Use shall be conducted within the buildings or structures on the site. Non-agricultural tools, vehicles, and equipment shall be stored so as to not be visible from the street or adjoining property. In addition, storage areas must be screened from view by an appropriate fence or similar enclosure.
17. One (1) construction trailer may be situated in a subdivision or on a nonresidential construction site with the prior approval of the Building Commissioner, who may grant approval subject to conditions that he deems necessary. Construction trailers shall be permitted on specific nonresidential construction sites for as long as a valid building permit continues in existence.
18. Mineral extraction activities are permitted subject to the following provisions:
  - A. Mining operations shall not be conducted on parcels located within residential districts or residential neighborhoods.
  - B. The applicant shall state to the Planning Director the course of travel to be followed by vehicles transporting minerals. In the event the course of travel contemplates that the vehicles will process over county roads, then the applicant shall post bond in favor of the county in an amount established by the Plan Commission for the purpose of repairing damage and/or wear to county roads resulting from the use of the roads by the vehicles.
  - C. The mining site shall be sprinkled, or other measures shall be taken as deemed appropriate by the Planning Director, in order to prevent dust and other particles, from polluting the atmosphere as a result of the mining operations and as a result of transporting minerals.
  - D. Vehicles transporting minerals shall be loaded so that the minerals shall not spill from the vehicles to road surfaces.
  - E. Mining operations shall cease when mud would be collected on the wheels of the vehicles transporting minerals, in order to keep mud off county roads.
19. No site plan is required.
20. Commercial uses, such as miniature golf, go-cart tracks, swimming pools, and so forth, shall not be permitted in residential districts.
21. This use is prohibited in the area within 500 feet, measured perpendicularly from the nearest lane of traffic along State Road 37.

22. Permitted after site plan approval by the Plan Commission or Administrator.
23. The minimum number of off-street parking spaces required may be 1 space per 2 seats, provided that drive-through facilities have a minimum of 120 feet (6 off-street stacking spaces) from the ordering station and are designed so as not to conflict with pedestrian or vehicular circulation on the site or on abutting streets. Exit doors from the restaurant shall be parallel to drive-through lanes to prevent customers from walking out doors directly into traffic lanes.
24. Operations involving feeding of cattle, livestock, or other concentrated animal populations shall be set back from all property lines abutting non-agricultural uses by 1,320 feet.
25. Site should be located on County-maintained and paved roads of classification collector or arterial.
26. Accessory apartments are permitted subject to the following conditions:
  - A. Use may be created only through internal conversion of the existing dwelling unit. Detached garage space shall not be converted.
  - B. At least one (1) parking space shall be provided for the use by residents of the accessory apartment.
  - C. No new entrance visible from the street shall be added to the structure.
27. Camping facilities shall be permitted provided applicant submits a site plan pursuant to Chapter 815 and proof of licensing by the State Board of Health and proof of compliance with all applicable standards set forth in 410 IAC 6-7.1.
28. Community centers are permitted subject to the following conditions:
  - A. Food and beverage services provided on-site shall be limited to service incidental to the primary activity.
  - B. Lighted outdoor athletic facilities at community centers shall not be located within 50 feet of a residential neighborhood.
29. Schools (K-12) and Postsecondary Educations Institutions shall be permitted subject to the following conditions:
  - A. Dwellings used for residential purposes on-site, in excess of one (1) unit, are subject to residential use classification zoning.
  - B. Schools (K-12) must provide off-street loading facilities, located wholly on the premises, for students.
30. Day care facilities are permitted provided that proof of licensing by the State of Indiana shall be provided with submission of site plan. If exempt from state licensing requirements, proof of exemption shall be provided.
31. Site shall be screened with landscaping, or an opaque fence or wall to a height of at least six (6) feet.
32. Subject to the requirements of Chapter 834 - Wireless Communications Facilities.
33. Central garbage and rubbish collection facilities, including recycling centers, shall be permitted subject to the following conditions:
  - A. Unloading areas for materials must be not less than fifty (50) feet from any adjoining property, unless unloading is conducted entirely within a building.

- B. Portions of a site used for truck maneuvering or the storage, bailing, processing, or other handling of materials must be enclosed by an opaque fence or wall with a nonglare finish not less than eight (8) feet in height.
  - C. Loading and unloading areas must be paved.
  - D. The site must be kept clear of litter, scrap paper, or other refuse matter.
  - E. Chemical or heating processes shall not be used on materials.
  - F. Prior to application for Conditional Use permit, facility must be shown to have fully complied with the provisions of Monroe County Ordinance 2007-18 and Chapter 360 of the Monroe County Code.
  - G. If the Conditional Use is approved, all required permits from the Indiana Department of Environmental Management must be issued prior to filing an application for an Improvement Location Permit.
34. Remote garbage and rubbish collection facilities, including drop-off recycling facilities, shall be permitted subject to the following conditions:
- A. Facilities must be located in an enclosed structure or be screened on three sides by a six (6) foot high opaque fence or wall.
  - B. Facilities shall not be located within 100 feet of adjoining property.
  - C. Storage and unloading areas shall be paved.
  - D. The site must be kept clear of litter, scrap paper, or other refuse matter.
  - E. No power driven processing equipment shall be used at any unenclosed facility.
  - F. Facilities attended by any on-site employees shall provide one (1) parking space per employee.
  - G. Prior to application for Conditional Use permit, facility must be shown to have fully complied with the provisions of Monroe County Ordinance 2007-18 and Chapter 360 of the Monroe County Code.
  - H. If the Conditional Use is approved, all required permits from the Indiana Department of Environmental Management must be issued prior to filing an application for an Improvement Location Permit.
35. Agricultural sale barns shall be permitted provided that all activities involving the sale of animals must be conducted entirely within an enclosed structure. Non-animal sales may be conducted outside of enclosed structures, but such sales areas shall be enclosed and screened from view to a height of at least six (6) feet. All such facilities shall have access onto roadways classified as arterial.
36. Amphitheatres are permitted subject to the following conditions:
- A. The site shall be located on a street with a roadway classification of arterial.
  - B. Parking shall be provided to handle the demand of the facility to capacity, but such facilities can be applied subject to shared parking standards as given in Chapter 806 of this ordinance.
37. Clubs or lodges are permitted subject to the following conditions:
- A. Such uses shall be located on a street with a roadway classification of collector or arterial.
  - B. Outdoor activities specific to the intended activities of the club or lodge shall minimize off-site

noise or nuisance, including provision for screening from adjacent uses.

- C. Parking reductions, in some cases, may be granted subject to submittal of traffic studies or by permission of the Plan Commission or designee.
38. Outdoor drive-in theaters shall be permitted provided they meet the following criteria:
- A. The site shall have direct access to a street classified arterial.
  - B. All activities on-site shall be screened with landscaping or opaque fencing to a height of not less than eight (8) feet.
  - C. The theater viewing screen shall not be visible from any public street within 1,500 feet of the screen.
  - D. Loading space for patrons waiting for admission shall be equal to twenty (20) percent of the capacity of the theater.
  - E. Sales of refreshments shall be limited to the operational hours of the theater.
  - F. No central loudspeakers shall be permitted.
39. A manufactured home park shall be constructed in accordance to the provisions of Chapter 805 (Manufactured Home Parks) or Chapter 811 (Planned Unit Developments) of this ordinance.
40. Site plan review and notification of interested parties is required.
41. Boat Storage facilities shall be permitted subject to the following conditions:
- A. the required building setbacks shall be applied to all boats stored outside
  - B. all boats stored outside of enclosed buildings shall be screened from adjoining properties by a double staggered row of evergreen trees, installed in conformance with Chapter 830, or a 6 ft. high opaque fence or wall.
  - C. boat repair services and accompanying sales of repair merchandise is allowed only as an accessory use
  - D. compliance with all applicable local, State and Federal regulations for the disposal of hazardous materials.
42. In the Urban (Multifamily) Residential District, this use is limited to serve up to twenty (20) individuals. There is not a limitation on the number of individuals within the other permitted zoning districts.
43. Accessory livestock and non-farm animals shall be permitted only in a pasturage context subject to the following:
- A. Pasture use shall be limited to one unit per acre of land actually used as pasture and accessible to the livestock or non-farm animals. Acreage shall be rounded to the nearest whole number. Animals per acre shall be determined as follows:
    - Large  
Cattle, horses, llamas, swine, ponies, etc. .... 2 animals/first acre  
1 animal per acre thereafter
    - Medium  
Goats, sheep, miniature horses, etc. .... 4 animals/ first acre  
2 animals per acre thereafter



Small

Smaller animals, including fowl ..... 10 animals/first acre  
5 animals per acre thereafter

Beehives (bee density based on hive) ..... 8 hives/first acre  
4 hives per acre thereafter

All animals (except bees) less than one year of age shall be calculated at one-half the unit of their respective category, as set forth above.

- B. Accessory animals in CR, ER, SR, LR districts may be kept for the owner's personal use and may not be kept for commercial purposes.
  - C. Domestic animals (see definition M.C.C. 441-1) that are kept as pets are not subject to the foregoing conditions but are subject to the regulations set forth on Monroe County Code 441, as amended or reenacted.
  - D. Accessory Livestock and non-farm animals in excess of the above densities require the approval of a variance.
44. Subject to the procedure described in Chapter 813 of the Monroe County Zoning Ordinance.
45. For an Indoor Shooting Range use the following conditions apply:
- A. All aspects of the use shall be conducted indoors.
  - B. The operator shall have and submit all applicable Federal and State licenses.
  - C. The sale of guns and/or repair or smithing of guns is permitted as an accessory use.
  - D. Lead shall be disposed of in a manner which complies with all Federal, State and Local regulations.
  - E. Noise shall not be audible at the property line.
46. Temporary Seasonal Activity uses shall be permitted upon demonstrated compliance with the following conditions:
- A. Use must be short in duration (generally less than 1 month.)
  - B. Signage for use limited to 10 square feet and comply with all other aspects of the signage chapter of this ordinance.
  - C. Each use requires submittal of a site plan - including but not limited to location, signage, parking, driveways, etc.
  - D. Prior to the beginning date of the activity, an Improvement Location Permit and payment of applicable fee shall be required.
  - E. Operational conditions such as hours of operation, expiration dates, etc. may be considered as part of the Improvement Location Permit approval.
  - F. Subject to the performance standards of Chapter 802 of this ordinance.
  - G. Temporary Seasonal Activity approvals may only be granted for individual parcels; they may not be authorized within any public right-of-way (e.g. streets or sidewalks).

H. Application must be submitted at least ten days before the requested date for beginning the Temporary Seasonal Activity use.

I. The application must include the signature of the property owner, or a letter of authorization from the property owner.

47. All applicable State and Federal permits must be secured prior to the issuance of an Improvement Location Permit.

48. Criteria for Tourist Home or Cabin uses in AG/RR, FR, and CR zoning districts:

(a) The lot must meet or exceed the minimum lot size and infrastructure facilities (i.e. septic system, driveway) requirement for the zoning district prior to the commencement of the Tourist Home or Cabin use;

(b) The Tourist Home or Cabin shall be located no closer than two-hundred (200') feet from any adjoining principal use structure not currently being used as a Tourist Home or Cabin or from the adjoining property setback line if no adjoining principle use structure exists.

(c) Any outdoor pool or spa facilities must meet State and Local Board of Health requirements and must be visually screened from surrounding properties and properly secured with a Power Safety Pool Cover or Enclosure as defined in Indiana Code (675 IAC 20-4-27 - Safety Features; 675 IAC 20-3-9 – Enclosure) standards for a Class C, Semi-Public Pool.

(d) Parking:

(1) Parking only on paved or graveled driveways;

(2) No parking is allowed on the street or road;

(3) One (1) parking space per guest room; and,

(4) No parking of any vehicles in any yard or setback area as defined by Chapter 804 of the Zoning Ordinance.

(e) Rules, in a readable size and format, shall be posted outside near the main entrance to the Tourist Home or Cabin and shall include the following:

(1) Rules and regulations for ensuring safety and preservation of neighborhood values (e.g., emergency phone numbers; 24 hour contact number for property owner or manager; noise restrictions; solid waste management rules; fishing license rules; etc.);

(2) Diagram of property boundary lines; and,

(3) Diagram of designated parking.

(f) Smoke detectors and a fire extinguisher shall be installed and maintained in working order in all Tourist Homes or Cabins.

(g) All solid waste and refuse shall be removed from the property and properly disposed of prior to a change of occupancy.

(h) No more than two (2) guests per guest room.

49. Subject to the requirements and definitions of Chapter 837 – Adult Oriented Businesses. Note: Not all Adult Oriented Business uses are permitted in the zone districts designated in Table 2-1. See Table 837-4 for clarification.

50. It is unlawful for any person to engage in minor vehicle repair or maintenance unless conducted in accordance with the following conditions:

1. Conducted inside a fully enclosed garage located on a parcel 5 acres in size or greater.
2. Applies to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.
3. No more than (5) five vehicles shall be stored outside on the premises.
4. No vehicle may be stored beyond sixty days.
5. Vehicles stored outdoors must be screened from view in all directions by an appropriate fence or similar enclosure.
6. Vehicles intended for parts, engines, transmissions and all similar items to be used in future repairs shall be stored indoors.
7. The uses shall follow all home based business design standards.

51. Any Roadside Stand (Temporary) must submit a site plan and shall only be conducted in accordance with the following conditions, in addition to any conditions imposed as part of site plan approval:

1. The Roadside Stand (Temporary) must be at least twenty feet from the right-of-way line and shall not obstruct pedestrian or vehicular circulation, or obstruct vehicular sight distances.
2. Sales and display activities shall be limited to daylight hours.
3. Off-road parking at least twenty feet from the right-of-way line shall be provided.
4. Must comply with Indiana State Department of Health (ISDH) Rule Title 410 IAC 7-24, Retail Food Establishment Sanitation Requirements.

52. Any Roadside Stand (Permanent) must submit a site plan and shall only be conducted in accordance with the following conditions, in addition to any conditions imposed as part of site plan approval:

1. The Roadside Stand (Permanent) must meet all setback requirements and shall not obstruct pedestrian or vehicular circulation, or obstruct vehicular sight distances.
2. Off-road parking meeting all setback requirements shall be provided.
3. Must comply with Indiana State Department of Health (ISDH) Rule Title 410 IAC 7-24, Retail Food Establishment Sanitation Requirements.

53. Only permitted on lots 5 acres or greater in the AG/RR, CR, and FR zoning districts.

54. The temporary / seasonal activity must be subordinate to or incidental to the principal permitted use or structure existing on the property, and compatible with the intent of the district.

55. The principal dwelling unit or accessory dwelling unit (ADU) or Detached Accessory Dwelling Unit (DADU) must be occupied by the owner of the lot, the minimum lot size must be 5 acres, and must utilize a shared driveway with principal dwelling unit. Before final occupancy of the ADU or DADU, the property owner must record an affidavit and commitment stating that the property owner will reside on the property in either the principal dwelling unit or ADU or DADU. Once recorded, the affidavit and commitment (requiring owner occupancy) may not be removed or modified without Plan Commission approval. Only one accessory dwelling unit per lot of record is permitted.

The following design criteria also apply to accessory dwelling units:

Accessory dwelling unit (ADU) requirements:

1. An ADU is limited to 1,000 square feet of residential space in a single-family structure.
2. The ADU must meet current standards of the residential, building, mechanical, electrical and energy codes of the State of Indiana and the Monroe County Building Department.
3. One off-street parking space is required for the ADU.
4. A manufactured home may not be used as an accessory dwelling unit if it was constructed prior to January 1, 1981.
5. The requirements of Condition 2 under Conditions Pertaining to Permitted Uses in Zoning Districts shall also apply for ADU permitting.

Detached accessory dwelling unit (DADU) requirements:

1. A DADU is limited to 1,000 square feet of residential space.
2. The DADU must meet current standards of the residential, building, mechanical, electrical, energy, and environmentally critical areas codes.
3. One off-street parking space is required for the DADU.
4. A manufactured home may not be used as an accessory dwelling unit if it was constructed prior to January 1, 1981.
5. A DADU must have a permanent connection to either an approved septic system or sewer system.
6. A Recreational Vehicle (RV) is not permitted as a DADU.
7. Each DADU lot shall have a separate buildable area for each dwelling.
8. A DADU lot or parcel of record created via the Sliding Scale subdivision option may only be constructed on the Parent Parcel Remainder.

56. Commercial / Industrial Adaptive Reuse sites may be further developed and used as follows and subject to the following conditions:

- a) Additional buildings and structures may be constructed or placed on the site;
- b) Multiple uses may be established in the existing and new buildings and structures;
- c) All uses established must be permitted uses in the zone district;
- d) Sewer service must be present and available to serve the site;
- e) Building Department review and approval for change of use and occupancy;
- f) Sidewalks shall be included within the dedicated, unpaved portions of the rights-of-way; Additionally, the Plan Commission may approve an alternate circulation plan, outside of the right-of-way, if sidewalk and/or access easement (for sidewalks, bike paths, public access, private access, etc.) locations are available;
- g) At least two of the following design upgrades are required. No more than one existing feature may be counted to fulfill these design upgrade requirements:

1. Installation of parking lot landscape islands including trees and/or stormwater best management practice treatments;
2. Landscape enhancement and/or expansion along the street edge and/or site perimeter.
3. Implementation of stormwater best management practice treatments, under direction of the county stormwater utility;
4. Installation of a low masonry street wall or decorative fence treatment along the street edge;
5. Conversion of pole signs to monument signs;
6. Façade enhancements such as roofline variations, decorative wall signs, canopy treatments, additional window transparency, exterior materials, additional or enhanced entrances;
7. Provision of outdoor public use areas, such as plazas, patios, benches, etc.;
8. Creation of a designated pedestrian way through a front parking lot from the public sidewalk to the main entrance;
9. Aesthetic upgrades to parking lot or exterior building light fixtures (new fixtures must be hooded, shielded, downcast design);
10. Surface upgrades to deteriorated parking areas where at least 25% of parking surface requires upgrade; or, installation of permeable paver systems, porous asphalt, or porous concrete on newly developed areas or as replacement of existing pavement.

57. If there are multiple elderly dwelling units proposed on one legal lot of record, then the Plan Commission must review and approve the proposed site plan. Any project must meet the height, bulk, density standards for the zoning district in which it is located.

**[end of chapter]**

## CHAPTER 803

### ZONING ORDINANCE: PRE-EXISTING NONCONFORMING USES

#### 803-1. Nonconforming Uses of Land and/or Structures

The uses of land and/or structures that were both in existence and in compliance with all land use and other laws on the date of passage of these regulations, and, further, that do not conform to the use regulations set forth in this ordinance, shall be deemed to be legal, pre-existing nonconforming uses that may be continued subject to the following provisions:

- (A) No legal, pre-existing nonconforming use of land and/or structure may be enlarged, moved or otherwise changed, except that such use may be changed to permitted use, unless a variance from the terms of the ordinance is obtained from the Board.
- (B) A legal, pre-existing nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use but shall not be expanded to occupy any parts of such building that were not so arranged or designed or any land outside such building.
- (C) Any land, structure, or land and structure in combination, on or in which a legal, pre-existing nonconforming use is superseded by a permitted use, may thereafter only be put to a permitted use and the nonconforming use may not thereafter be resumed.
- (D) When a legal, pre-existing nonconforming use of land, structure, or land and structure in combination, is discontinued or abandoned for six (6) consecutive months, the land, structure, or land and structure in combination, may thereafter only be put to a permitted use and the nonconforming use may not thereafter be resumed.
- (E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- (F) 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 (e.g., design, size, location, etc.) and such maintenance or repair does not extend or intensify the nonconforming use, unless otherwise authorized by this chapter.
- (G) Subsections (A), (B), and (F) above, and Section 803-2 of this chapter notwithstanding, structures which are used solely for residential purposes and which are located in industrial districts may be enlarged, for residential purposes, provided the number of dwelling units is not increased, the floor areas of each dwelling unit is not increased more than twenty-five percent (25%), and compliance with all development standards of this ordinance is demonstrated (note: if a residential structure is enlarged pursuant to this subsection, it is not eligible for conditional use approval under Chapter 813 of these regulations).
- (H) Any legal, pre-existing nonconforming use shall continue until or unless modified or terminated as herein provided. Such use may be sold, inherited, or otherwise transferred, provided the use, land and structure (if any) remain the same.

- (I) 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.

**803-2. Nonconforming Parcels and/or Structures**

Parcels or structures that were both in existence and in compliance with all land use and other laws on the date of passage of this ordinance, and, further, that do not conform to the height, bulk, area and density regulations set forth in this ordinance, shall be deemed to be legal, pre-existing nonconforming parcels or structures that may be occupied or used subject to the following provisions:

- (A) The use is a permitted use or a legal, pre-existing nonconforming use.
- (B) The legal, pre-existing nonconforming parcel may not be further developed until compliance with the ordinance is demonstrated or until a variance from the terms of the ordinance is obtained from the Board.
- (C) Except as permitted in section 803-2(I) below, the legal, pre-existing nonconforming structure may not be expanded, enlarged or otherwise altered until compliance with the ordinance is demonstrated or until a variance from the terms of the ordinance is obtained from the Board.
- (D) Any legal, pre-existing nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before, if such reconstruction is undertaken within eighteen months of such casualty, and if the restored structure has no greater coverage and contains no greater content (measured in cubic feet) than before such casualty.
- (E) Normal maintenance and repair of a legal, pre-existing nonconforming structure may be performed, provided there is no significant physical change to the structure (e.g., design, size, location, etc.) and such maintenance and repair does not extend, enlarge or intensify the nonconforming structure or the use of the nonconforming structure, unless otherwise authorized by this chapter.
- (F) Nothing herein contained shall require any change in the design or construction of a structure for which an improvement location permit has been issued prior to the date of passage of this Ordinance and on which construction will begin within sixty (60) days after the date of the permit and on which construction is diligently prosecuted to completion within one (1) year after the date of the permit.
- (G) Any legal, pre-existing nonconforming dwelling that is deficient in ground floor area and that is removed from a parcel may not be relocated on the parcel or be replaced by any other dwelling which is not in compliance with the requirements of this ordinance.
- (H) 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.
- (I) In areas outside the former City of Bloomington planning and zoning jurisdictional area as described 833-1, a legal, pre-existing nonconforming dwelling may be enlarged if the following criteria are met:
  - (1) If the nonconforming dwelling is served by a private sewage disposal

system, approval by the Monroe County Health Department that the current septic system can accommodate the increased usage created by the expansion.

- (2) The expansion may not increase the gross floor area of the dwelling unit by more than 25 percent calculated from the gross floor area that existed on January 1, 1997. However, if the nonconforming dwelling is a mobile home, it may be replaced by another mobile home without regard to the 25 percent increase in gross floor area; and
- (3) The expansion must meet the setbacks for the zoning district. If the dwelling intrudes into a setback, the expansion shall not increase the encroachment into the setback.

**803-3. Burden of Establishing Status**

The burden of establishing legal, pre-existing nonconforming use status rests on: the property owner or party seeking to continue the nonconforming use or occupancy; any person applying for an improvement location permit or land use certificate; or, any other person asserting such status. Such persons shall provide sufficient proof in a form acceptable to the Administrator of the following:

- (A) the date of construction of the building or structure or the date the use was established;
- (B) the continuous operation of the nonconforming use; and,
- (C) such other proof and may be deemed necessary by the Administrator.

**[end of chapter]**



## CHAPTER 804

### ZONING ORDINANCE: HEIGHT, BULK, AREA, AND DENSITY PROVISIONS

#### 804-1. Height, Bulk, Area, and Density Table

- (A) Except as provided in this ordinance, no building or structure shall be erected, enlarged, altered, changed or otherwise modified, on a lot unless such building, structure or modification conforms to the height, bulk, area and density regulations of the zone in which it is located.
- (B) The conditions, standards, requirements and notes set forth in Table 4-1 and otherwise prescribed by this chapter are established as the basic height, bulk, area and density regulations for the County Jurisdictional Area.

#### 804-2. General Exceptions to Height, Bulk, Area, and Density Regulations

The requirements which follow are intended to provide exceptions or qualify and supplement the specific district regulations set forth:

- (A) Height Exceptions.
  - (1) Structures or parts that shall be exempt from the height limitations are: barns, silos, grain bins, windmills, chimneys, spires, flagpoles, skylights, derricks, conveyors, cooling towers, telecommunication antennas and towers, observation towers, power transmission towers and water tanks.
  - (2) Buildings for public and semi-public use (see Land Use Schedule, Table 2-1) may exceed the height limitations of the district if the minimum depth of the front, side and rear yards required in the district is increased one (1) foot for each two (2) feet by which the height of such structure exceeds the prescribed height limit.
  - (3) Height restrictions in the areas adjacent to the Monroe County Airport shall be regulated by the Airport Zoning Regulations and by the Tall Structures Act, to the extent that this ordinance does not regulate the maximum height of the structures (see Subsection 800-6(B) of these regulations).
- (B) Yard, Building Setback and Open Space Exceptions.
  - (1) No yard, open space or lot area required for a building or structure shall, during its life, be occupied by or counted as open space for any other building or structure.
  - (2) The following structures shall be allowed to project into the required yard or beyond the building setback line, subject to conditions in the following table:

**Projecting Use**

**Horizontal  
Projection Allowed**

Architectural Features	3 feet
Awnings and Canopies: (9 ft. clearance above street or walks)	3 feet
Bay Windows and Chimneys	2 feet
Fire Escapes	6 feet
Steps and Porches: (non-enclosed)	6 feet

- (3) The following structures or facilities shall be allowed to be constructed in any yard: Driveways, curbs, sidewalks, fences, walls, hedges (subject to the regulations of this section), flagpoles non-permanent landscape features, planting boxes, recreational equipment, parking spaces and, only if adequately screened, composting or garbage disposal equipment.
  
- (4) For adjoining lots under single ownership, setback requirements may be determined from the perimeter of the adjoining lots, ignoring interior lot lines, as shown in Table 4-2, provided that only one main structure and its accessory structures shall be allowed within the perimeter of such adjoining lots and, the following notation is placed on the recorded deed to each such adjoining lot: "For planning and zoning purposes, the lot described herein shall be considered as part and parcel of the adjacent lot(s) owned by [insert owner's name] pursuant to a deed (or deeds) recorded at Deed Record [#s], page [#s], in the office of the Recorder of Monroe County, Indiana. The real estate described herein shall not be considered to be a separate parcel of real estate for land use, development, conveyance or transfer of ownership, without having first obtained the expressed approval of the Monroe County Plan Commission, Monroe County, Indiana, or any successor local governmental body having land use jurisdiction over the real estate. This restriction shall be a covenant running with the land.

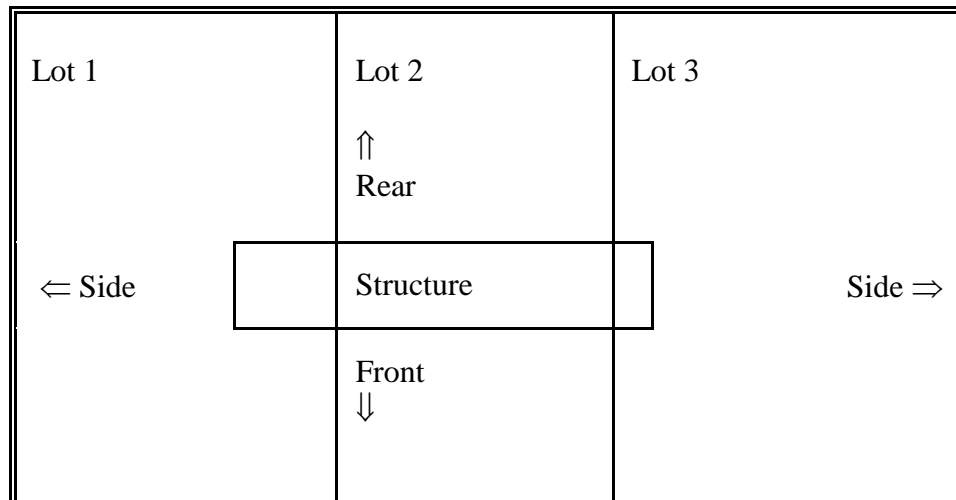


Figure 4-1

(C) **Developed Blocks.** If seventy-five percent (75%) or more of the lots in a block are occupied by buildings, the minimum setback for each undeveloped lot on the block shall be the average of the setbacks of the existing buildings nearest to each side of the lot.

(D) **Lot Layout Measurements** in LR, MR, and HR zoning districts when parcels are connected to a Public Sewer Disposal System, or AG/RR, CR, FR, and ER zoning districts.

Legal, pre-existing lots of record shall be deemed to conform to the Height, Bulk, Area, and Density regulations when one of the following situations is present:

(1) The lot is in a platted subdivision for which the plat specifies the particular measurement and the lot demonstrates compliance with that measurement.

(2) The Director determines that the lot or parcel configuration measurements are consistent with the prevailing measurements for lots and parcels in the neighborhood. In making the determination, the Director shall not approve a deviation of greater than 10% of the standards set forth in Table 4-1, Height, Bulk, Area, and Density Requirements for Zoning Districts.

(E) **Administrative Waiver of 15% slope provision**

(1) For legal, pre-existing lots of record which cannot be reasonably utilized for its zoned use as a result of the buildable area requirement regarding slopes of fifteen (15%) percent or greater, an administrative waiver may be granted for the construction of a single family residential unit. The waiver shall be only granted to the extent necessary to construct the same.

(2) An administrative waiver may be granted to allow for the expansion of structures which existed prior to October 2, 2015 into areas with slopes of fifteen (15%) percent or greater where further expansion is limited by:

- existing configuration of development including infrastructure;
- irregular lot configuration; or
- restrictions of existing topography.

The waiver may not authorize an expansion greater than 1000 square feet.

### **804-3. Safety and Vision**

The following regulations provide for the maximum safety of persons using sidewalks and streets: on any corner lot, a wall, fence, sign, structure, display of merchandise or any plant growth which obstructs sight lines at elevations between two and one-half (2 1/2) feet and ten (10) feet above the crown of the adjacent roadway shall not be placed or maintained within a triangle of the area of the lot twenty-five (25) feet from the street right-of-way at intersections.

**804-4.****Special Requirements**

Special requirements are established to clarify certain conditions pertaining to the use of lots and access points:

- (A) Structures on a Lot. Only one principal building and its accessory structures may be located on a legal lot of record unless the development is approved as a shopping center, business or industrial center, commercial / industrial adaptive reuse, or planned unit development.
- (B) Lot of Record. Any lot recorded or in single ownership at the time of adoption of these regulations shall be permitted to exist in its present dimensions.
- (C) Permanent Outdoor Display of Goods. For nonresidential uses in nonresidential zones, a permanent outdoor display of goods shall conform to the required building setback as set out in the height, bulk, area and density table included in this chapter, unless otherwise prohibited (see Section 804-4 above).
- (D) Temporary Outdoor Display of Goods. Temporary outdoor display of merchandise may encroach ten (10) feet on the required building setback as set out in the height, bulk, area and density chart included in this chapter.

- (E) Any building or structure constructed after October 2, 2015 must be located within a buildable area. The following shall not be included in the buildable area:
- Special Flood Hazard Area as specified in Chapter 808;
  - Wetlands as specified in Chapter 801;
  - Slopes 15% or greater as specified in Chapter 825 Area 2 Regulations;
  - Sinkhole Conservancy Areas as specified in Chapter 829;
  - Drainage Easements as specified in Chapter 856;
  - Riparian Conservancy Areas as specified in Chapter 801;
  - Rights-of-way as specified in Chapter 801;
  - Easements for access;
  - Pole of a flag lot as specified in Chapter 801; and,
  - Setbacks as specified by Ordinance.

Figure 4-2

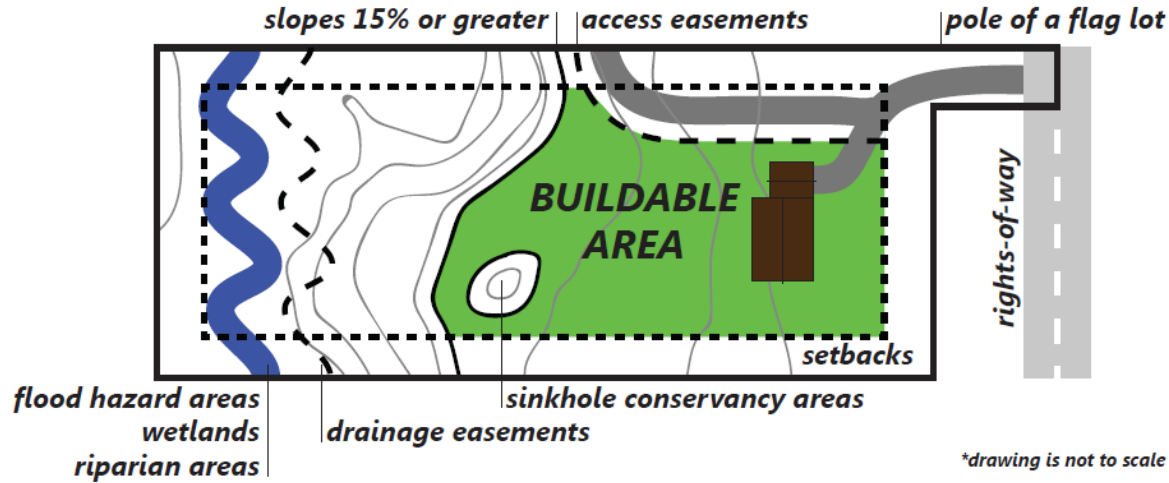


Table 4-1

**Height, Bulk, Area, and Density Requirements for Zoning Districts**

Requirement	AG	FR	CR	ER	SR	LR	MR	HR	UR	LB	GB	PB	LI	HI	IP	ME	REC
<b>Gross Density</b>	0.40 (J)	0.20	0.40	1.00	1.00	3.00	4.80	7.30	7.30	---	---	---	---	---	---	---	---
<b>Minimum Lot Area (acres)</b>	2.5 (I)	5.0 (I)	2.5 (E)(I)	1.0	1.0 (F)	0.34	0.21	0.14	0.14	---	---	---	---	---	---	---	---
<b>Minimum Lot Width at Building Line</b>	200	200	200	100	50	75	60	50	50	50	50	50	60	100	100	200	200
<b>Minimum Required Setbacks (feet)</b>																	
Yard Fronting on any Street																	
Local	25 (H)	25 (H)	25 (H)	25	25	25	25	25	25	25	25	25	35	35	35	35	25
Minor Collector	35 (H)	35 (H)	35 (H)	35	35	35	35	35	35	25	25	25	35	35	35	35	25
Major Collector	35 (H)	35 (H)	35 (H)	35	35	35	35	35	35	35	35	35	35	35	35	35	35
Minor Arterial	50 (H)	50 (H)	50 (H)	50	50	50	50	50	50	50	50	50	50	50	50	50	50
Principal Arterial	60 (H)	60 (H)	60 (H)	50	50	50	50	50	50	50	50	50	50	50	50	50	50
Side Yards	50 (A)	50 (A)	15	15	5	10	5 (K)	5 (K)	10 (K)	6	6	6	3	3	3	50	50
Rear Yard	50 (B)	50 (B)	35	35	10	25	10	10	10	0	0	0	10 (D)	10 (D)	10 (D)	50	50
<b>Maximum Lot Coverage (AG/RR, CR, FR- Sq. Ft.) Minimum Open Space Area (All Other Zones - percent)</b>	15,000 Square Feet (G)	15,000 Square Feet (G)	15,000 Square Feet (G)	40	40	40	40	40	40	15	20	15	20	20	20	---	20
<b>Maximum Height (feet)</b>	40 Principal Use Structures 30 Accessory Use Structures	40 Principal Use Structures 30 Accessory Use Structures	40 Principal Use Structures 30 Accessory Use Structures	35	35	35	35	35	45	35	45	35	50	60	35	---	45
<b>Maximum Floor Area Ratio</b>	---	---	---	---	---	---	---	---	---	0.25	0.30	0.25	0.4	0.4	0.4	---	0.30

**Legend:**

- (A)** 15 foot setback for residential structures and residential accessory structures.
- (B)** 35 foot setback for residential structures and residential accessory structures.
- (C)** 75 percent does not apply to agricultural uses.
- (D)** No setback required when adjoining a rail spur.
- (E)** Refer to the Environmental Constraints/Lake Watershed Overlay Zone Chapter for further information. Area 1 requires a five (5) acre minimum lot size and Area 4 allows a density of up to three (3) units per acre.
- (F)** If all other development standards are met, no variance is required for a lot of record with an area less than one (1) acre.
- (G)** Excluding agricultural buildings, buildings and structures that contain less than 120 square feet of floor area and that are not built on permanent foundations.
- (H)** Measured from Right of Way Line of a Public Road in the Current Thoroughfare Plan, or 50' if no direct frontage on a road
- (I)** All lots created after October 2, 2015 shall include a minimum of 1 acre of buildable area.
- (J)** Maximum gross density for residential subdivision in AG/RR with the BI Overlay is 0.20 dwelling units/acre.
- (K)** 0 foot side setback on one lot line if designated on a subdivision plat.

*\*\*Setbacks are measured from the road right-of-way line, not the centerline of the road\*\**

## CHAPTER 805

### ZONING ORDINANCE: MANUFACTURED HOME PARKS

#### 805-1. Purpose

The purpose of this chapter is to encourage the development of safe, well-planned manufactured home parks in the County Jurisdictional Area to the end of increasing quality housing opportunities for all citizens of Monroe County, Indiana.

#### 805-2. PUD Requirement

Manufactured home parks may be located in Low Density, Medium Density, High Density, and Urban Residential Districts as Planned Unit Developments, in accordance with the standards, requirements and procedures prescribed in this chapter and in Chapter 811 of the Zoning Ordinance.

#### 805-3. Design Standards and Requirements

In considering the development plans for proposed manufactured home parks, the Commission shall insure compliance with the following design standards and requirements:

- (A) The minimum area of a manufactured home park shall be five (5) acres.
- (B) The manufactured home park shall be located on a well-drained site that is properly graded to insure rapid drainage and that is free from stagnant pools of water. The Commission may, as part of its approval of a development plan, impose drainage/erosion control remediations as recommended by the Drainage Board or by the County Engineer, such as curbs, gutters, catch basins or such other artificial enhancements. The surface drainage remediations that are approved or required by the Commission shall be installed and maintained by the developer or its successors in interest.
- (C) A manufactured home park shall be screened continuously along all park boundary lines in accordance with the bufferyard requirements of Chapter 830. A minimum Type A bufferyard shall be provided between a manufactured home park and an adjoining medium intensity use where such a condition occurs.
- (D) Each park shall provide a recreational area or areas equal in size to at least eight percent (8%) of the area of the park. Streets, parking areas, drainage facilities and park service facility areas shall not be included in the required recreational area.
- (E) Coin-operated laundries, laundry and dry-cleaning pickup stations and other commercial convenience establishments may be permitted in manufactured home parks provided:
  - (1) they are subordinate to the residential character of the park;
  - (2) they are located, designed and intended to serve only the needs of persons living in the park;
  - (3) the establishments and parking areas related to their use shall not occupy more than ten percent of the total park area;



- (4)** the establishments shall present no visible evidence of their commercial nature to areas outside the park.
- (F)** Each park shall provide either one (1) central waterproof structure available to all manufactured home site residents or a single waterproof structure for each manufactured 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 foot candle.
- (H)** Manufactured home sites shall be a minimum of four thousand (4,000) square feet in area and in no case shall a manufactured home park exceed a density of seven (7) units per gross acre.
- (I)** Each manufactured home site shall have a minimum width of forty (40) feet.
- (J)** The minimum distance between a manufactured home and another manufactured home or structure shall be twenty (20) feet.
- (K)** Each manufactured home site shall be provided with structural supports that comply with the manufacturer's installation instructions or with the Indiana One and Two Family Dwelling Code.
- (L)** Manufactured homes may not be located less than forty (40) feet from any manufactured home park boundary line. In the event that a manufactured home park shall abut a public street or highway, the front yard setbacks applicable to conventional housing in the district shall apply.
- (M)** Foundation skirting shall be required around each manufactured home completely enclosing the undercarriage.
- (N)** Each manufactured home site shall be provided with two (2) parking spaces adjacent thereto, which parking spaces shall have unobstructed access to a manufactured home park street.
- (O)** Common walks at least four (4) feet in width shall be provided around all recreational and service facility areas. No walk required herein shall be used as a drainage way. All manufactured 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 (3) feet.
- (P)** Street design and construction within the park shall be in accordance with the current street design and construction standards specified in the Monroe County Subdivision Control Ordinance.
- (Q)** No individual manufactured home within a manufactured home park shall have direct vehicular access to any public street adjacent to the park. All access shall be from an improved street or driveway within the park.
- (R)** All entrances to manufactured home parks shall be constructed in an attractive manner. The name of the park and park streets shall be adequately designated in a pleasing manner. The Commission shall approve the name of the park as well as the names of park streets according to the criteria for approving subdivision names

and streets set forth in the Monroe County Subdivision Control Ordinance. Near the entrance of each park, facilities shall be provided for the receipt of mail for the park's residents.

**805-4.**

**Limitations**

- (A) All manufactured homes located in a manufactured home park shall only be used for residential purposes, except that home occupations may be allowed.
- (B) No manufactured home site shall be rented in any manufactured home park except for periods of thirty (30) days or longer.

**[end of chapter]**

## CHAPTER 806

### ZONING ORDINANCE: OFF-STREET PARKING AND LOADING

#### 806-1. Purpose and Scope

The provisions of this chapter are established to relieve and/or prevent traffic congestion in the streets, to minimize any detrimental effects of off-street parking areas on adjacent properties, and to ensure the proper and uniform development of parking areas throughout the County Jurisdictional Area.

#### 806-2. Parking and Loading Requirement

The provisions of this chapter shall apply to situations detailed below:

- (A) All buildings or structures erected or substantially altered and all uses of land or buildings and structures established or changed after the adoption of this ordinance.
- (B) Whenever a building or structure constructed before the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of housing units, seating capacity or otherwise, and such change or enlargement creates a need for additional parking spaces. In these cases, the number of additional spaces to be provided shall be based on the extent of the enlargement or change, provided that whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of fifty percent (50%) or more in floor area, number of employees, number of housing units, seating capacity or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth in this chapter.
- (C) Accessory off-street parking facilities in existence on the effective date of this ordinance and located on the same parcel as the building, structure or use served shall not hereafter be reduced below or, if already less than, shall not be further reduced below the requirements for a similar building, structure or use under this ordinance.

#### 806-3. General Parking Regulations

- (A) The required off-street parking spaces for any number of separate buildings, structures or uses may be provided collectively on one lot, provided that total number of such spaces shall be not less than the sum of requirements for the various individual buildings, structures or uses computed separately in accordance with this ordinance.
- (B) When two (2) or more uses are located within the same building or structure, off-street parking spaces equal in number to the sum of the separate requirements for each use shall be provided.
- (C) Subsections (A) and (B) above notwithstanding, two (2) or more non-residential uses may jointly provide and use off-street parking spaces when their hours of operation do not normally overlap, subject to the requirements of Section 806-6.
- (D) All off-street parking spaces required by this ordinance shall be used only for the parking of vehicles of occupants, patrons, visitors or employees and shall not be used for any kind of loading, sales or servicing, or for the continuous storage of a

vehicle for more than forty-eight (48) hours.

- (E) Any parking area to be used by employees or visitors shall provided parking spaces and associated access aisles designated, marked, and located to adequately accommodate the disabled. Accessible spaces shall be provided in sufficient numbers and to the specifications of the Americans with Disabilities Act (ADA) and the Indiana Building Code (IBC). Each accessible or van accessible parking space shall be located adjacent to an access aisle and in close proximity to the entrance(s) most accessible for the disabled. The required number and sizes of such spaces shall be provided regardless of any other provisions of these regulations or of any reduction in parking requirements otherwise approved by the Commission or the Board.

**806-4.**

**Parking Development Standards**

**(A)** Locational Standards

- (1) Off-street parking spaces for all residential uses shall be located on the same lot as the residential structure or on a lot adjacent to the lot on which the residential structure is located.
- (2) Off-street parking spaces for commercial, industrial or institutional uses shall be located not more than seven hundred (700) feet from the principal use building.
- (3) Off-street parking spaces may be located in any yard, subject to applicable setback standards. However, parking spaces may not be located on the shared portions of shared driveways.
- (4) Off-street parking areas, except those serving single-family detached dwelling units, shall be set back from all public rights-of-way lines a minimum of ten (10) feet. Any such areas abutting a zone or use with a more restrictive setback shall comply with the more restrictive setback.

- (B)** Parking Space Dimensions. Off-street parking spaces shall have minimum rectangular dimensions of not less than nine (9) feet in width and eighteen (18) feet in length, except that parallel parking spaces shall be at least twenty-four (24) feet in length. Not more than ten (10) percent of the required parking spaces may be compact stalls with minimum rectangular dimensions of not less than eight (8) feet in width and sixteen (16) feet in length. Each such space shall have vertical clearance of at least seven (7) feet. All dimensions shall be exclusive of obstructions and of driveways, aisles, and other circulation areas.

**(C)** Parking Space Access

- (1) 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. The following minimum aisle or driveway width standards shall apply: twenty-five (25) feet wide for ninety (90) degree parking; twenty (20) feet wide for sixty (60) degree parking; twenty (20) feet wide for forty-five (45) degree parking; and fifteen (15) feet wide for parallel parking.

- (2)** Clearly defined driveways shall be provided for ingress and egress to off-street parking areas in accordance with the following standards:

Driveway Standard	Single & Two-Family Residential (feet)	Multi-Family Residential & Non-Residential (feet)
Maximum width at property line	22	40
Minimum distance from interior lot line	0	12*
Minimum distance from street intersection	30	50
Space between two drives on the same property	24	40
Radius of curb return:		
Minimum	5	5
Maximum	15	20

\* Drives may be located at property line in the case of shared driveways

- (3)** All areas devoted to off-street parking shall be designed to prevent traffic congestion on adjacent streets. Whenever possible, the number of traffic access points for uses fronting on arterial streets shall not exceed one (1) per three hundred (300) feet. Where direct access to an off-street parking area is provided by an arterial or federal aid secondary road, acceleration and deceleration lanes shall be provided on both sides of the access road in accordance with AASHTO standards.

- (4)** All areas devoted to off-street parking shall be designed so that no vehicle is required to back into a street. Off-street parking areas that exclusively serve single-family detached and two-family dwelling units shall be exempted from this requirement unless direct access to the dwelling unit is provided by an arterial street.

**(D) Surfacing Requirement**

- (1)** Off-street parking areas (including parking spaces, aisles and driveways) shall be constructed using plant mix asphalt, concrete, porous asphalt, porous concrete or permeable paver systems. Single family dwelling units, two-family dwelling units and projects located outside of urban and designated community areas with off-street parking areas less than 4000 square feet in size may use crushed stone, porous asphalt, porous concrete, permeable paver systems, plant mix asphalt or concrete.

- (2) Poured-in-place concrete curbs shall be installed to separate off-street parking areas from the front and sides of any abutting building or structure, otherwise barrier curbs may be installed as necessary to safely and efficiently direct the movement and parking of motor vehicles. Single family detached and two-family dwellings are exempted from this requirement.
  - (3) The off-street parking area shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude channeled or concentrated drainage of water onto adjacent property or toward buildings.
  - (4) No part of any off-street parking area, excluding drives that do not provide direct access to abutting parking spaces, shall have a slope of greater than five percent (5%).
  - (5) The surface of off-street parking areas shall be maintained and kept in good repair, free from refuse, debris.
  - (6) In accordance with construction standards set forth by the Monroe County Highway Department, all non-residential projects located outside of urban and designated community areas with off-street parking areas less than 4000 square feet in size using crushed stone or porous asphalt, porous concrete or permeable paver systems shall construct a driveway apron.
- (E) Screening and Landscaping. The Administrator may condition the issuance of an improvement location permit for an off-street parking area or for a building or structure that will use an existing, on-site parking area on: (1) the establishment of buffer landscaping between the parking area and adjoining or nearby residential districts or uses; and/or (2) the establishment of a lawn on unpaved portions of the parking area. Off-street parking areas shall be landscaped in accordance with the requirements of Chapter 830.
- (F) 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 one (1) foot candle.

**806-5.**

**Minimum Parking Requirements and Calculation Method**

- (A) Off-street parking spaces accessory to principal uses shall be provided in accordance with Table 6-1, which is incorporated into this section. Parking space requirements for other uses will be determined by the Board: (1) 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 and/or improvement location permit; and, (2) in accordance with Section 806-8 of this chapter.
- (B) When determination of the number of off-street parking spaces required by this chapter results in a requirement of a fractional space, any fraction of one-half ( $\frac{1}{2}$ ) or less may be disregarded, while any fraction in excess of one-half ( $\frac{1}{2}$ ) shall be counted as one parking space.

- (C) In the event a specific use is not listed in Table 6-1, the planning staff shall determine the number of spaces required. In making this determination, the planning staff shall consider the following criteria:
  - (1) the number of parking spaces required for a use listed in Table 6-1 that is most similar to the proposed use in terms of the parked motor vehicles that are anticipated to be generated;
  - (2) the square footage to be occupied by the proposed use; and,
  - (3) the number of employees and patrons that are anticipated for the proposed use.

**806-6. Shared Parking**

Parking which is to be shared among two or more businesses or land use activities may be permitted subject to the following requirements:

- (A) No more than fifty (50) percent of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.
- (B) Total parking provided shall be sufficient to meet the requirements of the greatest combined peak parking demands. Evidence in the form of parking generation studies or calculations shall be provided upon request of the Administrator.
- (C) The owners of the properties shall submit a written commitment guaranteeing that the parking spaces shall be provided and maintained as stipulated in the approved site plan, so long as parking is required for the properties in question or until the required parking is provided by other means. Such commitment shall be recorded by the property owners in the County Recorder's Office and a copy filed with the Planning Department.

**806-7. Loading Area Development Standards**

- (A) Location and Screening: Where loading berths are provided, they shall be located on the same zoning lot as the use served. Loading berths shall be screened by either building walls, a solid fence, densely planted shrubbery, or any combination thereof, none of which may be less than 6 feet in height at maturity. Loading berths may not be located in a front setback in any zoning district.
- (B) Loading Berth Access: Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
- (C) Utilization: Loading activities may not utilize required off-street parking spaces or access thereto.

- (D) Plan Required: The location of loading activities must be shown on any site plan submitted for review.

**806-8. Minimum Loading Area Requirements**

Off-street loading berths shall be provided as follows:

- (A) Business and Professional Offices, Medical Facilities, Schools, Motels/Hotels, Clubs and Similar Business Uses - one (1) loading berth for each one hundred thousand (100,000) square feet of space or additional fraction thereof;
- (B) Industrial, Manufacturing and Warehousing - one (1) loading berth for each forty thousand (40,000) square feet of space or additional fraction thereof;
- (C) Other Commercial Uses - one (1) loading berth for businesses with five thousand (5,000) to ten thousand (10,000) square feet of space and two (2) loading berths for businesses with ten thousand and one (10,001) to twenty-five thousand (25,000) square feet of space, plus one (1) additional berth for each additional twenty-five thousand (25,000) square feet of space or fraction thereof;
- (D) Loading berths may not be counted as parking spaces, driveways or aisles for purposes of meeting the off-street parking requirements of this chapter.



**Table 6-1. Off-Street Parking Requirements**

<b>AGRICULTURAL USES</b>		<b>MINIMUM OFF-STREET PARKING REQUIREMENT</b>
Agricultural Uses - Land Animal Related		dwelling unit requirements only
Agricultural Uses - Non-Animal Related		dwelling unit requirements only
Aquaculture		dwelling unit requirements only
Commercial Non-Farm Animals		dwelling unit requirements only
Confined Feeding Operations		1/employee
Equine Services		1/4 stalls + 1/employee
Feed Lot		1/employee
Feed Mill		2/1000 GFA
Stockyard		1/employee on largest shift
<b>RESIDENTIAL USES</b>		<b>MINIMUM OFF-STREET PARKING REQUIREMENT</b>
Boarding House		1/rented room + dwelling unit requirements
Elderly Housing		0.8/unit
Home Occupation Class I		dwelling unit requirements
Home Occupation Class II		1/employee + dwelling unit requirements
Home Based Business		1/employee + dwelling unit requirements
Manufactured Home Park		2 spaces/unit
Multifamily Dwelling, 1 bedroom		1 space/unit
Multifamily Dwelling, 2 bedroom		1.6 spaces/unit
Multifamily Dwelling, 3 bedroom		1.8 spaces/unit
Multifamily Dwelling, 4 bedroom		2 spaces/unit
each additional bedroom		add 0.5 spaces
Single Family Dwelling		2 spaces/unit
Two Family Dwelling		2 spaces/unit
<b>PUBLIC, SEMIPUBLIC, AND OFFICE FACILITIES</b>		<b>MINIMUM OFF-STREET PARKING REQUIREMENT</b>
Airport		1/employee + 1/vehicle used in operation + 1/number of vehicles at peak hour
Cemetery		1/employee + space on private drives
Central Garbage/Rubbish Collection Facility		2/1000 GFA (minimum 5 spaces required)
Charitable, Fraternal, or Social Organization		1/4 persons at capacity
Community Center		3/1000 GFA + 1/employee
Cultural Facility		2.5/1000 GFA
Day Care Facility		1/4 clients + 1/employee
Funeral Home		1/4 seats
Governmental Facility		3/1000 GFA
Group Home		1/employee on largest shift + 1/5 clients or 1.7/1000 GFA
Hospital		1/4 beds + 1/2 employees on largest shift
Medical Clinic		3/doctor + 1/employee
Nursing Home		1/4 beds + 1/employee on largest shift
Postsecondary Educational Institution		1/5 students + 1/employee
Religious Facilities		1/4 seats
Remote Garbage/Rubbish Removal Facility		2/1000 GFA (minimum 5 spaces required)
Retirement Center		4/1000 GFA + 1/employee
School (K-8)		1/classroom + 1/employee
School (9-12)		1/4 students + 1/employee
Telephone and Telegraph Services		1/employee on largest shift
Temporary Care Facility		1/employee on largest shift + 1/5 clients or 1.7/1000 GFA
Utility Service Facility		1/employee on largest shift
Wastewater Treatment Facility		1/employee on largest shift
Water Treatment Facility		1/employee on largest shift

**Table 6-1 (continued). Off-Street Parking Requirements**

<b>BUSINESS AND PERSONAL SERVICES</b>	<b>MINIMUM OFF-STREET PARKING REQUIREMENT</b>
Air Cargo and Package Service	3.3/1000 GFA + 1/employee
Aircraft Charter Service	1/employee + 1/4 seats in waiting area
Airport Transportation Service	1/employee + 1/4 seats in waiting area
Appliance Repair	2/1000 GFA + 1/employee
Barber Service	10/1000 GFA + 1/employee
Beauty Service	10/1000 GFA + 1/employee
Bed and Breakfast	1/quest room + dwelling unit requirements
Boat Storage	1/10,000 sf of outside storage area
Caterer	2/1000 GFA
Coin Operated Cleaning/Laundry	5/1000 GFA
Composting Operation	1/employee
Convenience Storage	1/1000 GFA
Copy Service	4/1000 GFA
Dry Cleaning and Laundry Pickup	1/employee
Dry Cleaning and Laundry Service	3 + 1/1000 GFA
Electrical repair	2/1000 GFA + 1/employee
Employment Agency	4/1000 GFA
Equipment Rental	3/1000 GFA
Estate Services	1.5/1000 GFA
Exterminating Service	1.25/1000 GFA
Financial Service	5/1000 GFA + 4 stacking spaces/drive-in lane
Gunsmith	3/1000 GFA
Hotel	1/room or suite + 1/3 employees on largest shift + 1/3 persons to the maximum capacity of each meeting/banquet room + 50% of the spaces required for on-site accessory uses
Industrial Equipment Repair	1/service bay + 1/employee on largest shift
Insurance Agency	2.5/1000 GFA
Interior Decorating	2.5/1000 GFA
Legal Service	2.5/1000 GFA
Locksmith	3/1000 GFA
Motel	see requirements for hotel
Office	1.3/1000 GFA
Office Equipment Repair	2/1000 GFA
Pet Services	3/1000 GFA
Photographic Services	2.5/1000 GFA
Real Estate Agency	3.3/1000 GFA
Shoe Repair	2/1000 GFA + 1/employee
Small Engine and Motor Repair	2/1000 GFA
Tailoring	5/1000 GFA
Taxidermist	2/1000 GFA
Travel Agency	4/1000 GFA
Upholstery Service	3.3/1000 GFA
Veterinary Service (Indoor)	2/1000 GFA + 1/employee
Veterinary Service (Outdoor)	1/1000 GFA + 1/employee

**Table 6-1 (continued). Off-Street Parking Requirements**

<b>RETAIL AND WHOLESALE TRADE</b>	<b>MINIMUM OFF-STREET PARKING REQUIREMENT</b>
Agricultural Sale Barn	1/4 seats
Agricultural Supply	2/1000 GFA
Apparel Shop	3/1000 GFA
Appliance Sales	2/1000 GFA
Auction House	1/4 seats
Bakery (Retail)	5/1000 GFA
Bakery (Wholesale)	5/1000 GFA sales area + 1/employee
Bookstore	3/1000 GFA
Bottled Gas Storage and Distribution	2/1000 GFA
Building Materials	5/1000 GFA + 1/employee
Cabinet Sales	2/1000 GFA
Camera and Photographic Supply	3/1000 GFA
Confectionery	2/1000 GFA
Convenience Store	3/1000 GFA + 1/employee on largest shift
Department Store <25,000 GLA	4/1000 GFA
Department Store 25,001-400,000 GLA	3.3/1000 GFA
Department Store 400,001-600,000 GLA	3.6/1000 GFA
Department Store >600,001 GLA	4/1000 GFA
Drapery Sales	2/1000 GFA
Drugstore	2.5/1000 GFA
Fertilizer Sales (Bulk)	1/1000 GFA + 1/employee
Fertilizer Sales (Packaged)	2/1000 GFA
Florist (Retail)	5/1000 GFA
Florist (Wholesale)	5/1000 GFA sales area + 1/employee
Fruit Market	4/stand
Furniture Sales	1.5/1000 GFA
Garden Center	2.5/1000 GFA
General Flooring Sales	3/1000 GFA + 1/employee on largest shift
Gift Shop	3/1000 GFA
Grocery Store	5/1000 GFA
Handicrafts	2/1000 GFA
Hardware	2/1000 GFA
Heavy Machinery Sales	2/1000 GFA enclosed sale area + 1/2500 GFA open sales area + 1/employee
Home Improvement Center	4/1000 GFA = 1/employee on largest shift
Industrial Supplies	2/1000 GFA + 1/employee
Jewelry	3/1000 GFA
Liquor Store	2.5/1000 GFA
Marine Supply	1/2000 GFA sales area
Manufactured Housing Sales	1/2000 GFA sales area
Meat Market	5/1000 GFA
Music Store	3/1000 GFA
Office Showroom	2/1000 GFA + 1/employee
Office Supplies	2.5/1000 GFA
Optical Goods	2.5/1000 GFA
Pet Shop	3.3/1000 GFA
Petroleum Bulk Sales and Storage	2/1000 GFA
Restaurant	1/3 seats + 1/2 employees on largest shift
Restaurant (Drive-in)	16.7/1000 GFA (minimum 4 spaces)
Sporting Goods	3/1000 GFA
Tavern	1/4 seats
Used Merchandise (Antiques)	2/1000 GFA
Used Merchandise (Flea Market)	3/1000 GFA
Used Merchandise (General)	2/1000 GFA

**Table 6-1 (continued). Off-Street Parking Requirements**

<b>AUTOMOTIVE AND TRANSPORTATION SERVICES</b>	<b>MINIMUM OFF-STREET PARKING REQUIREMENT</b>
Automotive Paint Shop	1/service bay + 1/employee
Automotive Rentals	2/1000 GFA
Automotive Repair Shop	1/service bay + 1/employee on largest shift
Automotive Sales	2/1000 GFA enclosed sales area + 1/2500 GFA open sales area + 2/service bay + 1/employee (minimum 5 spaces required)
Automotive Supply	2.5/1000 GFA + 1/employee
Automotive Tire Repair	2/1000 GFA
Bus Terminal	10/1000 GFA waiting area
Car Wash, Self-Serve	3 stacking spaces/bay
Car Wash, Full-Serve	6 stacking spaces + 1/2 employees
Cold Storage Plant	1/employee on largest shift
Gasoline Service Station	1.5/fuel nozzle + 20/1000 GFA enclosed area
Grain Elevator	1/employee on largest shift
Motorcycle Sales	1/1000 GFA display area
Taxicab Stand	1/employee + 1/vehicle used in operation
Transfer or Storage Terminal	1/employee on largest shift
Trucking Terminal	1/employee + 1/vehicle used in operation
Wrecker Service	1/employee + 1/vehicle used in operation
<b>AMUSEMENT AND RECREATIONAL SERVICES</b>	<b>MINIMUM OFF-STREET PARKING REQUIREMENT</b>
Amphitheater	1/4 persons at maximum capacity
Camping Facility	1/unit + 1/employee
Club or Lodge	1/4 persons at maximum capacity
Indoor Shooting Range	1/1000 GFA + 1/shooting bay
Indoor Theater	1/4 seats
Outdoor Drive-in Theater	1/employee
Park and Recreational Services	1/10,000 sf outdoor + 1/1000 sf indoor
Private Recreational Facility	5/1000 GFA
Race Tracks	1/4 seats
Resorts	1/2 members + spaces required each accessory use
Rodeo	1/4 seats
Transient Amusement Enterprises	5/1000 GFA enclosed area + 1/3 persons that outdoor facilities designed for at maximum capacity
<b>MANUFACTURING, MINING</b>	
<b>CONSTRUCTION AND INDUSTRIAL USES</b>	<b>MINIMUM OFF-STREET PARKING REQUIREMENT</b>
All Uses	1/employee on largest shift + 1/vehicle used in operation of industry

[end of chapter]

## CHAPTER 807

### ZONING ORDINANCE: SIGNS

#### 807-1. Purpose and Intent

The purpose and intent of this chapter is to promote public health, safety, and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscretionary sign standards and requirements, including the following purposes and objectives:

- (1) providing guidelines for the placing, number, size and general characteristics of all signs throughout the County Jurisdictional Area;
- (2) encouraging the effective use of signs as a means of communication within the County Jurisdictional Area;
- (3) maintaining and enhancing the aesthetic environment and the County's ability to attract tourism and other sources of economic development and growth;
- (4) improving pedestrian and traffic movement and safety (e.g., maintaining appropriate sight distances at intersections and reducing distractions);
- (5) minimizing the possible adverse effect of signs on nearby public and private property (e.g., the adverse effect of obstructing natural scenic vistas);
- (6) enabling and promoting the fair and consistent enforcement of these sign restrictions;
- (7) promoting the general purposes set forth in the Zoning Ordinance and the land use planning goals set forth in the Comprehensive Plan;
- (8) establishing an efficient permit system to expeditiously approve the location and design of signs, subject to the standards and the permit procedures of this ordinance;
- (9) allowing certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;
- (10) prohibiting all signs not expressly permitted by this ordinance;
- (11) restricting the continued existence of abandoned or nonconforming signs unless in compliance with the terms of this article and to eliminate, over time, all nonconforming signs;
- (12) encouraging signs that are well-designed and compatible with their surroundings and with the buildings to which they are appurtenant, and encourage signs that are integrated with and harmonious to the buildings and sites they occupy; and,
- (13) recognizing that the size of signs that provide adequate identification in residential and in pedestrian oriented business areas differ from those that are necessary in vehicular-oriented areas where traffic is heavy, travel speeds are greater, and required setbacks are greater than in residential and pedestrian areas.

**807-2. Applicability and Message Substitution**

A sign may be erected, placed, established, painted, created, or maintained in the County Jurisdictional Area only in conformance with the standards, procedures, exemptions, and other requirements of this Chapter and with other Monroe County ordinances and resolutions.

A noncommercial message of any type may be substituted, in whole or in part, for any commercial message or any other noncommercial message, subject to the same regulations that apply to such signs. Substitution of message may be made without any additional approval or permitting.

**807-3. Permits**

After the effective date of the ordinance codified in this Chapter, and except as otherwise provided, no person shall erect, repair, or relocate any sign as defined herein without first obtaining a permit from the Administrator.

- (A) Application for permit: Application for the permit shall be made in writing, in duplicate, upon forms approved by the Administrator, and shall contain the following information:
- (1) Name, address, and telephone number of applicant;
  - (2) Address or location, if no address, of building, structure, or land on which the sign is to be erected, repaired, or relocated;
  - (3) A scale drawing of the sign, showing the elevation of the sign, the face(s) composing the sign, the position of lighting or other extraneous devices, and any other components of the sign.
  - (4) A site plan showing the position of the proposed sign and the public roadway(s) to which the sign's message is to be directed and from which the sign will be measured for height conformity, as well as any existing signage, on any building or land and its position in relation to nearby buildings or structures and to any private or public street or highway right-of-way.
  - (5) Written consent of the owner of the building, structure, or land on which the sign is to be erected in the event the applicant is not the owner thereof.
  - (6) The fee, as determined by the Plan Commission Rules of Procedure.

The Administrator may not issue a permit for the relocation of an off-premise advertising sign pursuant to Section 807-5, unless the Board has approved the requested sign relocation as a conditional use in accordance with Chapter 813.

- (B) Land Use Certificate: The planning staff shall examine the plans, specifications, and other data submitted with the application to determine whether the sign is a legal pre-existing, non-conforming use and was constructed in accordance with the applicable design standard in effect at the time of permitting, and, if necessary, the building or premises upon which it is proposed to erect the sign. If the proposed sign is in compliance with all of the requirements of this zoning ordinance including without limitation, all conditions and commitments, if any, of an applicable conditional use approval, a land use certificate shall be issued.
- (C) Exemptions: The following signs shall be exempted from the permit provisions of 807-3, but shall still be subject all other provisions set forth in this chapter:
- (1) Any sign of not more than one and one-half (1-1/2) square feet in area; provided, that no more than one sign shall be permitted per zone lot;
  - (2) Any governmental sign;
  - (3) Sculptures, fountains, mosaics and design features which do not incorporate advertising or identification;
  - (4) Temporary noncommercial signs or devices meeting the following criteria:
    - a) Each zone lot shall be allocated a total of thirty-two (32) square feet of temporary signs or devices.
    - b) Temporary signs or devices may be located no less than ten (10) feet from any other sign or structure;
    - c) Freestanding temporary signs or devices may not exceed six (6) feet in height;
    - d) External illumination of temporary signs or devices is prohibited.

However, if banners, streamers, pennants, balloons, propellers, strung light bulbs, or similar devices are used as the temporary signs or devices they may only be displayed for a period of no longer than forty-eight (48) hours.

**807-4. Lawful Nonconforming Signs**

Lawful, pre-existing, nonconforming signs may not be expanded, altered, or relocated, with the following two exceptions:

- (A) Maintenance. Subject to Section 803-2 of this ordinance, ordinary maintenance or upgrade to allow new material for the face of the sign, trim, existing lighting of the sign, and any features necessary to allow safe message replacement is permitted. Maintenance may include the replacement of supports with the same type of material and in the same size, number, and configuration as in the original sign supports. For example, wood supports may be replaced with wood supports, but wood supports may not be changed from wood to iron, to aluminum, to steel, to composite metal, or to any other type of material. Replacement of supports shall be subject to the requirements of Section 807-3.

- (B)** Off-Premise Advertising Sign Relocation. Off-premise advertising sign relocations are prohibited except when the need for relocation directly results from the condemnation of property near or under the sign or if the relocation reduces the total sign face(s) area by 50% of the sign being relocated. Sign relocations are subject to the following requirements, standards, and procedures:
- (1)** The new location is on the same zoning lot or within a LB, CA, GB, LI, IL, IG, or HI district if the new location is on a different zoning lot;
  - (2)** Sign area at the new location shall not exceed the sign area at the previous location, nor shall the height of the sign at the new location exceed twenty-five (25) feet, measured in the manner set forth in Section 807-6(F)(1);
  - (3)** The off-premise sign as relocated shall be at least 300 feet from the nearest off-premise sign, except on limited-access highways, where the distance to the nearest sign shall be 500 feet. The spacing provisions shall apply to signs on the same side of the road, measured along the roadway between points on the roadway that are nearest to each sign;
  - (4)** The relocated off-premise sign shall be subject to the front, side, and rear building setback requirement of the district in which it is being relocated;
  - (5)** The off-premise sign to be relocated must be a pre-existing, lawful, nonconforming sign.
  - (6)** In addition to the foregoing requirements, off-premise sign relocations are subject to the relevant conditional use requirements, standards, and procedures set forth in Chapter 813. For purposes of Chapter 813, sign relocations shall be processed pursuant to 813-9 or, if within the former two-mile fringe area, pursuant to 813-10(B)(25). Pursuant to Chapter 803, the relocation of a sign structure from an original zone lot to a new zone lot eliminates the pre-existing, lawful, nonconforming use/structure status of the original zone lot as an off-premise sign location, to the extent the removed sign structure was responsible for that status. The relocation of a sign structure on the same zone lot does not eliminate the pre-existing, lawful, nonconforming use/structure status of the zone lot as an off-premise sign relocation.

**807-5. Placement Prohibitions**

The following prohibitions shall apply in all districts:

- (A)** No sign shall be erected or maintained in any form or at any location where it may obstruct or in any way interfere with the view of or be confused with any approved traffic control device or where it may obstruct or in any way interfere with the minimum sight-distance necessary to promote traffic safety.
- (B)** On any corner lot, no sign which obstructs sight lines at elevations between two and one-half (2 ½) feet and ten (10) feet above the crown of the adjacent roadway shall be placed or maintained within a triangular area of twenty-five (25) feet along each of the intersecting streets, to be measured from the property line.
- (C)** No sign shall be placed in any public right-of-way except publicly owned traffic-control and transit signs.



- (D) No sign, either freestanding or mounted on a building, shall project into the public right-of-way.
- (E) No sign shall be mounted on a roof or extend above the eave or parapet of a building wall.
- (F) No sign shall be affixed to trees, fence posts, or utility poles.

**807-6. General Sign Regulations**

All signs shall conform to the following regulations:

- (A) Illumination: Illuminated signs are permitted, subject to the following:
  - 1) The source of illumination for externally illuminated signs shall be located at the top of the sign and directed downward toward the sign face and must be shielded from view of oncoming traffic;
  - 2) The source of illumination for internally illuminated signs must be completely enclosed within a translucent sign unit, or, if attached to the sign face as a design element, may be provided only by translucent tubes, tubing, bulbs or fixtures.
  - 3) Illuminated signs may not produce heat or glare in such a manner as to constitute a nuisance (e.g., shining into a residential building) or a traffic hazard (interfering with a driver's vision); and,
  - 4) The source of illumination may not flash, shine intermittently, or be used to create a strobe effect.
- (B) Prohibited Signs:
  - (1) Portable signs are prohibited.
  - (2) All animated or changeable copy signs (including digital billboards), or signs which move by mechanical means or by the movement of air are prohibited.
  - (3) Temporary signs or devices consisting of a series of banners, streamers, pennants, balloons, propellers, strung light bulbs, or similar devices are prohibited, except as allowed in 807-3 (C) (4).
  - (4) Snipe Signs
  - (5) Off-Premise Commercial Signs, except as allowed in 807-4 (B).
- (C) Maintenance: All signs must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in a safe condition so as not to be detrimental to the public health or safety.

- (D) Total sign allocations for the zoning districts set forth in the table 7-1 must be based upon the building mass and street frontage standards described below:

*Table 7-1*

<b>Applicable Zoning Ordinance</b>	<b>Zoning Districts</b>
City of Bloomington UDO – Former AIFA (2010)	CL, CG, CA, IN, QY
Ch. 833 – Former Fringe	CL, CA, IL, IG, BP, I, AP, Q
Ch. 802 – Zones and Permitted Uses	LB, GB, LI, HI, ME, PB, IP, REC

- (1) Location, size, and variety of all signs existing upon a zoning lot are included in the total sign allocations.
- (2) Total sign area permitted for any business or industrial premises shall be two (2) square feet of sign area for each one (1) linear foot of building fronting on a public street, or one (1) square foot of sign for each one (1) linear foot of property fronting a publicly maintained right-of-way, whichever is greater.
- (3) One pole or ground sign with a maximum permitted sign surface area of sixty (60) square feet shall be permitted for each street frontage.
- (4) Notwithstanding other provisions of these regulations, no premises within any commercial or industrial zoning district may be restricted to less than seventy-five (75) square feet of sign area nor shall any premises be permitted to display more than six hundred (600) square feet of sign area, except as provided below in Subsection H.
- (5) Computation of area of individual signs:
  - (a) The area of a sign face (which is also the area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, ellipse, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when the fence or wall otherwise meets Zoning Ordinance regulations and is clearly incidental to the display itself.
  - b) The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when the sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of the largest face.

(E) Sign allocations for the zoning districts set forth in the table 7-2 must be based upon the standard described below:

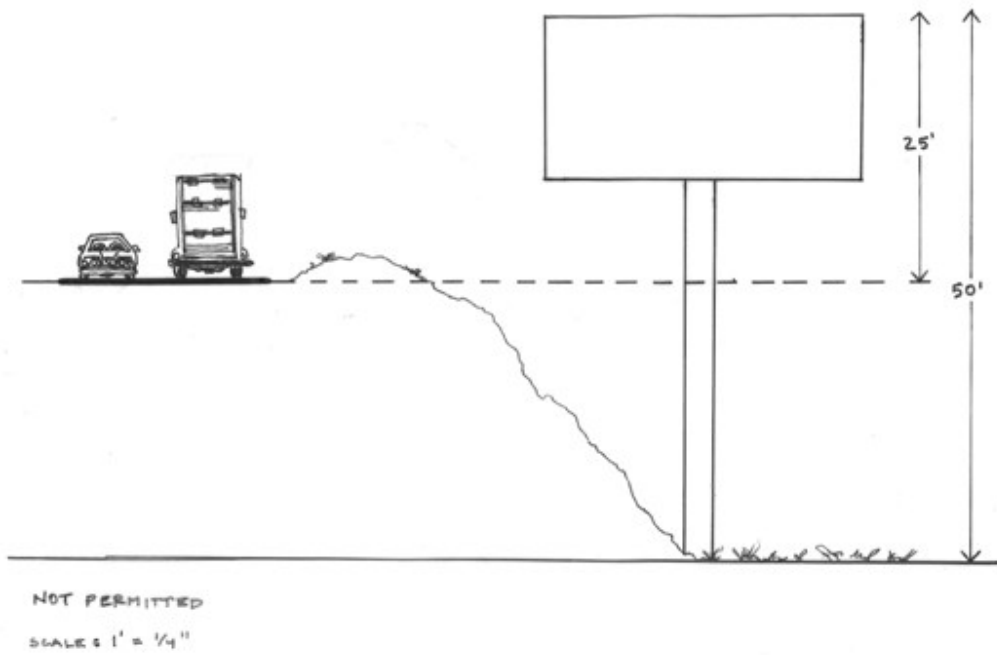
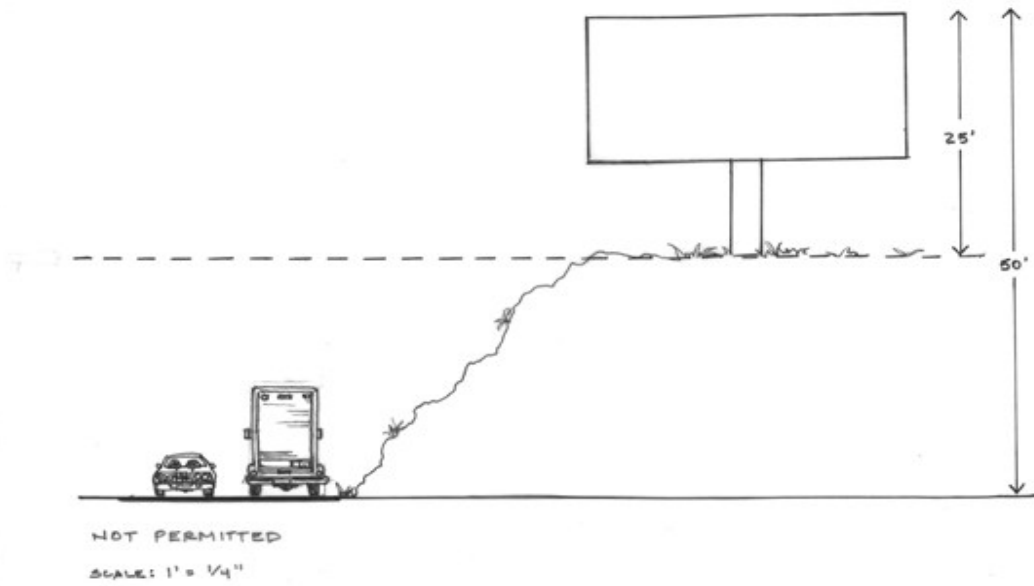
Table 7-2

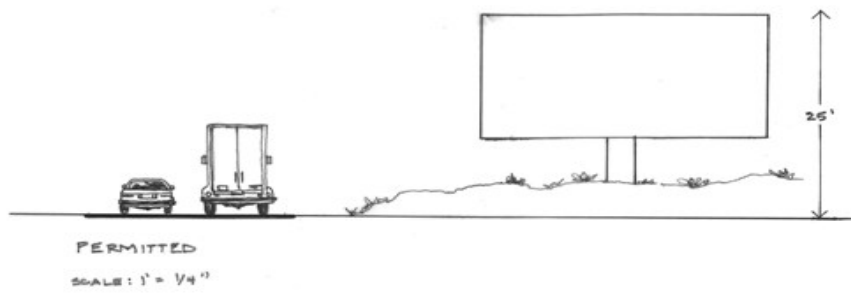
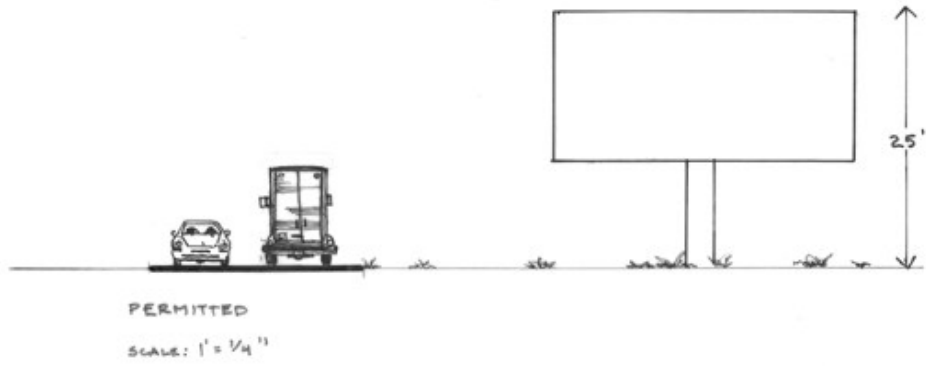
Applicable Zoning Ordinance	Zoning Districts
City of Bloomington UDO – Former AIFA (2010)	RE, RM, RS, MH
Ch. 833 – Former Fringe	RE 2.5, RE1, RS2, RS 3.5, RS 4.5, RT7, RM7, RM15
Ch. 802 – Zones and Permitted Uses	AG/RR, FR, CR, ER, LR, SR, MR, HR, UR

Total sign area subject to permit requirements shall not exceed thirty-two (32) square feet per lot of record.

(F) Height and setback of signs:

- (1) No sign shall exceed twenty-five (25) feet in height. Sign height shall be measured from the highest point on the sign or sign structure to the base of the sign or to the crown of the public road(s) at which the sign’s message is directed (i.e., the road or roads from which the sign’s message can be readily viewed and comprehended), whichever measurement yields the greatest height (see illustrations below).





- (2) All signs shall conform to the side and rear yard requirements for buildings as set forth in Monroe County Code Chapter 804.
  - (3) Signs shall have a minimum setback of ten (10) feet from the street right-of-way. However, signs may be placed less than ten (10) feet, but no less than five (5) feet, of the street right-of-way provided that the bottom edge of the sign face support shall be at least nine (9) feet above the ground; vision beneath the sign must be clear except for the supporting structure; and, the maximum permitted area of the sign shall be reduced by fifty (50%) percent. Setbacks shall be measured horizontally from the vertical plane of the edge of the sign nearest to the right-of-way.
- (G) Special regulations in all districts:
- (1) A marquee sign:
    - (a) shall provide a minimum of ten feet of clearance above the surface over which it projects and shall not otherwise interfere with the reasonable use of the surface;
    - (b) may not be wider than the building from which it projects; and,
    - (c) may not extend below or above the vertical face of the marquee.
- (H) Shopping Centers. Regardless of the district in which it is located, the following regulations shall apply to property which is developed for or occupied by a shopping center.
- (1) Signs for individual stores or business establishments within a shopping center must be located on the front exterior wall of the tenant's space and are limited to one and six-tenths (1.6) square feet of sign area for each one (1) linear foot of front exterior wall length.
  - (2) Independently placed buildings or buildings with corner locations are limited on each side or rear wall to one-half the amount of sign area permitted on the front wall, or to one and two-tenths (1.2) square feet of sign area for each linear foot of building on the side or rear of the building, whichever is less.
  - (3) In addition to signs permitted for individual establishments within a shopping center, general shopping center signs bearing the name of the planned commercial development will be permitted on the basis of one sign for each fifty-thousand (50,000) square feet of gross building floor area within the development, with a total limit of four general shopping center signs. These signs must be limited to the name of the development, except that signs not exceeding thirty-six (36) square feet may be allowed for individual commercial enterprises as part of the main sign. The total area of each general shopping center sign shall not exceed two hundred forty (240) square feet in area or one hundred twenty (120) square feet per side of a double-sided sign.

[end of chapter]

## CHAPTER 808

### ZONING ORDINANCE: FLOOD DAMAGE PREVENTION

#### 808-1. Statutory Authorization, Findings of Fact, Purpose, and Objectives.

**(A) Statutory Authorization.**

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Board of Commissioners of Monroe County does hereby adopt the following floodplain management regulations.

**(B) Findings of Fact.**

- (1) The flood hazard areas of Monroe County and the Town of Stinesville are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

**(C) Statement of Purpose.**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

- (6) Make federal flood insurance available for structures and their contents in Monroe County and the Town of Stinesville by fulfilling the requirements of the National Flood Insurance Program.

**(D) Objectives.**

The objectives of this ordinance are:

- (1) To protect human life and health.
- (2) To minimize expenditure of public money for costly flood control projects.
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) To minimize prolonged business interruptions.
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

**808-2. Definitions.**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application. However, the following definitions only apply to this Chapter of the Monroe County Zoning Ordinance. Words not defined herein but defined in the Chapter 801 of the Monroe County Zoning Ordinance shall be interpreted in accordance with that Chapter.

**A zone** means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.



**Zone AR:** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

**Zone A99:** Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

**Accessory structure** (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

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

**Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

**Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.

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

**Boundary River** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

**Boundary River Floodway** means the floodway of a boundary river.

**Building** - see "Structure."

**Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

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

**D Zone** means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

**Development** means any man made change to improved or unimproved real estate including but not limited to:

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

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

**Elevated structure** means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

**Elevation Certificate** is a certified statement that verifies a structure's elevation information. This certification must be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.

**Emergency Program** means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

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

**Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes

are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA** means the Federal Emergency Management Agency.

**Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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

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

**Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

**Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

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

**Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

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

**Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

**Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel

which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

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

**Fringe** is those portions of the floodplain lying outside the floodway.

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

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

**Historic structures** means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**Increased Cost of Compliance (ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

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

**Letter of Map Change (LOMC)** is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

**Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

**Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

**Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

**Lowest floor** means the lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
  - a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
  - b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
  - c) such enclosed space shall be usable solely for the parking of vehicles and building access.

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

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

**Market value** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

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

**National Flood Insurance Program (NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

**National Geodetic Vertical Datum (NGVD) of 1929** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**New construction** means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

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

**Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.

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

**Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

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

**Public safety and nuisance** means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

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

**Regular program** means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

**Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

**Section 1316** is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been

declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of Monroe County and the Town of Stinesville subject to inundation by the regulatory flood. The SFHAs of Monroe County and the Town of Stinesville are generally identified as such on the Monroe County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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

**Structure** means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

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

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

**Suspension** means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

**Variance** is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**Violation** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

substantial flood damage may occur.

**X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

**Zone** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

**Zone A** (see definition for A zone)

**Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

**808-3. General Provisions.**

**(A) Lands to Which This Ordinance Applies.**

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of Monroe County and the Town of Stinesville.

**(B) Basis for Establishing Regulatory Flood Data.**

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Monroe County and the Town of Stinesville shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Monroe County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Monroe County and the Town of Stinesville, delineated as an "A Zone" on the Monroe County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.



- (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- (4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

**(C) Establishment of Floodplain Development Permit.**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

**(D) Compliance.**

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

**(E) Abrogation and Greater Restrictions.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**(F) Discrepancy between Mapped Floodplain and Actual Ground Elevations.**

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

**(G) Interpretation.**

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**(H) Warning and Disclaimer of Liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Monroe County, the Town of Stinesville, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

**(I) Penalties for Violation.**

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Monroe County Zoning Ordinance.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

**808-3.**

**Administration.**

**(A) Designation of Administrator.**

The Board of Commissioners of Monroe County hereby appoints the Director of the Monroe County Planning Department to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

**(B) Permit Procedures.**

Application for a Floodplain Development Permit shall be made to the Floodplain

Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- (1) Application Stage.
  - (a) A description of the proposed development;
  - (b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
  - (c) A legal description of the property site;
  - (d) A site development plan showing existing and proposed development locations and existing and proposed land grades;
  - (e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
  - (f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
  - (g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Article 4, Section C. (6) for additional information.)

(2) Construction Stage.

Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor, professional engineer or architect and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer or

architect and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) Finished Construction.

Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

**(C) Duties and Responsibilities of the Floodplain Administrator.**

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- (5) Maintain and track permit records involving additions and improvements to residences located in the floodway.
- (6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- (7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map

Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.

- (8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (10) Review certified plans and specifications for compliance.
- (11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B.
- (12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.
- (13) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade reference mark at the development site; the second upon the establishment of the structure’s footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized County officials shall have the right to enter and inspect properties located in the SFHA.
- (14) Stop Work Orders
  - a. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
  - b. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (15) Revocation of Permits
  - a. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - b. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit

was issued is in violation of, or not in conformity with, the provisions of this ordinance.

**808-5. Provisions for Flood Hazard Reduction.**

**(A) General Standards.**

In all SFHAs and known flood prone areas the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- (10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.
- (11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

- a. The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.
- b. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.
- c. The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.
- d. The fill or structure shall not obstruct a drainage way leading to the floodplain.
- e. The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.
- f. The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.
- g. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

**(B) Specific Standards.**

In all SFHAs, the following provisions are required:

- (1) In addition to the requirements of Article 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
  - a. Construction or placement of any structure having a floor area greater than 400 square feet.
  - b. Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
  - c. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage

occurred.

- d. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- e. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
- f. Reconstruction or repairs made to a repetitive loss structure.
- g. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

(2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4).

(3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

- a. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Article 4, Section C (12).
- b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit



of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

- a. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
- b. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
- c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- d. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- e. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- f. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- g. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- h. Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of Article 5, B. (4). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded, along with the deed, in the office of the Monroe County Recorder.
- i. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Monroe County Recorder.

(5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

- a. The fill shall be placed in layers no greater than 1 foot deep

before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

- b. The fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE.
- c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
- d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- e. The top of the lowest floor including basements shall be at or above the FPG.
- f. Fill shall be composed of clean granular or earthen material.

(6) **Standards for Manufactured Homes and Recreational Vehicles.**

Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

- a. These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
  - i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
  - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- b. These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

- i. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
  - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- c. Recreational vehicles placed on a site shall either:
- i. be on site for less than 180 days;
  - ii. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
  - iii. meet the requirements for “manufactured homes” as stated earlier in this section.

(7) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

- a. Shall not be used for human habitation.
- b. Shall be constructed of flood resistant materials.
- c. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- d. Shall be firmly anchored to prevent flotation.
- e. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
- f. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

- (8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

**(C) Standards for Subdivision Proposals.**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

**(D) Critical Facility.**

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

**(E) Standards for Identified Floodways.**

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14 28 1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful)

residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees), the Floodplain Administrator on behalf of the respective community shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

**(F) Standards for Identified Fringe.**

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

**(G) Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.**

- (1) Drainage area upstream of the site is greater than one square mile:

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

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or

a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Article 5 of this ordinance have been met.

- (2) Drainage area upstream of the site is less than one square mile:

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

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met.

- (3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

**(H) Standards for Flood Prone Areas.**

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Article 5.

**808-6. Variance Procedures.**

**(A) Designation of Variance and Appeals Board.**

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

**(B) Duties of Variance and Appeals Board.**

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by

the decision of the board may appeal such decision to the Monroe County Circuit Court.

**(C) Variance Procedures.**

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- (1) The danger of life and property due to flooding or erosion damage.
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (3) The importance of the services provided by the proposed facility to the community.
- (4) The necessity of the facility to a waterfront location, where applicable.
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (6) The compatibility of the proposed use with existing and anticipated development.
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**(D) Conditions for Variances.**

- (1) Variances shall only be issued when there is:
  - a. A showing of good and sufficient cause.
  - b. A determination that failure to grant the variance would result in exceptional hardship.
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

- (2) No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance may be granted.
- (3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- (4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, may be granted only when a new structure is to be located on a lot of one half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures. (Refer to Article 6, Section F.)
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Article 6, Section E).
- (8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Article 6, Section E).

**(E) Variance Notification.**

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- (2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.



**(F) Historic Structure.**

Variations may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

**(G) Special Conditions.**

Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variations as it deems necessary to further the purposes of this ordinance.

**[end of chapter]**

## CHAPTER 809

### ZONING ORDINANCE: PRESERVATION OF AGRICULTURAL USES

#### 809-1.

##### Change in Type of Operation

- (A) No agricultural use permitted in an agriculture zone under this ordinance shall be deemed to be in violation of this ordinance by reason of the expansion, enlargement, or increase in intensity of the operations of such agricultural use unless such expansion, enlargement or increase in intensity constitutes a significant change in the type of agricultural operation.
- (B) A significant change in type of agricultural operation means establishing an agricultural use of a different type, or a substantial increase in the size and scope of the operation from the established agricultural use. In determining whether change in operation is substantial, the Planning Commission shall take into account:
  - (1) Any adverse impact the operation may have on adjacent development which is starting to assume urban characteristics, including but not limited to housing density, traffic conditions, the necessity of controlling pollution from chemicals, the necessity of preserving clean air, the necessity of preserving the quiet nature of the area, the presence or absence of roads and other governmental infrastructure;
  - (2) whether the change consists of the use of equipment, buildings or facilities which are necessary for the continued economical operation of the original agricultural use, including, but not limited to the implementation of technological advancements; and whether the change will have an adverse impact on surrounding property; or
  - (3) whether the newly established agricultural use is permitted as a special exception, and a special exception permit has been granted by the Board of Zoning Appeals for such use.
- (C) In determining whether a change in the type of agricultural operation is significant, changes in use or the zoning or rezoning of land adjacent to or in the vicinity of the agricultural use shall not be taken into account.

#### 809-2.

##### Change in Hours of Operation

- (A) No agricultural use permitted in an agriculture zone under this ordinance shall be deemed in violation of this ordinance by reason of a change in hours of the agricultural operation, unless such change in hours constitutes a significant change in hours of operation as defined herein.
- (B) A significant change in hours of operation means a discernable increase in the number of hours during which observable agricultural related activity is conducted on the premises or the conducting of operations at unusual hours beyond that which is customary for the type of agricultural operation formerly conducted on the premises; provided that it shall not be deemed to be a significant change in the hours of operation if:

- (1) such change is attributable to season, weather, or other environmental factors which necessitate increased hours of operation or unusual hours of operation; or
  - (2) such change is attributable to the implementation of a technological advancement, and the change resulting from adopting the new technology has no substantial impact on adjacent property owners.
- (C) In determining whether a change of hours of agricultural operation is significant, changes in use or the zoning or rezoning of land adjacent to or in the vicinity of the agricultural use shall be taken into account.

**[end of chapter]**

## CHAPTER 810

### ZONING ORDINANCE: HISTORIC PRESERVATION

**810-1. Title**

This chapter shall be known and may be cited as the "Historic Preservation Ordinance."

**810-2. Purpose**

The purpose of this chapter is to promote the educational, cultural, economic, aesthetic and general welfare of the public through the preservation and protection of historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares and neighborhoods.

**810-3. Maps of Historic Districts; Criteria; Classification of Historic Buildings and Structures**

(A) The Board of Review shall conduct a survey to identify historic or architecturally worthy buildings, structures, and places located within the County planning jurisdictional area. Based on its survey, the Board of Review shall submit to the Board of Commissioners a map describing the boundaries of a Historic District or Historic Districts. A Historic District may be limited to the boundaries of a property containing a single building, structure, or monument and shall be no larger than the Board of Review deems necessary to accomplish the purposes of this Chapter. The map may divide a district into primary and secondary areas.

(B) To be identified as historic or architecturally worthy, a building, structure or place must possess one or more of the following significant attributes:

- (1) an association with events that have made a significant contribution to the broad patterns of County history;
- (2) an association with the lives of persons significant in the County's past;
- (3) the distinctive characteristics of a type, period or method of construction;
- (4) an example of the work of a master;
- (5) high artistic values;
- (6) an example of a significant and distinguishable entity whose components may lack individual distinction; or
- (7) capability of yielding information important in prehistory or history.

Buildings, structures and places that have achieved significance within the past fifty (50) years shall not be considered eligible for designation unless they are unique and of exceptional importance.

(C) The Board of Review shall also classify and designate on the map all buildings and structures within each Historic District described on the map. Buildings and structures shall be classified as historic or non-historic, in the following manner:

(1) Historic buildings and structures must possess one or more of the significant historic or architectural attributes identified in subsection (B) above, to a degree warranting their preservation. They may be further classified as:

- (a) exceptional;
- (b) excellent;
- (c) notable; or
- (d) of value as part of the scene.

In lieu of the further classifications set forth in subdivisions (a) through (d), the Board of Review may devise its own system of further classification for historic buildings and structures.

(2) Nonhistoric buildings and structures are those not classified on the map as historic.

(D) The Board of Review shall state, in writing, the factual basis for its classification and further classification of each historic building or structure in a Historic District.

**810-4. Approval of Maps of Historic Districts; Conflicts between Zoning Districts and Historic Districts**

(A) The map setting forth the Historic District boundaries and building classifications must be submitted to and approved by the Board of Commissioners before the Historic District is established and the building classifications take effect. In approving the map, the Board of Commissioners shall follow the procedures applicable to the adoption of zoning maps as set forth in Indiana Code 36-7-4-600, et seq.

(B) Zoning districts lying within the boundaries of a Historic District are subject to the regulations for both the zoning district and the Historic District. If there is conflict between the requirements of the zoning district and the requirements of the Historic District, the more restrictive requirements apply.

**810-5. Additional Surveys and Maps**

The Board of Review may conduct additional surveys, and draw and submit additional maps for approval of the Board of Commissioners, as it considers appropriate.

**810-6. Assistance from County Departments**

(A) The Building Permit Official and the Administrator shall provide any technical, administrative, or clerical assistance requested by the Board.

(B) The attorney for the Commission is the attorney for the Board of Review. However, the Board of Review may employ other legal counsel, authorized to practice law in Indiana, as it deems necessary or desirable, subject to appropriation of funds by the Monroe County Council.

**810-7. Construction Projects within Historic Districts; Certificates of Appropriateness Required; Exception**

Except as provided in Section 15 of this Chapter, a certificate of appropriateness must be issued by the Board of Review before a permit is issued for or work is begun on any of the following:

- (A) Within all areas of the Historic District:
  - (1) the demolition of any building;
  - (2) the moving of any building;
  - (3) a conspicuous change in the exterior appearance of historic buildings by additions, reconstruction, alteration, or maintenance involving exterior color change; or
  - (4) any new construction of a principal building or accessory building or structure subject to view from a public way.
- (B) Within a primary area of the Historic District:
  - (1) a change in walls and fences or the construction of walls and fences along public ways; or
  - (2) a conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance involving exterior color change.

**810-8. Applications for Certificates of Appropriateness**

Application for a certificate of appropriateness may be made in the office of the Board or Review on forms provided by that office. Detailed drawings, plans, or specifications are not required. However, to the extent reasonably required for the Board of Review to make a decision, each application must be accompanied by sketches, drawings, photographs, descriptions, or other information showing the proposed exterior alterations, additions, changes, or new construction. The Board of Review shall prepare an application form, with instructions, for use by persons seeking a certificate of appropriateness from the Board of Review.

**810-9. Approval or Denial of Applications for Certificates of Appropriateness**

- (A) The Board of Review may advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness.
- (B) If an application for a certificate of appropriateness:
  - (1) is approved by the Board of Review; or,
  - (2) is not acted on by the Board of Review;

Within thirty (30) days after it is filed, a certificate of appropriateness shall be issued. If the certificate is issued, the application shall be processed in the same manner as applications for County building and demolition permits are processed. If no building or demolition permits are required by the County, the applicant may proceed with the work authorized by the certificate.

- (C) If the Board of Review denies an application for a certificate of appropriateness within thirty (30) days after it is filed, the certificate may not be issued. The Board of Review must state its reasons for the denial in writing and advise the applicant. An application that has been denied may not be processed as an application for a County building or demolition permit and does not authorize any work by the applicant.
- (D) The Board of Review may grant an extension of the thirty (30) day limit prescribed by subsections (B) and (C) if the applicant agrees to it.

**810-10. Reconstruction, Alteration, Maintenance and Removal of Historic Buildings and Structures; Preservation of Historic Character**

- (A) A historic building or structure or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.
- (B) A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection (A).

**810-11. Demolition of Buildings Following Failure to Secure Certificates of Appropriateness; Notice**

- (A) The purpose of this section is to preserve historic buildings that are important to the education, culture, traditions, and economic values of the County, and to afford the County, historical organizations, and other interested persons the opportunity to acquire or to arrange for the preservation of these buildings.
- (B) If a property owner shows that a historic building is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, and the Board of Review fails to approve the issuance of a certificate of appropriateness, the building may be demolished. However, before a demolition permit is issued or demolition proceeds, notice of proposed demolition must be given for a period fixed by the Board of Review, based on the Board of Review's classification on the approved map but not less than sixty (60) days nor more than one (1) year. Notice must be posted on the premises of the building proposed for demolition in a location clearly visible from a public road. In addition, notice must be published in a newspaper of general local circulation at least three (3) times before demolition, with the first publication not more than fifteen (15) days after the application for a permit to demolish is filed, and the final publication at least fifteen (15) days before the date of the permit.
- (C) The Board of Review may approve a certificate of appropriateness at any time during the notice period under subsection (B). If the certificate is approved, a demolition permit shall be issued without further delay, and demolition may proceed.

**810-12. Conformance to Statutory Requirements for Buildings**

Historic buildings shall be maintained to meet the applicable requirements established under statute for buildings generally.

**810-13. New Buildings and Nonhistoric Buildings within Historic Districts; Compatibility**

## **Required**

The construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any nonhistoric building, structure, or appurtenance within the primary area of the Historic District must be generally of a design, form, proportion, mass, configuration, building material, texture, color, and location on a lot compatible with other buildings in the Historic District, particularly with buildings designated as historic, and with squares and places to which it is visually related.

### **810-14.**

#### **Compatibility Factors**

Within the primary area of the Historic District, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares, and places to which they are visually related generally in terms of the following visual compatibility factors:

- (A) **Height.** The height of proposed buildings must be visually compatible with adjacent buildings.
- (B) **Proportion of building's front facade.** The relationship of the width of a building to the height of the front elevation must be visually compatible to buildings, squares, and places to which it is visually related.
- (C) **Proportion of openings within the facility.** The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (D) **Rhythm of solids to voids in front facades.** The relationship of solids to voids in the front facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (E) **Rhythm of spacing of buildings on streets.** The relationship of a building to the open space between it and adjoining buildings must be visually compatible to the buildings, squares, and places to which it is visually related.
- (F) **Rhythm of entrances and porch projections.** The relationship of entrances and porch projections to sidewalks of a building must be visually compatible to the buildings, squares, and places to which it is visually related.
- (G) **Relationship of materials, texture, and color.** The relationship of the materials, texture, and color of the facade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (H) **Roof shapes.** The roof shape of a building must be visually compatible with the buildings to which it is visually related.
- (I) **Walls of continuity.** Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street if necessary to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.
- (J) **Scale of a building.** The size of a building and the building mass of a building in



relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.

- (K) **Directional expression of front elevation.** A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or nondirectional character.

**810-15. Phases; Certificate of Appropriateness; Objections**

- (A) An ordinance approving the establishment of a Historic District may provide that the establishment of the Historic District occur in two (2) phases. Under the first phase, which lasts three (3) years from the date the ordinance is adopted, a certificate of appropriateness is required only for the activities described in section 7(A)(1), 7(A)(2), and 7(A)(4) of this chapter. At the end of the first phase, the district becomes fully established, and, subject to subsection (B), a certificate of appropriateness must be issued by the Board of Review before a permit may be issued for or work may begin on an activity described in section 10 of this chapter.
- (B) The first phase described in subsection (A) continues and the second phase does not become effective if a majority of the property owners in the district object to the Board or Review, in writing, to the requirement that certificates of appropriateness be issued for the activities described in section 7(A)(3), 7(B)(1), and 7(B)(2) of this chapter. The objections must be received by the Board of Review not earlier than one hundred eighty (180) days or later than sixty (60) days before the third anniversary of the adoption of the ordinance.

**810-16. "Interested Party" Defined; Private Rights of Action; Allegations; Bond; Liability; Attorney Fees and Costs; Revenue; Other Remedies**

- (A) As used in this section, "interested party" means one (1) of the following:
- (1) the Board of Commissioners;
  - (2) the Monroe County Plan Commission;
  - (3) a neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a Historic District designated by an ordinance adopted under this chapter;
  - (4) an owner or occupant owning or occupying property located in a Historic District established by an ordinance adopted under this Chapter;
  - (5) Historic Landmarks Foundation of Indiana, Inc., or any of its successors; or
  - (6) the state historic preservation officer designated under IC 14-3-3.4-10.
- (B) Every interested party has a private right of action to enforce and prevent violation of a provision of this chapter or an ordinance adopted under this chapter, and with respect to any building, structure, or site within a Historic District, has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating a provision of this chapter or an ordinance adopted under this chapter.

- (C)** The interested party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this section.
- (D)** The interested party bringing an action under this section does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.
- (E)** The interested party that brings an action under this section is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this chapter, or an ordinance adopted under this chapter, had been, or was about to be violated or breached.
- (F)** An interested party who obtains a favorable judgment in an action under this section may recover reasonable attorneys fees and court costs from the person against whom judgment was rendered.
- (G)** An action arising under this section must be brought in the Monroe County Circuit Court and no change of venue from the County shall be allowed in the action.
- (H)** The remedy provided in this section is in addition to other remedies that may be available at law or in equity.

**[end of chapter]**

## CHAPTER 811

### ZONING ORDINANCE: PLANNED UNIT DEVELOPMENT

#### 811-1. Purpose

The purpose of the planned unit development is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities and city services; to preserve the natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is anticipated that Planned Unit Developments will offer one or more of the following advantages:

- A. Reflect the policies of the Comprehensive Plan specific to the neighborhood in which the PUD is to be located;
- B. Provide substantial buffers and transitions between areas of different land use and development densities;
- C. Enhance the appearance of neighborhoods by conserving areas of natural beauty, and natural green spaces;
- D. Counteract urban monotony and congestion on streets;
- E. Promote architecture that is compatible with the surroundings;
- F. Buffer differing types of land use and intensities of development from each other so as to minimize any adverse impact which new development may have on existing or zoned development;
- G. Promote and protect the environmental integrity of the site and its surroundings and provide suitable design responses to the specific environmental constraints of the site and surrounding area; and
- H. Effectuate implementation of the Comprehensive Plan.

#### 811-2. Definition

A Planned Unit Development is an area under single ownership or control to be developed in conformance with an approved development plan, consisting of a map showing the development area and all improvements to the development area, a text which sets forth the uses and the development standards to be met, and exhibits setting forth any aspects of the development plan not fully described in the map and text. The map, exhibits, and text constitute a development plan. The uses and standards expressed in the development plan constitute the use and development regulations for the Planned Unit Development site in lieu of the regulations for the underlying district.

#### 811-3. Requirements for Planned Unit Development

- (A) The area designated in the Planned Unit Development map must be a tract of land under single ownership or control. Single control of property under multiple ownership may be accomplished through the use of enforceable covenants and commitments which run to the benefit of the Zoning Jurisdiction.
- (B) The outline plan shall indicate the land use, development standards, and other applicable specifications of the Monroe County Code which shall govern the Planned

Unit Development. If the outline plan is silent on a particular land use, development standard, or other specification of the Monroe County Code, the standard of the underlying district or the applicable regulations shall apply.

- (C) The Planned Unit Development map shall show the location of all improvements. The location of Planned Unit Developments shall be designated on the Zoning Map and adopted pursuant to this Ordinance.
- (D) The Planned Unit Development must comply with all required improvements, construction standards, design standards, and all other engineering standards contained within the Monroe County Code and other pertinent regulations, except where specifically varied through the provisions of this Section of the Ordinance.
- (E) Designation and Conveyance of Permanent Open Space.
  - (1) **Definition.** Permanent open space shall be defined as parks, playgrounds, landscaped green space, and natural areas, not including schools, community centers or other similar areas in public ownership.
  - (2) **Designation.** No plan for a Planned Unit Development shall be approved, unless such plan provides for permanent landscaped or natural open space. A minimum of 25 percent of the proposed Planned Unit Development area shall be designated as Permanent Open Space.
  - (3) In the case of mixed uses, permanent open space shall be allocated to the property in proportion to the uses assigned to the Planned Unit Development and shall be located in reasonable proximity to those uses. Provided, however, the permanent open space need not be located in proximity to the use in the case of preservation of existing features.
  - (4) If the Outline Plan provides for the Planned Unit Development to be constructed in stages, open space must be provided for each stage of the Planned Unit Development in proportion to that stage.
  - (5) **Conveyance.** Permanent open space shall be conveyed in one of the following forms:
    - (a) To a municipal or public corporation; or
    - (b) To a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the Planned Unit Development or, where appropriate and where approved by the Plan Commission and the Board of Commissioners, adjoining property owners, or both. All conveyances hereunder shall be structures to insure that the grantee has the obligation and the right to effect maintenance and improvement of the common open space; and that such duty of maintenance and improvement is enforced by the owners and tenants of the Planned Unit Development and, where applicable, by adjoining property owners; or
    - (c) To owners other than those specified in Subsections (a) and (b) above, and subject to restrictive covenants describing and

guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the Planned Unit Development or adjoining property owners, or both; or

- (d) Included in single family residential lots under the control of lot owners.
- (F) Uses permitted in a Planned Unit Development may be any use which is found on Table 2-1, Permitted Land Uses, subject to the approval of the Plan Commission and Board of County Commissioners.

**811-4.**

**Procedure for Approval of Planned Unit Development**

- (A) **Introduction.** Applications shall be accompanied by all plans and documents required by Section 811-7. A three step application process shall be used. The steps in the process are:
  - (1) Pre-Design Conference;
  - (2) Outline Plan Approval; and
  - (3) Development Plan Approval.
- (B) **Pre-Design Conference.** Prior to filing a formal application for approval of a Planned Unit Development, the applicant shall schedule a pre-design conference with the planning staff. The purpose of the pre-application conference shall be to:
  - (1) Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted County policies.
  - (2) Allow the planning staff to inform the applicant of applicable policies, standards and procedures for the Planned Unit Development.
  - (3) The pre-design conference is intended only for the above purposes; neither the developer nor the jurisdiction is bound by any decision made during a pre-application conference.
- (C) **Procedure for Outline Plan Approval:**
  - (1) The Outline Plan and application for the Planned Unit Development shall be submitted to the planning staff which, after certifying the application to be complete, shall initiate a review by the Planning Department and Highway Department.
  - (2) The application and the results of the review shall then be forwarded to the Plan Commission for its consideration, public hearing and recommendations together with the Planning Department's report and such other documents as may be pertinent to the Planned Unit Development.
  - (3) The Plan Commission shall hold a public hearing in accordance with its Rules of Procedure.

- (4) Where there are environmentally sensitive features on the site or the Development Plan is expected to be complex, or there are other important planning implications involved, the Plan Commission may reserve the right to review the Development Plan. And, where the Plan Commission recommends denial of a Outline Plan and the Board of Commissioners approves the plan, the Plan Commission shall review the Development Plan.
- (5) Upon completion of its review, the Plan Commission shall certify the application to the Board of Commissioners with a favorable recommendation, an unfavorable recommendation, or no recommendation.
- (6) The Board of Commissioners shall vote on the proposal within 90 days after the Plan Commission certifies the proposal. The Board may adopt or reject the proposal. If the Plan Commission has given the proposal a favorable recommendation and the Board fails to act on the proposal within 90 days, the Ordinance takes effect as if it had been adopted as certified 90 days after certification. If the Plan Commission has failed to make a recommendation or has given the proposal an unfavorable recommendation and the Board fails to act on the proposal within 90 days, the proposal is defeated.

**(D) Effect of Approval of Outline Plan:**

- (1) When an Outline Plan for a Planned Unit Development has been approved by the Board, the Plan shall become effective and its location shall be shown on the Zoning Map. The Zoning Map shall be amended to designate the site as a Planned Unit Development.
- (2) Upon such amendment of the zoning map, the use and development of the site shall be governed by the Planned Unit Development Outline Plan, subject to approval of a Development Plan.
- (3) No permit of any kind shall be issued until the Development Plan has been approved.

**(E) Development Plan:**

- (1) Purpose of Development Plan Approval. The purpose of the Development Plan is to designate the controls for development of the Planned Unit Development. The Development Plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses to which each building shall be put.
- (2) Time Limit for Approval of Development Plan. The Development Plan shall be submitted to the Planning Department not more than 18 months following Board of Commissioners approval of the Outline Plan. The Outline and Development Plans may be submitted as a single plan if all requirements of Sections 811-5(B) and (C) are met. The Development Plan may be submitted and approved in stages, with each stage representing a portion of the Outline Plan, at the discretion of the Plan Commission. The time limit for submitting each stage for approval may be set forth in the Outline Plan, in which case that schedule shall control the timing of development, rather

than the time period contained in this paragraph. The Plan Commission may extend the time for application for approval of Development Plan for good cause, consistent with the purposes of this Ordinance.

- (3) Expiration of Time Limit. Periodically, the planning staff shall report to the Plan Commission on Planned Unit Developments whose time limits have expired. The applicants shall be notified. The Plan Commission shall determine whether to consider extending the time or to initiate action to amend the Zoning Map so as to rescind the Planned Unit Development designation.
- (4) Relationship of Development and Outline Plan. The Development Plan shall conform to the Outline Plan as approved.
- (5) Procedure for approval of a Development Plan shall be:
  - (a) Development Plan Submission. The Development Plan and supporting data shall be filed with the planning staff.
  - (b) Staff Review. The planning staff shall review the Development Plan to include site plan review, in accordance with the requirements of this Ordinance.
  - (c) Staff Approval. It shall generally be the responsibility of staff to review Development Plans unless the Plan Commission reviews the Development Plans as provided in Section 811-4(C)(4), or where new Development Plan is required.
  - (d) Plan Commission Review. If the Plan Commission has retained Development Plan approval authority, the Plan Commission shall hold a public hearing in accordance with its Rules of Procedure. The Commission may approve, deny or approve with modifications.
- (6) Expiration of Development Plan. The Development Plan shall expire 2 years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a Development Plan approved in stages. The applicant may request an extension of time in writing, and the approving authority may extend the time limit where appropriate. Such extension may be considered at the time of Development Plan approval.
- (7) Effect of Approval of Development Plan. No permit of any kind shall be issued for any purpose within a Planned Unit Development except in accordance with the approved Development Plan, and after acceptance by the County of all required guarantees for improvements pursuant to Section 811-5(C)(6).

**811-5. Specific Content of Plans**

Planned Unit Development plans and supporting data shall include all documentation listed in this Section of the Zoning Ordinance unless certain documentation is deemed superfluous by the planning staff due to the specific circumstances of the particular request.

**(A) Pre-Design Conference Requirements**

- (1)** A written letter of intent from the applicant describing the applicant's intention for developing the site.
- (2)** A scaled drawing of the site, in simple sketch form, showing the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic or geologic constraints.

**(B) Outline Plan Requirements**

- (1)** A drawing of the Planned Unit Development shall be prepared at a scale not less 1"=50', or as considered appropriated by the planning staff, and shall show in concept major circulation; generalized location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall include:
  - (a)** A site location map.
  - (b)** The name of the development, with the words "Outline Plan".
  - (c)** Boundary lines and acreage of each land use component.
  - (d)** Existing easements, including location, width and purpose.
  - (e)** Existing land use on abutting properties.
  - (f)** Other conditions on adjoining land: topography (at 2-foot contours) including any embankments or retaining walls; use and location of major buildings, railroads, power lines, towers and other influences; name of any adjoining subdivision plat.
  - (g)** Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, curbs, gutters, and culverts.
  - (h)** Proposed public improvements: streets and other major improvements planned by the public for future construction on or adjacent to the tract.
  - (i)** Existing utilities on the tract.
  - (j)** Any land on the tract within the 100-year floodplain.
  - (k)** Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, isolated trees 6 inches or more in diameter, existing structures and other significant features.
  - (l)** Existing vegetation to be preserved and the locations, nature, and



purpose of proposed landscaping.

**(m)** Map data such as north point, scale and date of preparation.

**(3)** Miscellaneous: the Planning Staff shall inform the applicant of any additional documents or data requirements after the pre-application conference.

**(4)** Written Statement of Character of the Planned Unit Development: an explanation of the character of the Planned Unit Development and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement shall include:

**(a)** A specific explanation of how the proposed Planned Unit Development meets the objectives of all adopted land use policies which affect the land in question.

**(b)** Ownership: a statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

**(c)** Development scheduling indicating:

**(1)** Stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped.

**(2)** Projected dates for beginning and completion of each stage.

**(d)** Proposed Uses:

**(1)** Residential Uses: gross area, architectural concepts (narrative, sketch, or representative photo), number of units, bedroom breakdown, and proposed occupancy limits for each residential component;

**(2)** Nonresidential Uses: specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.

**(e)** Facilities Plan: preliminary concepts and feasibility reports for:

**(1)** Roads

**(2)** Sidewalks

**(3)** Sanitary sewers

**(4)** Stormwater management

**(5)** Water supply system

**(6)** Street lighting

**(7)** Public utilities

- (5) Traffic Analysis: if requested by the planning staff or the Plan Commission, a study of the impact caused by the Planned Unit Development and any measures proposed to accommodate that impact.
  - (6) Neighborhood Meeting Report: the petitioner shall invite any neighborhood association on record with the City of Bloomington, Town of Ellettsville, or County within a 500-foot radius of the boundaries of the development to meet to discuss the proposal. The petitioner or the association shall submit to staff a letter summarizing the results of the meeting.
- (C) **Development Plan Requirements.** The application for Development Plan approval shall include, but not be limited to, the following documents:
- (1) Such additional information as may have been required by the Outline Plan approval.
  - (2) An accurate map exhibit of the entire phase for which Development Plan approval is being requested, showing the following:
    - (a) Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show setback and other bulk constraints.
    - (b) Design and precise location of all streets, drives, and parking areas, including construction details, centerline elevations, pavement type, curbs, gutters, and culverts.
    - (c) Location of all utility lines and easements.
    - (d) A final detailed landscape plan, in conformance with Chapter 830.
    - (e) Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.
  - (3) If lands to be subdivided are included in the Planned Unit Development, a subdivision plat meeting the requirements of a preliminary plat, as modified by the Outline Plan approval, is required where platting is to be done concurrent with the Development Plan approval.
  - (4) Projected construction schedule.
  - (5) Agreements and covenants which govern the use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads.
  - (6) Guarantee of Performance for Completion of Improvements: a bond or other guarantee acceptable to the County shall be provided for all required improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include

facilities which shall become public, and may include other facilities or improvements as may be specified in the Outline or Development Plan approval. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase. The guarantee shall specify the time for completion of improvements, and shall be in an amount of 125 percent of the estimated cost of the improvements.

**811-6. Review Considerations**

- (A) In their consideration of a Planned Unit Development Outline Plan, the planning staff in its report to the Plan Commission, the Plan Commission in its recommendation, and the Board of Commissioners in its decision, shall consider as many of the following as may be relevant to the specific proposal:
- (1) The extent to which the Planned Unit Development meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the County.
  - (2) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.
  - (3) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.
  - (4) The proposal will not be injurious to the public health, safety, and general welfare.
  - (5) The physical design of the Planned Unit Development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation and visual enjoyment.
  - (6) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.
  - (7) The desirability of the proposed plan to the County's physical development, tax base and economic well-being.
  - (8) The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.
  - (9) The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.

**Changes in the Planned Unit Development**

- (A) Changes Requiring New Outline Plan Approval. Changes which alter the concept or intent of the Planned Unit Development including but not limited to:
- (1) Significant increases in density;
  - (2) Significant changes in the proportion or allocation of land uses;
  - (3) Changes in the list of approved uses;
  - (4) Changes in the locations of uses;
  - (5) Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or
  - (6) Changes in the final governing agreements where such changes conflict with the Outline Plan approval.
- (B) Changes Requiring New Development Plan Approval. These changes shall include the following:
- (1) Changes in lot arrangement, or addition of buildable lots which do not change approved density of the development;
  - (2) Changes in site design requirements, such as location of required landscaping, signage, building height, cube and/or footprint, or other such requirements of this ordinance;
  - (3) Changes to the internal street system or off-street parking areas;
  - (4) Changes in drainage management structures;
  - (5) Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or
  - (6) All other changes not expressly addressed under Section (A) shall require new Development Plan approval.

**[end of chapter]**

## CHAPTER 812

### ZONING ORDINANCE: VARIANCES

#### 812-1. Regulations for Use and Design Standards Variances

The regulations set forth or identified in this chapter are provided to establish procedures, criteria and conditions which shall be met before the Board of Zoning Appeals may approve a use or design standards variance from the terms of this ordinance.

#### 812-2. Application for Variance

A person desiring a variance from the terms of the Zoning Ordinance shall submit a written application for variance approval with the Administrator. An application for variance approval shall:

- (A) be made on the forms available at the Planning Department office and signed by the owner of the property subject to the variance request ("subject property") or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);
- (B) describe the specific use or standard for which the variance is sought;
- (C) be presented to the Administrator;
- (D) be accompanied by two (2) copies of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), the relationship of the subject property to the thoroughfare plans for the area;
- (E) be accompanied by two (2) copies of a site plan, drawn to an appropriate scale, which shows:
  - (1) the subject property;
  - (2) the location of all existing and proposed buildings, structures and improvements to be made to the subject property, including drainage and erosion control facilities and features;
  - (3) accurate dimensions of the parcel, buildings, parking areas and ingress/egress driveways;
  - (4) location, owner of record, zoning and use of adjacent properties, including the location, size and use of all structures within fifty (50) feet of the subject property;
  - (5) location, right-of-way and pavement width of all streets adjacent to the subject property; and,
  - (6) proposed connections to public utilities.

- (F) be accompanied by any other information reasonably required by the Administrator; and,
- (G) be accompanied by the fee established by the Plan Commission.

**812-3. Variance Approval Procedure**

Applications for variance approval shall be considered in accordance with the following procedures.

- (A) Within thirty (30) days after receiving a complete application, the Administrator shall schedule and announce the date and time of the Board of Zoning Appeals hearing on the application. At the time the hearing is scheduled, the Administrator shall provide the applicant with written notice of the hearing date and time.
- (B) Prior to the Board of Zoning Appeals hearing on the application, the Administrator shall review the application for compliance with the Zoning Ordinance. Following such review and prior to the hearing, the Administrator shall prepare and provide the Board of Zoning Appeals and the applicant with the Administrator's written comments and recommendation on the application, including the Administrator's opinion as to any effect with the proposed variance might have upon the Comprehensive Plan.
- (C) The Board of Zoning Appeals, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process.
- (D) Notice of the Board of Zoning Appeals hearing on the application for variance approval shall be published in two (2) local newspapers of general circulation at least ten (10) days prior to the hearing, in accordance with IC 5-3-1.
- (E) At least ten (10) days prior to the Board of Zoning Appeals hearing on the application for variance approval, the applicant, in the manner prescribed in the Board of Zoning Appeals Rules of Procedure, shall notify all interested parties of the public hearing by certified mail. Prior to the hearing, the applicant shall provide the Administrator with certified mail receipts demonstrating that the required notices were delivered or returned as undeliverable.
- (F) At least ten (10) days prior to the Board of Zoning Appeals hearing on the application for variance approval, the applicant shall post and maintain a sign on the subject property notifying those passing the property that a request for variance approval for the property has been made. The sign shall be provided to the applicant by the Administrator. The cost of the sign shall be borne by the applicant.
- (G) The Board of Zoning Appeals shall conduct a public hearing on the application for variance approval in accordance with the Board of Zoning Appeals Rules of Procedure.
- (H) Following the Board of Zoning Appeals hearing on the application for variance approval, the Board shall take action on the applicant's application. The Board may approve the application, approve the application with conditions, or deny the application.
- (I) The Board of Zoning Appeals shall make written findings of fact in support of its decision. The Administrator shall promptly provide the applicant with a copy of the Board's written findings.

- (J) If the Board of Zoning Appeals approves the application for variance approval, the Administrator may issue the applicant an improvement location permit and/or land use certificate subject to the conditions of variance approval and the provisions of the ordinance.
- (K) If the Board of Zoning Appeals denies the application for variance approval, the applicant may file an amended application. If the amended application is filed within six (6) months of the Board's denial of the original application, the applicant shall not be charged an application fee.

**812-4. Environmental Impact Statement**

With respect to use variances, The Board shall have the authority to require an applicant to perform an environmental impact study appropriate to the situation in which the use is proposed and to submit the results of the study to the Board.

**812-5. Standards for Use Variance Approval**

In order to approve a use variance, the Board must find that:

- (A) the approval will not be injurious to the public health, safety, 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 will 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 Comprehensive Plan. Especially, the five (5) principles set forth in the Monroe County Comprehensive Plan:
  - (1) Residential Choices
  - (2) Focused Development in Designated Communities
  - (3) Environmental Protection
  - (3) Planned Infrastructure Improvements
  - (5) Distinguish Land from Property

**812-6. Standards for Design Variance Approval**

812-6. Design Standards Variance Approval Requirements

In order to approve an application for a design standards variance, the Board must find that the applicant has submitted substantial evidence establishing that, if implemented:

- (A) the approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:
  - (1) it would not impair the stability of a natural or scenic area;
  - (2) it would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;
  - (3) the character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,
  - (4) it would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;
- (B) the approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:
  - (1) the specific purposes of the design standard sought to be varied would be satisfied;
  - (2) it would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,
  - (3) it would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,
- (C) the approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.

**812-7. Conditional Approval**



All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to ensure compatibility with surroundings). A variance approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Administrator for furnishing specific information related to the proposed variance. Failure to comply with the conditions of approval shall constitute a violation of the Zoning Ordinance.

**812-8. Relationship to Subject Property**

Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

**[end of chapter]**

## CHAPTER 813

### ZONING ORDINANCE: CONDITIONAL USES

#### 813-1. Regulations for Conditional Uses

The regulations set forth or identified in this chapter are provided to establish procedures, criteria and conditions which shall be met before the Board of Zoning Appeals may approve a conditional use to the terms of this ordinance.

#### 813-2. Application for Conditional Use Approval

A person desiring conditional use approval shall submit a written application for such approval with the Administrator. An application for approval shall:

- (A) be made on the forms available at the office of the Board and be signed by the owner of the property subject to the conditional use request ("subject property") or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);
- (B) identify the specific conditional use requested;
- (C) be presented to the Administrator in duplicate;
- (D) be accompanied by two (2) copies of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), and the relationship of the subject property to the thoroughfare plans for the area;
- (E) be accompanied by two (2) copies of a site plan, drawn to an appropriate scale, which shows:
  - (1) the subject property;
  - (2) the location of all existing and proposed buildings, structures and improvements to be made to the subject property, including drainage and erosion control facilities and features;
  - (3) accurate dimensions of the parcel, buildings, parking areas and ingress/egress driveways;
  - (4) location, owner of record, zoning and use of adjacent properties, including the location, size and use of all structures within fifty (50) feet of the subject property;
  - (5) location, right-of-way and pavement width of all streets adjacent to the subject property; and
  - (6) proposed connections to public utilities; and
  - (7) landscaping improvements, as required by Chapter 830.

- (F) be accompanied by any other information reasonably required by the Administrator; and,
- (G) be accompanied by the fee established by the Plan Commission.

**813-3. Conditional Use Approval Procedure**

Applications for conditional use approval shall be considered in accordance with the following procedures.

- (A) Within thirty (30) days after receiving a complete application, the Administrator shall schedule and announce the date and time of the Board's hearing on the application. At the time the hearing is scheduled, the Administrator shall provide the applicant with written notice of the hearing date and time.
- (B) Prior to the Board's hearing on the application, the Administrator shall review the application for compliance with the Zoning Ordinance. Following such review and prior to the hearing, the Administrator shall prepare and provide the Board and the applicant with the Administrator's written comments and recommendation on the application, including the Administrator's opinion as to any effect which the proposed conditional use might have upon the Comprehensive Plan;
- (C) The Board, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process;
- (D) Notice of the Board's hearing on the application for conditional use approval shall be published in two (2) local newspapers of general circulation at least ten (10) days prior to the hearing, in accordance with IC 5-3-1;
- (E) At least ten (10) days prior to the Board's hearing on the application for conditional use approval, the applicant, in the manner prescribed in the Board's Rules of Procedure, shall notify all interested parties of the public hearing by certified mail. Prior to the hearing, the applicant shall provide the Administrator with certified mail receipts demonstrating that the required notices were delivered or returned as undeliverable;
- (F) At least ten (10) days prior to the Board's hearing on the application for conditional use approval, the applicant shall post and maintain a sign on the subject property notifying those passing the property that a request for conditional use approval for the property has been made. The sign shall be provided to the applicant by the Administrator. The cost of the sign shall be borne by the applicant.
- (G) The Board shall conduct a public hearing on the application for special exception approval in accordance with the Board's Rules of Procedure;
- (H) Following the Board's hearing on the application for conditional use approval, the Board shall take action on the applicant's application. The Board may approve the application, approve the application with conditions, or deny the application.
- (I) The Board shall make written findings of fact in support of its decision. The Administrator shall promptly provide the applicant with a copy of the Board's written findings.

- (J) If the Board approves the application for conditional use approval, the Administrator may issue the applicant an improvement location permit and/or land use certificate subject to the conditions of conditional use approval and the provisions of the ordinance.
- (K) If the Board denies the application for conditional use approval, the applicant may file an amended application. If the amended application is filed within six (6) months of the Board's denial of the original application, the applicant shall not be charged an application fee.

**813-4. Environmental Impact Statement**

The Board shall have the authority to require an applicant to perform an environmental impact study of the area in which the use is proposed and to submit the results of the study to the Board.

**813-5. Standards for Approval**

In order for a conditional use to be approved, the Board must find that:

- (A) the requested conditional use is one of the conditional uses listed in Chapter 813-8 (for the traditional County planning jurisdiction) or Table 33-3 (for the former Fringe) for the zoning district in which the subject property is located. In addition to the other relevant standards imposed by or pursuant to this chapter, the standards, uses and conditions set forth in Section 813-8 are hereby incorporated as standards, uses and conditions of this chapter;
- (B) all conditions, regulations and development standards required in the Zoning Ordinance shall be satisfied;
- (C) granting the conditional use shall not conflict with the general purposes of the Zoning Ordinance or with the goals and objectives the Comprehensive Plan;
- (D) the conditional use property can be served with adequate utilities, access streets, drainage and other necessary facilities;
- (E) the conditional use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with performance standards delineated in this ordinance;
- (F) the conditional use shall be situated, oriented and landscaped (including buffering) to produce a harmonious relationship of buildings and grounds with adjacent structures, property and uses;
- (G) the conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;
- (H) the conditional use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and,
- (I) all permits required by other Federal, State and local agencies have been obtained.

**813-6. Conditional Approval**

All conditional use approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to ensure compatibility with surroundings). A conditional use approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Administrator for furnishing specific information related to the proposed use. Failure to comply with the conditions of approval shall constitute a violation of the Zoning Ordinance.

**813-7. Miscellaneous Guidelines**

- (A) If there are other valid reasons for denying a conditional use application, the denial may be sustained even if the proposed conditional use constitutes the highest and best use which can be made of the subject property.
- (B) The Board may not deny a permit solely for the purpose of limiting the number of similar uses in an area. However, the Board may require that reasonable minimum distances be maintained between similar uses as a condition of approval.

**813-8. Additional Criteria for Certain Categories of Conditional Use**

All conditional uses are subject to the criteria established in Section 813-5. Additional criteria as specified in this section must be met by the following categories of conditional use.

- (A) Wireless Communications Facilities
  - (1) The proposed facility must comply with Chapter 834 of this Zoning Ordinance.
  - (2) The Board shall consider whether a proposed facility minimizes land use impacts by being designed to accommodate future co-location by other users.
  - (3) The Board shall consider the extent to which the WCF has been designed to blend with surroundings and reduce visual impact.

**813-9.**

**Conditional Use Approval for Pre-Existing Nonconforming Uses**

The Board may grant conditional use status to a pre-existing nonconforming use in accordance with the following procedures and standards.

- (A) An applicant for conditional use approval shall file an application for site plan review, in accordance with Subsections 815-3(A) and (B) of these regulations. The application shall be considered in accordance with the procedures set forth above, in Section 813-3. The Board's final decision on the application must comply with Subsection 815-3(C) (substituting the Board for the Administrator).
- (B) To be eligible for conditional use approval, the applicant must demonstrate and agree to continued compliance with the following standards:
  - (1) the proposed conditional use is a pre-existing, nonconforming use (or building or structure);
  - (2) the general performance standards set forth in Chapter 802-4 of these regulations; and,
  - (3) the use (or building or structure) will not be expanded, enlarged or changed.

**813-10.**

**Specific Criteria for Conditional Use Approvals**

- (A) Standards for Conditional Use Permits. No conditional use permit shall be granted pursuant to this Chapter unless the applicant shall establish that the specific standards of Chapter 813-5 for the conditional use have been or shall be met. The proposed use and development shall also comply with any additional standards imposed upon the particular use by Section 813-10(B).
- (B) **Additional Criteria for Certain Categories of Conditional Use in the Former Two-mile Fringe.** All conditional uses are subject to the criteria established in Chapter 813-5 and referenced in 813-10(A). Additional criteria as specified in this section must be met by the following categories of conditional use:
  - (1) **Bed and Breakfast Establishments**
    - (a) The operator shall reside on the property;
    - (b) The establishment shall maintain a maximum of three (3) guestrooms;
    - (c) The establishment shall provide one (1) parking space per guest room in addition to the spaces required for the dwelling unit; and
    - (d) The building and its parking facilities shall be designed for compatibility with the surrounding properties.

**(2) Day Care Centers**

- (a)** Proof of licensing or exemption from the State shall be presented with the application;
- (b)** Operator shall be responsible for compliance with all applicable city ordinances and state and federal statutes and regulations;
- (c)** The center shall be screened from adjacent properties with a fence or vegetative buffer, and an adequate fenced play area shall be provided;
- (d)** The minimum lot size shall be 15,000 square feet or the minimum lot size for the district, whichever is greater;
- (e)** Site design and supervision characteristics shall insure that the peace and safety of the surrounding area shall not be impaired; and
- (f)** No center shall be approved within 500 ft. of another center.

**(3) Drive-Through Uses**

- (a)** Structures shall be located so as to minimize impacts on adjacent property and the character of the streetscape;
- (b)** Design of maneuvering and stacking aisles shall not interfere with circulation or visibility for traffic either on or off site and shall be designed to minimize headlight glare to adjacent property and streets. Applicant shall provide reasonable estimates of peak stack needs and accommodate those needs on the site plan; and
- (c)** The radius and width of maneuvering areas shall be as required by County Engineer.

**(4) Historic Adaptive Reuse**

- (a)** Property shall have been designated Historic or have filed a petition for Historic designation at the time of the application for a conditional use permit;
- (b)** Proposed use shall not diminish the historic character of the property or, if it is located within an historic district, the historic character of said district;
- (c)** Proposed use shall enhance the ability to restore and/or preserve the property; and
- (d)** The granting of the conditional use permit shall be contingent upon any required Certificate of Appropriateness and upon the granting of Historic designation.

**(5) Places of Worship**

- (a)** Design of the structure and site shall be compatible with the surrounding area;
- (b)** Outdoor group activities shall not be allowed after 10 pm; and
- (c)** Facilities shall have adequate access to collector or arterial streets and traffic shall not travel through a residential neighborhood on local streets.

**(6) Rehabilitative Facilities**

- (a)** The design of the site and structure, and the intensity of use and population density shall be compatible with the surrounding area;
- (b)** Adequate access is provided to a street classified as a collector or arterial; and
- (c)** Peace and safety of the surrounding area shall not be impaired.

**(7) Commercial Uses in Industrial Districts**

- (a)** Applicant shall demonstrate to the Board's satisfaction that the proposed use is a retail, restaurant, tavern, gasoline service station or business or consumer-oriented office/service use, and the proposed use will serve primarily the industries of the district in which they are located, and/or their employees;
- (b)** A maximum of 10% of the total area of an industrial property may be occupied by such uses; and
- (c)** Individual retail enterprises shall be limited to a maximum floor area of 3,000 square feet.

**(8) Industrial Uses with Potentially Adverse Effects**

- (a)** The following uses may be approved as a conditional use:
  - (1)** Petrochemical facilities
  - (2)** Manufacture of chemicals and chemical products
  - (3)** Processing of meat, poultry, or seafood and other agricultural products, solid waste disposal, or transfer facilities
  - (4)** Manufacture of paper products
  - (5)** Manufacture of paving material and concrete block
  - (6)** Motor or bus terminal
  - (7)** Pharmaceuticals other than light manufacturing



**(8) Metal fabrication other than light manufacturing**

- (b)** Compliance with the Comprehensive Plan and its impact upon development objectives of the plan, including review by the Plan Commission and recommendation to the Board of Zoning Appeals;
- (c)** Proposed use shall not present undue risk of fire, explosion or release of harmful materials;
- (d)** Applicant shall submit data which details the environmental and other effects of proposed use and which quantifies the potential risks in term of noise, dust, odor, traffic, and discharges to the air, ground water, or surface water. Statement shall be certified by a Professional Engineer (PE) and presented to the Board at time of application;
- (e)** The Board may required mitigation measures such as careful arrangement of buildings and uses on the site, a means of reducing noise and emissions, and may require screening or setbacks greater than normally required in the IG or HI Districts; and
- (f)** Board may required post-construction testing or inspection at appropriate times and intervals to insure ongoing compliance with the applicant's representations of impact and any required mitigation measures.

**(9) Outdoor Storage Yards which are Accessory to Permitted Principal Uses**

- (a)** Yards may be set back from side and rear lot lines not less than ½ the setback required for buildings on the lot if such lot lines do not abut residential use or zoning. If adjacent to residential use or zoning, such yards must meet the required building setback; and
- (b)** Shall be screened so as to mitigate the appearance and impact of the proposed storage use and its level of activity, in a manner consistent with the purposes of the district.

**(10) Fire and Police Stations**

- (a)** Shall have adequate access to collector or arterial streets; and
- (b)** Design of the structure and the site shall be compatible with the surrounding area.

**(11) Golf, Swim and Tennis Clubs**

- (a)** Facilities shall have adequate access to collector or arterial streets and traffic shall not travel through residential neighborhood on local streets; and
- (b)** Design and location of any structure and the design of the site shall

be such that adjacent properties shall not be subjected to offensive noise, lights, odors, or flying objects.

**(12) Convalescent, Nursing or Rest Homes; Auditoriums, and Community and Recreation Centers**

- (a)** Proposed facility shall be located on a site of minimum 15,000 square feet, or minimum lot size of the district, whichever is greater;
- (b)** Adequate access shall be provided to collector or arterial streets and traffic shall not travel through residential neighborhoods on local streets; and
- (c)** The design of structure and site, hours of operation, and intensity of use, shall be compatible with the surrounding area.

**(13) Cemeteries and Mausoleums**

- (a)** Shall be located on a site not less than two (2) acres in size;
- (b)** Access to site shall be such that traffic and funeral processions to site will create a minimum of interference with normal traffic operations in the area;
- (c)** The design of the site and any structures shall be compatible with the surrounding area; and
- (d)** All structures shall be set back from any property line a minimum of thirty-five (35) feet and all graves and burial plots shall be set back a minimum of 25 feet from any property line.

**(14) Mortuaries and Crematoriums**

- (a)** Site of the proposed facility shall be a minimum of 50,000 square feet;
- (b)** Adequate access shall be provided to a street classified collector or arterial and traffic shall not travel through residential neighborhoods on local streets;
- (c)** Design of site and structure shall be compatible with surrounding uses; and
- (d)** Access to proposed site shall be such that traffic and funeral processions will create a minimum of interference with normal traffic operations in the area.

**(15) Accessory Gasoline Sales**

- (a)** The use shall be accessory to a grocery store having at least 1,500 square feet devoted to food sales. The use shall be limited to one dispensing nozzle for each grade of gasoline offered;
- (b)** Adequate access shall be provided from a collector or arterial

street;

- (c) Pump island shall not eliminate or interfere with required off-street parking spaces or access thereto;
- (d) Adequate stacking space shall be available at the pump island and shall not interfere with traffic safety on the site or adjacent roadway;
- (e) Design of site and structure shall be compatible with surrounding area; and
- (f) Site shall conform to Karst regulations found in Chapter 829.

**(16) Correctional Facilities**

- (a) Adequate access is provided to a collector or arterial street;
- (b) Design of site and structure, and the intensity of use and population density shall be compatible with surrounding area; and
- (c) Site design and supervision characteristics shall insure that the peace and safety of the surrounding area shall not be impaired.

**(17) Junk, Wrecking, and Automobile Storage Yards**

- (a) Processing of metal salvage shall be permitted only in the IG District. All other waste processing shall take place only within an enclosed building. No processing operation shall be permitted closer than 300 feet from any residential use or district;
- (b) All outdoor storage shall be conducted entirely within an enclosed opaque fence or wall designed to obscure the view from the road and from adjacent properties. Such wall or fence shall be constructed on or inside the front, side, and rear setback lines required within the zoning district and shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property, street, or highway. Storage, either temporary or permanent, between such fence or wall and any property line is expressly forbidden;
- (c) Front, side, and rear yards shall be landscaped to the Board's satisfaction with appropriate materials. At a minimum such landscaping shall include a D-value 1.5 times that required in the zoning district; and
- (d) A maximum of one (1) access driveway shall be permitted on any single street frontage.

**(18) Shared Parking**

- (a)** No more than fifty (50) percent of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use;
- (b)** Total parking provided shall be sufficient to meet the requirements of the greatest combined peak parking demands. The Board may require such evidence as it deems necessary to establish parking demands;
- (c)** The Board shall require the owners of the properties included in the conditional use request to make a written commitment guaranteeing that the parking spaces shall be maintained as stipulated in the approval so long as parking is required for either of the properties or until the required parking is provided elsewhere in accordance with the provisions of this Chapter. Such instrument shall be recorded by the property owners with the County Recorder, and a copy filed with the planning department; and
- (d)** The commitment required above may be modified or terminated only by order of the Board.

**(19) Off-Site Parking**

- (a)** The off-site parking facility is within a reasonable walking distance of said structure or use, in consideration of the use;
- (b)** Such parking facility is located in a zoning district where such parking facilities are allowed as a permitted or conditional use;
- (c)** The Board shall required the owners of the properties included in the conditional use request to make a written commitment guaranteeing that the parking spaces shall be maintained as stipulated in the approval so long as parking is required for the property, or until the required parking is provided elsewhere in accordance with the provisions of this chapter, and prohibiting any other use of the lot which is used for off-site parking. Such instrument shall be recorded by the property owners with the County Recorder, and a copy filed with the planning department; and
- (d)** The commitment required above may be modified or terminated only by order of the Board.

**(20) Drive-In Theaters**

- (a)** The site must have direct access to an arterial road as identified on the functional street classification map. In addition to the required setbacks from the streets and highways, all yards shall be planted and maintained as a landscaped strip;
- (b)** The theater viewing screen shall not be visible from any public street within 1,500 feet of the screen. In addition, cars parked in the

viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six (6) feet in height;

- (c) Loading space for patrons waiting for admission to the theater shall be equal to twenty (20) percent of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way traffic; and
- (d) Sale of refreshments shall be limited to patrons of the theater. Amusement parks or kiddylands shall be accessible only to patrons of the theater;
- (e) All parking areas and access ways shall be adequately lighted; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties; and
- (f) No central loudspeakers shall be permitted.

**(21) Light Manufacturing and Distribution Facilities**

- (a) Architecture and site design shall be compatible with the surroundings and with the purpose of the BP District;
- (b) Truck parking, loading areas, and outdoor mechanicals of any kind shall be adequately screened in a manner compatible with the surroundings;
- (c) The design of the access route to the facility must be suitable for truck traffic; and
- (d) Outdoor processes and/or storage are prohibited.

**(22) Commercial use as principal use in Airport District**

- (a) Applicant shall demonstrate that the proposed retail, restaurant, or business or consumer-oriented uses serve primarily the medical or airport uses in the zoning district and/or their employees;
- (b) Individual retail enterprises shall be limited to a maximum floor area of 3,000 square feet.

**(23) Home Occupations in the Two-Mile Fringe**

- (a) The operator of the home occupation must reside in the dwelling unit. Only one (1) employee who does not reside in the dwelling unit may be permitted, regardless of the number of home occupations in the dwelling unit;
- (b) The use must be conducted entirely within the principal residence or attached garage. Outdoor display of materials, good, supplies, or equipment shall be prohibited;
- (c) Direct sales and/or rentals of products is prohibited, except for the

incidental sale of arts and crafts created on the premises in connection with the home occupation;

- (d) Not more than fifteen (15) percent of the total interior floor area of the dwelling unit may be used in connection with the home occupation. However, no home occupation shall be limited to less than 200 square feet nor shall the area of a home occupation exceed 500 square feet;
- (e) There shall be no advertising, signs, display, or other indications of a home occupation in the yard, on the exterior of the dwelling unit, or visible from anywhere outside the dwelling unit, except for one (1) sign, attached to the wall of the building, of a maximum size of two (2) square feet;
- (f) More than one (1) home occupation may be permitted within an individual dwelling unit, provided all other standards and criteria applicable to home occupations are complied with. All home occupations within the same dwelling unit may cumulatively use no more than fifteen (15) percent or 500 square feet of the dwelling unit; and
- (g) An approved home occupation shall be treated as a single family dwelling unit for purposes of site plan review.

**(24) Hotel/Motel in Business Park District**

- (a) Design of the structure and site shall be compatible with the purposes of the BP District.

**(25) Off-Premise Sign Relocation**

- (a) The new location is within a CA, IL, or IG District if the new location is on a different zoning lot. No sign shall be relocated so that a sign face is directed toward, or intended to be legible to, a motorist traveling along SR 37;
- (b) Sign area at the new location shall not exceed the sign area at the previous location, nor shall the height of the sign at the new location exceed thirty-five (35) feet, measured from the base of the sign or from the crown of the road directly in front of the sign, whichever is greater, to the top of the sign;
- (c) The off-premise sign as relocated shall be at least 300 feet from the nearest off-premise sign, except on limited-access highways, where the distance to the nearest sign shall be 500 feet. Such spacing shall apply to signs on the same side of the road, measured along the roadway between points on the roadway that are nearest to each sign. Spacing provisions shall not apply when signs are separated by obstructions in such manner that the only one sign within the spacing distances is visible from the street at any one time;
- (d) The relocated off-premise sign shall be subject to a street setback of  $\frac{1}{2}$  of the required building setback from the front property line.

The relocated off-premise sign shall be subject to the side and rear building setback requirement of the district in which it is being relocated;

- (e) The relocation promoted the public welfare and tends on balance to preserve and enhance the scenic beauty and aesthetics of the planning jurisdiction, taking into account the location from which the sign is being moved as well as the character of the new location, including but not limited to any landscaping or other amenities proposed for the new location; and
- (f) An application for conditional use to relocate a sign shall be accompanied by a commitment to the removal of the sign from its existing location by both the owner of the property and of the sign. Each such conditional use approval shall include, as a condition of approval, a stipulation that the previous lawful nonconforming use at the previous location shall be deemed abandoned immediately upon relocation.

(C) Additional Criteria for Certain Categories of Conditional Use in the Standard County Jurisdiction. All conditional uses are subject to the criteria established in Chapter 813-5 and referenced in 813-10(A). Additional criteria as specified in this section must be met by the following categories of conditional use:

**(1) Amphitheater**

- (a) The site must have direct access to an arterial road as identified on the functional street classification map. In addition to the required setbacks from the streets and highways, all yards shall be planted and maintained as a landscaped strip;
- (b) Cars parked in the viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six (6) feet in height;
- (c) Loading space for patrons waiting for admission to the theater shall be equal to twenty (20) percent of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way traffic; and
- (d) Sale of refreshments shall be limited to patrons of the theater. Amusement parks or kiddylands shall be accessible only to patrons of the theater;
- (e) All parking areas and access ways shall be adequately lighted; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties; and
- (f) No central loudspeakers shall be permitted.

**(2) Boat Storage**

- (a)** the required building setbacks shall be applied to all boats stored outside;
- (b)** all boats stored outside of enclosed buildings shall be screened from adjoining properties by a double staggered row of evergreen trees, installed in conformance with Chapter 830, or a 6 ft. high opaque fence or wall; and
- (c)** the retail sales of merchandise, and/or boat repair services shall be prohibited.

**(3) Resorts**

- (a)** Design of the structure and site shall be compatible with the surrounding area;
- (b)** Outdoor group activities shall not be allowed after 10 pm; and
- (c)** Facilities shall have adequate access to collector or arterial streets and traffic shall not travel through a residential neighborhood on local streets.

**(4) Rodeo, Race Track, and Transient Amusement Enterprises**

- (a)** The site must have direct access to an arterial road as identified on the functional street classification map. In addition to the required setbacks from the streets and highways, all yards shall be planted and maintained as a landscaped strip;
- (b)** Cars parked in the viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six (6) feet in height;
- (c)** Loading space for patrons waiting for admission to the theater shall be equal to twenty (20) percent of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way traffic;
- (d)** Sale of refreshments shall be limited to patrons of the theater. Amusement parks or kiddylands shall be accessible only to patrons of the theater;
- (e)** All parking areas and access ways shall be adequately lighted; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties; and
- (f)** No central loudspeakers shall be permitted.



**(5) Indoor and Outdoor Shooting ranges are not permitted as accessory uses in this category.**

**(6) Rock Crushing Establishments, Cement Products, and Paving Materials Central Mixing**

**(a)** Applicant shall submit data that details the anticipated impacts of the proposed use which quantifies at a minimum the potential impacts in terms of vibration, traffic loading. Noise, dust, and discharges to the air, ground, water, or surface water. This data shall be presented to the Board at the time of application.

**(b)** The Board may require mitigation measures such as the enclosure of plan and silos, arrangement of structures, limitations on the hours of operation, limits on the location of exterior lighting, required haul routes, etc., as means of reducing anticipated impacts of the proposed use.

**(c)** The Board may require post-construction testing, inspection, and reporting at appropriate times and intervals to insure ongoing compliance with any commitments made by the applicant and any required mitigation measures.

**(7) Artisan Crafts**

**(a)** All aspects of business operations (manufacture, processing, retail sales, shipping of goods produced) shall take place in the residence or in no more than one accessory structure to the residence. The accessory structure shall not exceed either: a) the gross floor area of the residential structure or, b) 1750 square feet; whichever is greater unless otherwise permitted by the Board of Zoning Appeals;

**(b)** No outdoor storage shall be permitted unless the site plan includes screening deemed sufficient by the Board of Zoning Appeals;

**(c)** For operations in AG/RR, FR, and CR zones, a maximum of eight (8) employees are permitted; in the ER and SR zones, a maximum of four (4) employees are permitted;

**(d)** The owner-artisan must live on site; and

**(e)** Signage shall follow the same provisions of Chapter 807 as a home based business.

**(8) Tourist Home or Cabin**

**(a)** The Tourist Home or Cabin must have a kitchen, a bathroom, a living/dining room area and must meet or exceed all infrastructure requirements (e.g., septic system, driveway);

**(b)** Use must have legal access via an existing public improvement to one or some of the following tourist and guest attractions:

- (1) *Lake Monroe, Lake Lemon and Lake Griffy:*  
By adjoining the public property surrounding the lake, having public access within 200 feet of the property line or by right of access through other parcels under the same ownership, excluding easements, as the Tourist Home or Cabin or some combination thereof.
  - (2) *Morgan-Monroe State Forest or Hoosier National Forest:*  
By having public or private access for equestrian or bicycle use or a public access trailhead with parking improvements within 200 feet of the property line or by right of access through other parcels under the same ownership, excluding easements, as the Tourist Home or Cabin or some combination thereof.
  - (3) *Other public recreational or cultural facilities (e.g. Monroe County Parks and Recreation, City of Bloomington Parks and Recreation, Indiana University, Tibetan Cultural Center, etc.) maintained for the benefit of local, state, national, and international visitors:*  
By having public access within 200 feet of the property line or by right of access through other parcels under the same ownership, excluding easements, as the Tourist Home or Cabin or some combination thereof.
- (c) Any outdoor pool or spa facilities must meet State and Local Board of Health requirements and must be visually screened from surrounding properties and properly secured with a Power Safety Pool Cover or Enclosure as defined in Indiana Code (675 IAC 20-4-7 – Safety Features; 675 IAC 20-3-9 – Enclosure) standards for a Class C, Semi-Public Pool.
- (d) Parking:
- (1) Parking only on paved or graveled driveways;
  - (2) No parking is allowed on the street or road;
  - (3) One (1) parking space per guest room; and,
  - (4) No parking of any vehicles in any yard or setback area as defined by Chapter 804 of the Zoning Ordinance.
- (e) Rules, in a readable size and format, shall be posted outside near the main entrance to the Tourist Home or Cabin and shall include the following:
- (1) Rules and regulations for ensuring safety and preservation of neighborhood values (e.g., emergency phone numbers; 24 hour contact number for property owner or manager; noise restrictions; solid waste management rules; fishing license rules; etc.);
  - (2) Diagram of property boundary lines; and

(3) Diagram of designated parking.

(f) Smoke detectors and a fire extinguisher shall be installed and maintained in working order in all Tourist Homes or Cabins.

(g) All solid waste and refuse shall be removed from the property and properly disposed of prior to a change of occupancy.

(h) No more than two (2) guests per guest room.

**(9) Historic Adaptive Reuse**

(a) Property shall have been designated Historic or have filed a petition for Historic designation at the time of the application for a conditional use permit;

(b) Proposed use shall not diminish the historic character of the property or, if it is located within an historic district, the historic character of said district;

(c) Proposed use shall enhance the ability to restore and/or preserve the property; and

(d) The granting of the conditional use permit shall be contingent upon any required Certificate of Appropriateness and upon the granting of Historic designation.

**(10) Wastewater Treatment Facility**

(a) In addition to all state and federal regulations, wastewater treatment facilities may only occur under the following circumstances:

(1) It is necessary to remedy 1 or more existing failing wastewater systems;

(2) It is necessary to replace a wastewater system serving an existing campground or similar facility; or,

(3) It will not provide additional capacity beyond the scope of the proposed remedy or replacement.

**(11) Truck Stop/Travel Plaza**

**(a) Applicability**

The standards of this section apply to all truck stops and travel plazas.

**(b) Minimum Parcel Area and Road Frontage**

The minimum parcel area for establishment of a new truck stop or travel plaza is ten acres with at least two hundred (200) feet of direct road frontage on a major collector. Dedicated left-turn and/or right-turn lanes must either exist or be constructed by the Developer. All access drives shall be oriented toward the major collector.

**(c) Location**

1. The parcel on which the truck stop/travel plaza is located must be within 2,000 feet of the centerline of the nearest interstate highway exit/entry ramp.
2. The major collector serving the truck stop/travel plaza shall handle any expected traffic and load increase with no more than minor traffic disruptions to adjoining or nearby (within one (1) mile) properties and no significant additional wear and tear on the roadway.
3. No more than one truck stop shall have primary access from any interstate highway interchange.
4. The minimum distance between truck stops shall be 7,000 feet measured from property line to property line.

**(d) Parking and Fueling Stations**

Fueling areas for automobiles and fueling areas for trucks must be separated. Pump island canopies may not exceed 22 feet in height.

**(e) Indoor Operation**

All vehicle service and/or repair activities must be conducted within a completely enclosed building. Parts, equipment, lubricants, fuels, tires or other materials must be screened from abutting streets and property. All activities and operations shall be conducted entirely within an enclosed structure, except as follows:

1. The dispensing of petroleum products, water and air from pump islands.
2. The provision of emergency service of a minor nature.

In addition, no vehicle shall be parked on the premises for the purposes of offering the vehicle for sale and no used or discarded automotive parts or equipment or disabled, junked, or wrecked vehicles shall be located in any open area.

**(f) Noise**

If the parcel on which the truck stop/travel plaza is located is within 1,320 feet of an R zoning district, the applicant must provide a noise impact study prepared by a qualified acoustical consultant and must propose necessary mitigation measures to ensure that noise levels at the boundary of the nearest R zoning districts will not exceed 60 dB (A) between the hours of 10 p.m. and 7 a.m. The applicant must also propose idling time restrictions and means of ensuring compliance with such restrictions. The purpose of such restrictions is to reduce noise and air quality-related impacts. Noise from

bells or loudspeakers shall not be audible beyond the property line at any time.

**(g) Overnight Parking**

Overnight parking is not allowed unless Electrified parking spaces (EPS), also known as truck stop electrification, is installed for each overnight space to allow truck drivers to provide power to necessary systems, such as heating, air conditioning, or appliances, without idling the engine.

**(h) Fuel Spill Containment/Hazardous Substances**

A plan must be submitted showing how the truck stop/travel plaza is designed to prevent any spill from the facility or from vehicles utilizing the facility from contaminating soil or migrating off-site.

The facility shall fully comply with all Federal and State regulations regarding the reporting and containment of spills and releases of petroleum and hazardous substances. The following spills must be reported to the Planning Department within 12 hours of occurrence:

- Greater than 100 lbs. or the CERCLA Reportable Quantity (RQ) of a hazardous material;
- Petroleum spills of greater than 55-gallons; or
- Spills of “objectionable substances” – defined as, substances of a quantity and type that are present in sufficient duration and location to damage the waters of the state.

**(i) Karst**

Development of a truck stop or travel plaza in areas that encompass or affect sinkholes or other karst features (i.e., in “sinkhole areas”) is prohibited unless it is demonstrated that the development would have no significant detrimental impact on storm water management or ground water quality.

**(j) Parking**

All parking areas must be paved and fully comply with current Monroe County landscaping and storm water management requirements. A parking lot separated from the truck fueling/parking area must be provided for employees and passenger vehicles utilizing the facility.

**(k) Landscaping**

1. At least 25% of the lot area shall be devoted to green area.
2. All screening shall include a fence and a dense planting of trees and shrubs, for the full length of the lot line.

**(l) Signs and Lighting Standards**

Any signs or lighting permitted in conjunction with the use shall be appropriate to the location and in harmony with the general character of the properties in the area. All on-site lighting at a truck stop or travel plaza shall be sized and directed to provide for minimal light spillage onto adjacent properties.

Lighting standards shall be as follows:

1. All outdoor lighting shall be fully shielded. Fully shielded requires a lighting fixture to be constructed so that all the light emitted by the fixture is projected below the horizontal plan of the lowest plane of the lowest point of the fixture.
2. Lighting fixtures used to illuminate a sign shall be mounted on the top of the sign structure, lighting the sign downward.
3. Low-pressure Sodium (LPS) lamps or other dark sky friendly lighting alternatives are required throughout the site.
4. Search lights, laser source lights, or any similar high-intensity light shall not be permitted.

**(m) Adult Oriented Business**

No Adult Oriented Business activities as defined by the Monroe County Zoning Ordinance.

**(n) Security**

The truck stop/travel plaza must be designed with adequate lighting, fencing, security cameras, access control, signs, etc. to mitigate the potential for crime.

**(o) Additional Requirements**

All performance standards of the Monroe County Zoning Ordinance must be met. The Board of Appeals may require design changes or additional landscaping, screening, and berms as necessary to minimize the visual and noise impact of the truck stop or travel plaza on adjacent properties.

**(12) Solar Farm**

**(a) Applicability.**

The standards of this section apply to all Solar Farms.

**(b) Use.**

A Solar Farm may be permitted as an accessory use or a principal use.

- (c) **Minimum Lot Size.**
- Five (5) acres.
- (d) **Setbacks.**
- Solar farms shall meet the minimum zoning setbacks for the zoning district in which located.
- (e) **Height.**
- The height of systems will be measured from the highest natural grade below each solar panel. Maximum height of a solar panel is twenty (20) feet.
- (f) **Visibility.**
1. Solar farms with panels located at least one hundred fifty (150) feet from a residentially zoned property, or residential use shall not require screening.
  2. Solar farms with panels located less than one hundred fifty (150) feet from a residentially zoned property, or residential use must meet the requirements for Bufferyard Landscape Requirements set forth in Chapter 830.
- (g) **Minimum Open Space Area.**
- A minimum of twenty (20) percent of the lot area must remain open space.
- (h) **Public Signage.**
- Signage is permitted as provided by Chapter 807.
- (i) **Security Fencing.**
- A solar farm shall be enclosed by a chain-link security fence a minimum of six feet in height. Barb wire or razor wire is prohibited on all fences.
- (j) **Stormwater and Erosion Control.**
- Solar farms are subject to the County's stormwater management and erosion and sediment control provisions and NPDES permit requirements.
- (k) **Power and Communication Lines.**
- Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the zoning administrator.

**(l) Site Plan Required.**

A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the County. The site plan should also show all zoning districts, and overlay districts.

**(m) Aviation Protection.**

Solar farms located within 500 feet of an airport or within the A or B safety zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

**(n) Other standards and codes.**

All solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including the Indiana Uniform Building Code, as amended; and the National Electric Code, as amended.

**(o) Decommissioning.**

A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months.

**(p) Additional Permitted Districts.**

A conditional use may be granted for a Solar Farm in the Business Industrial Overlay.

**(13) Event Center (Accessory Use in an AG/RR Zone)**

**Development and Operational Standards.**

The following development and operational standards shall apply to an event center in the AG/RR Zone:

**(a) Parking.**

An event center in the AG/RR Zone shall provide parking at a ratio of one parking space for each two and one-half guests allowed on-site and one parking space for each permanent employee. No off-site parking is permitted unless approved in the conditional use permit process. Parking areas shall follow the requirements of Chapter 806 of the Monroe County Zoning Ordinance (Off-Street Parking and Loading).



**(b) Access Standards.**

1. Access roads to an event center in the AG/RR Zone shall comply with county, state and local fire safe standards as determined by the county and the serving fire agency.
2. Direct access to a publicly-maintained roadway is required.
3. A driveway permit from the responsible public agency is required to address ingress, egress and sight-distance requirements for the driveway connection to a county maintained road or state highway.

**(c) Minimum Parcel Size.**

1. A small agricultural event center shall have a minimum parcel size of ten (10) acres.
2. An intermediate agricultural event center shall have a minimum parcel size of twenty (20) acres.
3. A large agricultural event center shall have a minimum parcel size of forty (40) acres.

**(d) Setbacks.**

An event center in the AG/RR Zone shall be located and is required to hold all outdoor activities associated with the event center (with the exception of parking) a minimum of two hundred (200) feet from the exterior property lines. Parking shall be allowed with fifty (50) feet from the exterior property lines unless the Board of Zoning Appeals increases the parking setback provision to meet neighborhood conditions.

**(e) Event Size.**

1. Small agricultural event center: shall be allowed a maximum event size of one hundred (100) guests or as specified by the conditional use permit.
2. Intermediate agricultural event center: shall be allowed a maximum event size of two hundred (200) guests or as specified by the conditional use permit.
3. Large agricultural event center: shall be allowed a maximum event size of three hundred (300) guests or as specified by the conditional use permit.

**(f) Number of Events.**

An agricultural event center may hold events on a maximum of maximum of forty (40) days per year, which may be further limited by the conditional use permit. For purposes of this provision, an "event" is a celebration, ceremony, wedding, reception, corporate function, or similar activity for the benefit of someone other than the property owner.

**(g) Agricultural Requirement.**

1. An event center in the AG/RR Zone shall be accessory to a primary agricultural use and is required to have an on-going, on-site agricultural production for the length of the term of the conditional use permit.

2. An event center in the AG/RR Zone and its associated areas such as parking, decks and patios shall not occur within current agricultural production areas on a parcel designated as prime farmland in the Web Soil Survey, Natural Resources Conservation Service, United States Department of Agriculture (Available online at <http://websoilsurvey.nrcs.usda.gov/>) unless otherwise specified in the conditional use permit.

**(h) Hours of Operation.**

An event center in the AG/RR Zone shall be allowed to operate from 10:00 a.m. to 11:00 p.m. on Friday and Saturday and from 10:00 a.m. to 8:00 p.m. Sunday through Thursday.

**(i) Noise Regulations.**

An event center in the AG/RR Zone shall be subject to the Noise Control Ordinance (Chapter 380 of the Monroe County Code) and shall be required to stop all noise generating activities, such as music, at 10:00 p.m. or move such activities into an enclosed structure. After 10:00 p.m., all noise levels must be reduced to fifty (50) decibels or less at the event center's exterior property lines.

**(j) Food Regulations.**

An event center in the AG/RR Zone: as specified by the conditional use permit. If a commercial kitchen is approved with the event center it shall only be used in conjunction with on-site events and for processing of on-farm products. Restaurants and off-site catering are not allowed as part of an event center in the AG/RR Zone.

**(k) Neighbor Notification.**

An event center in the AG/RR Zone shall post and maintain a schedule of future events on their website. An annual/seasonal schedule of future events shall be mailed to all owners of real property located within 660 feet of the subject property at least two weeks prior to the beginning of the event year or season. The schedule shall show days planned for events, hours of operation, and include a phone number for inquiries.

**(14) Trucking Terminal**

**(a) Applicability**

The standards of this section apply to all trucking terminals in the Light Industrial (LI) District.

**(b) Usage**

Trucking terminals in the Light Industrial (LI) District may only be used for straight trucks, dump trucks, charter buses, and emergency vehicles. Tractors and semi-trailers are not permitted.

**(c) Minimum Parcel Area and Road Frontage**

The minimum parcel area for establishment of a new trucking terminal is two (2) acres with at least one hundred (100) feet of direct public road frontage.

**(d) Location**

The public road serving the trucking terminal shall handle any expected traffic and load increase as determined by the County Highway Department.

**(e) Indoor Operation**

All vehicle service and/or repair activities must be conducted within a completely enclosed building. All activities and operations shall be conducted entirely within an enclosed structure, except as follows:

1. The dispensing of petroleum products, water and air.
2. The provision of emergency service of a minor nature.

**(f) Fuel Spill Containment/Hazardous Substances**

A plan must be submitted showing how the trucking terminal designed to prevent any spill from the facility or from vehicles utilizing the facility from contaminating soil or migrating off-site.

**(g) Screening**

Site shall be screened with landscaping, or an opaque fence or wall to a height of at least six (6) feet.

**(h) Additional Requirements**

The Board of Appeals may require design changes or additional landscaping, screening, and berms as necessary to minimize impact, for example and without limitation, of noise, odor, dust and visual appearance of the trucking terminal on adjacent properties.

**(15) Remote Garbage/Rubbish Removal**

**Development and Operational Standards.** The following development and operational standards shall apply to a Remote Garbage/Rubbish Removal facility:

- A. Facilities must be located in an enclosed structure or be screened on three sides by a six (6) foot high opaque fence or wall.
- B. Facilities shall not be located within 100 feet of adjoining property.

- C. Storage and unloading areas shall be paved.
- D. The site must be kept clear of litter, scrap paper, or other refuse matter.
- E. No power driven processing equipment shall be used at any unenclosed facility.
- F. Facilities attended by any on-site employees shall provide one (1) parking space per employee.
- G. Prior to application for Conditional Use permit, facility must be shown to have fully complied with the provisions of Monroe County Ordinance 2007-18 and Chapter 360 of the Monroe County Code.
- H. If the Conditional Use is approved, all required permits from the Indiana Department of Environmental Management must be issued prior to filing an application for an Improvement Location Permit.

**(16) Central Garbage/Rubbish Removal**

**Development and Operational Standards.** The following development and operational standards shall apply to a Central Garbage/Rubbish Removal facility:

- A. Unloading areas for materials must be not less than fifty (50) feet from any adjoining property, unless unloading is conducted entirely within a building.
- B. Portions of a site used for truck maneuvering or the storage, bailing, processing, or other handling of materials must be enclosed by an opaque fence or wall with a nonglare finish not less than eight (8) feet in height.
- C. Loading and unloading areas must be paved.
- D. The site must be kept clear of litter, scrap paper, or other refuse matter.
- E. Chemical or heating processes shall not be used on materials.
- F. Prior to application for Conditional Use permit, facility must be shown to have fully complied with the provisions of Monroe County Ordinance 2007-18 and Chapter 360 of the Monroe County Code.
- G. If the Conditional Use is approved, all required permits from the Indiana Department of Environmental Management must be issued prior to filing an application for an Improvement Location Permit.

**(D)** Effect of Issuance of a Conditional Use Permit. The grant of a conditional use authorizes the use and establishes the terms of use. Conditional uses are also subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits must be obtained before any grading, construction, or use commences.

**(E)** Expiration of Conditional Use Permit. Any conditional use permit granted by the Board of Zoning Appeals shall expire:

- (1)** In the case of new construction or modifications to an existing structure:



## CHAPTER 814

### ZONING ORDINANCE: PERMITS AND CERTIFICATES

#### 814-1. Requirements for Improvement Location Permit

- (A) A person shall obtain an improvement location permit prior to:
- (1) constructing, reconstructing, moving, enlarging, demolishing, or structurally altering any building or other structure;
  - (2) connecting a structure to a public water or sewer disposal system;
  - (3) locating a mobile home;
  - (4) making any significant land alterations (e.g., streets, drives, parking facilities, reservoirs, lakes, ponds, excavations, swimming pools, etc.).
- (B) An improvement location permit shall not be required for the following activities:
- (1) routine maintenance, repair or remodeling of existing structures not involving any change of use, additional lot coverage, or increase in structure size;
  - (2) lot and yard improvements such as fences, drives, sidewalks, patios, retaining walls, and landscaping;
  - (3) signs with a surface area of less than seven square feet;
  - (4) structures which are used exclusively for agricultural production purposes, and which do not exceed the limitations stated in the definition for confined feeding operations in Chapter 802;
  - (5) structures that contain less than 120 square feet of floor area and that are not built on permanent foundations; and,
  - (6) utility structures.
- (C) Application for Improvement Location Permit
- (1) A person desiring an improvement location permit shall submit a written application for such permit with the Administrator. An application for an improvement location permit shall:
    - (a) be made on the forms available at the office of the Commission and shall be signed by the owner of the subject property; and,
    - (b) be accompanied by the fee established by the Commission.
  - (2) A person desiring an improvement location permit shall also file for site plan review in accordance with this ordinance.

- (3) The Administrator shall approve the application upon a finding that:
  - (a) the proposed improvements comply with the provisions of this ordinance;
  - (b) site plan approval for the subject property has been granted; and,
  - (c) the subject property is located on a public way or is accessible by recorded easement.

The Administrator may condition approval on the receipt of other permits, certificates and/or approvals (see Subsection 815-3(B), Part 20 of these regulations).

**(D) Revocation and Expiration of Permit**

- (1) An improvement location permit may be revoked if active work is not commenced within sixty (60) days after the date of its issuance, and continued with due diligence to completion. The Administrator shall judge whether due diligence is being shown.
- (2) If the work described in any improvement location permit has not been commenced within one hundred and eighty (180) days from the date of permit issuance, said permit shall expire.
- (3) If the work described in any permit has not been substantially completed within two years of the date of permit issuance, said permit shall expire.
- (4) Upon the revocation or expiration of an improvement location permit, no further work may be performed on the subject property until a new permit is obtained.

**814-2. Requirements for Land Use Certificate**

- (A) No land shall be occupied or used and no building or other structure hereinafter erected, reconstructed or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a land use certificate has been issued stating that the structure and/or use comply with all the provisions of this ordinance applicable to the building, structure or premises of the use in the district in which it is to be located.
- (B) No change shall be made in the use of land or in the use of any building, or other structure, or part thereof, now or hereafter erected, reconstructed or structurally altered, without a land use certificate having been issued and no such Certificate shall be issued to make such change unless it is in conformity with the provisions of this chapter.
- (C) A Land Use Certificate will not be issued until all construction and demolition waste has been removed from the project site.
- (D) In situations where a nonconforming use or structure is being discontinued or removed

to establish a new use in compliance with the Zoning Ordinance, the nonconforming structure must be removed or the use discontinued before a Land Use Certificate is issued.

**814-3. Application for Land Use Certificate**

- (A) A person desiring a land use certificate shall submit a written application for such permit with the Administrator. An application for a land use permit shall:
  - (1) be made on the forms available at the office of the Commission and shall be signed by the owner of the subject property; and,
  - (2) be accompanied by the fee established by the Commission.
- (B) If the proposed use is in conformity with the provisions of this ordinance, the land use certificate shall be issued within five (5) days after the application for the same has been made. However, no land use certificate shall be issued in connection with the construction, alteration, enlargement, demolition or moving of a building or structure until such construction, alteration, enlargement, demolition or moving shall have been completed.

**814-4. Temporary Mobile Home Placement and Occupancy**

- (A) The Administrator may authorize the temporary placement and occupancy of a mobile home, as a second main structure on a lot, in any zoning district except Industrial, by issuing a temporary improvement location permit and a temporary land use certificate, upon a determination that the applicant or a member of the applicant's family requires constant attention due to a handicap or infirmity. The applicant shall:
  - (1) obtain Monroe County Board of Health approval for septic system installation or, provide the Administrator with a copy of a sewer hook-up permit from the appropriate authority;
  - (2) provide the Administrator with a licensed physician's certification of the handicap or infirmity specifically corroborating the need for constant attention;
  - (3) certify the notification of interested parties in accordance with the Commission/Board Rules of Procedure and advise the Administrator of the identity of known objectors/remonstrators;
  - (4) demonstrate compliance with all other improvement location permit and land use certificate requirements; and
  - (5) file fees for all permits according to the rate(s) set by the Commission.
- (B) Temporary improvement location permits and temporary land use certificates shall expire twelve (12) months after the date of issuance. The mobile home shall be removed from the premises by the applicant no later than thirty (30) days after the expiration of the temporary permit and certificate. The Administrator may extend the temporary permit and certificate for an additional twelve (12) month period for good



cause shown. Any request for an extension beyond the first extension shall be heard by the Board subject to the filing, notice and hearing requirements for variances.

**814-5. Additional Requirements Applicable to Subdivisions and Planned Unit Developments**

In addition to the requirements prescribed by or incorporated in this Chapter, no improvement location permit or land use certificate shall be issued for the construction, erection, demolition or placement of any building or other structure, or the use or occupancy of any lot, tract, parcel, building or other structure within a subdivision or planned unit development approved under this ordinance or the Subdivision Control Ordinance, until, as appropriate:

- (A) the applicant has provided the Administrator with a certified copy of the current recorded plat, construction plans or development plan;
- (B) all provisions of the ordinance and all conditions of plat or plan approval have been complied with;
- (C) the required utility facilities have been installed and made ready to service the lots, tracts or parcels in question; and
- (D) all streets providing access to the subject lots, tracts or parcels have been constructed or are in the course of construction and are suitable for vehicular traffic.

**[end of chapter]**

## CHAPTER 815

### ZONING ORDINANCE: SITE PLAN REVIEW

#### 815-1. Purpose

The purpose of the site plan review procedure set forth in this chapter is to regulate the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

- (A) The balancing of landowners' 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, storm water run off, 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 ground water; and,
- (D) The protection of natural, environmental, historic, or archaeological features on the site under review and in adjacent areas.

#### 815-2. Site Plan Review Requirement

No permit or certificate for the construction, exterior alteration, relocation, demolition, occupancy, or change in use of any building, structure or parcel shall be given and no existing use shall be established or expanded in floor area except in conformity with a site plan approved by the Administrator. Site plan review shall also be required for the resumption of any use discontinued for more than six (6) consecutive months or for the expansion of any existing use.

#### 815-3. Site Plan Review Process

- (A) Application and Requirement for Site Plan Review
  - (1) An applicant for site plan review under this chapter shall file with the Administrator an application for site plan approval upon forms made available in the Commission's office along with the original and two (2) copies of the site plan.
  - (2) The site plan shall include any of the following elements that are deemed necessary by the Administrator in order to properly evaluate the proposed project in accordance with the provisions of this ordinance, taking into consideration the nature of the project, its magnitude, uses and overall community impact:
    - (a) the name and address of the owner and developer, engineer, surveyor, architect;
    - (b) the location of the project by public way, township and section;

- (c)** the legal description of the subject property;
- (d)** a map including date, scale and North arrow, which shows the location, size, capacity, and use of all buildings and structures existing or to be placed on the subject property;
- (e)** the nature and intensity of the operations involved in, or conducted in connection with the project;
- (f)** the site layout of the project including the location, size, arrangement and capacity of the area to be used for yards, setbacks, and buildings, vehicular access, parking, and loading;
- (g)** the names of public ways giving access to the subject property and the location, width and names of existing platted public ways, railroads, parks, utility easements and other public open spaces associated with the project;
- (h)** the layout of proposed public ways, their names and width, and the width of alleys, walkways, paths, lanes and easements;
- (i)** the location, dimensions and design of all signage for the project;
- (j)** the location, height, intensity, direction of illumination and bulb type (i.e., florescent, sodium incandescent, etc.) of all external lighting fixtures;
- (k)** a landscape plan showing all existing natural land features, trees, forest cover and water sources, and proposed changes to these features including the size and type of plant material;
- (l)** the contours with spot elevations of the finished grade and the directions of storm water runoff;
- (m)** the layouts of proposed lots with their numbers and dimensions;
- (n)** the land use density factors;
- (o)** outside storage and/or product display area if allowed;
- (p)** a subscribed statement of an engineer or architect, licensed by the State of Indiana, certifying that the proposed activity will satisfy the performance standards of Chapter 802 of this ordinance;
- (q)** construction plans, if any;
- (r)** erosion control/grading plan, if any; and,
- (s)** all other permits, certificates and/or approvals required from any State or local agency relative to the use or improvement of the subject property or to the use or installation of public improvements which may serve the subject property (e.g., Indiana Department of Transportation approval of State highway improvements, private sewage disposal system permit from the Monroe County Health

Department, etc.).

- (B) The Administrator shall consider and evaluate such application and associated site plan, and thereupon render a decision in writing, which decision shall consist of either:
  - (1) approval of the site plan based upon the determination that the proposed plan complies with the general, design and performance standards set forth in this ordinance;
  - (2) Disapproval of the site plan based upon the determination that the proposed project does not meet the general, design or performance standards set forth in this ordinance; or
  - (3) Approval of the site plan subject to any conditions, modifications and restrictions as required by the Administrator which will ensure that the project meets the general, design and performance standards set forth in this ordinance.
- (C) Site plans submitted to the Administrator under this chapter shall become a permanent public record.

**815-4.**

**General Standards for Review**

The Administrator shall review the site plan and supporting documents, taking into consideration the following general standards for site plan approval:

- (A) Compatibility with surrounding land uses;
- (B) Availability and coordination of sanitary sewer, water, storm water drainage, and other utilities as deemed appropriate;
- (C) Management of traffic in a manner which creates conditions favorable to the health, safety, convenience and harmonious development of the community, particularly considering each of the following factors:
  - (1) the design and location of proposed street and highway access points and sidewalks to minimize safety hazards and congestion;
  - (2) the capacity of adjacent existing streets and highways to safely and efficiently handle traffic projected to be generated by the proposed development; and,
  - (3) the coordination of entrances, streets, sidewalks and internal traffic circulation facilities in the site plan with existing and planned streets and adjacent developments.
- (D) Compliance with the performance standards set forth in Section 802-5 of this ordinance and any general standards provided in this ordinance.

**[end of chapter]**

## CHAPTER 816

### ZONING ORDINANCE: EROSION CONTROL/GRADING PLAN

816-1

#### Purpose

The purpose of this chapter is to control soil erosion and sediment damages and to ensure compliance with 327 IAC 15-5 (Rule 5) by establishing requirements for storm water discharges and the protection of exposed soil surfaces for construction activities to promote the safety, public health, convenience, and general welfare of the citizens of Monroe County, Indiana.

816-2

#### Applicability and Exemptions

The requirements under this chapter apply to all persons who:

- (A) Propose any land disturbance, except for the following:
1. Development where the land will not be disturbed (e.g., addition of a second story, location of a mobile home on an existing pad, etc.);
  2. Land disturbance activities directly associated with the use of an existing single family and two-family dwelling (e.g., gardening, repairing septic system, etc.);
  3. Land disturbance activities directly associated with the construction of a single family or two-family dwelling, or residential accessory structure, or agricultural structure that is expected to disturb less than one (1) acre;
  4. Agricultural use of lands;
  5. Forest harvesting occurring in areas classified as rural in accordance with I.C. 36-7-4-1103;
  6. Landfills that have been issued a certification of closure under 329 IAC 10;
  7. Municipal landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste boundary;
  8. Projects that are performed by, or on behalf of, the United States, the State of Indiana, or any political subdivision of the State of Indiana, and that are otherwise subject to Federal or State erosion control regulations.
- (B) Propose any preliminary plat, site plan, construction plan, or development plan where total land disturbances are expected to exceed one (1) acre in area;
- (C) Do not obtain an individual NPDES permit under 327IAC 15-2-6;
- (D) Meet the general permit rule applicability requirements under 327 IAC 15-2-3, and
- (E) Propose forest harvesting in areas classified as urban in accordance with I.C. 36-7-4-1103. Such activities shall only be required to submit a plan that details compliance with the Best Management Practices described in "Best Management Practices. Protecting the Woods While Harvesting" –

IDNR, "Logging and Forestry BMP's for Water Quality in Indiana" – IDNR, and any other recognized Best Management Practices adopted by the Indiana Department of Natural Resources.

**816-3**

**Definitions**

In addition to the definitions contained elsewhere in the Monroe County Zoning Ordinance, the following definitions apply to this Chapter:

**Agricultural Conservation Practices.** Practices that are constructed on agricultural land for the purposes of controlling soil erosion and sedimentation. These practices include grass waterways, sediment basins, terraces, and grade stabilization structures.

**Agricultural Land Disturbing Activity.** Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tiles.

**Construction Plan.** A representation of a project site and all activities associated with the project. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A storm water pollution prevention plan is a part of the construction plan.

**Construction Site Access.** A stabilized stone surface at all points of ingress and egress to a project site for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

**Contractor or Subcontractor.** An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

**Department.** The Monroe County Planning Department.

**Erosion and Sediment Control Measure.** A practice or a combination of practices, to control erosion and resulting sedimentation.

**Erosion and Sediment Control System.** The use of appropriate erosion and sediment control measures to minimize sedimentation by first reducing or eliminating erosion at the source and then, as necessary, trapping sediment to prevent it from being discharged from or within a project site.

**Final Stabilization.** The establishment of permanent vegetative cover or the application of a permanent nonerosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current permit.

**Individual Building Lot.** A single parcel of land within a multiparcel development.

**Individual Lot Operator.** A contractor or subcontractor working on an individual lot.

**Individual Lot Owner.** A person who has financial control of construction activities for an individual lot.

**Larger Common Plan of Development or Sale.** A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land will be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

**Measurable Storm Event.** A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

**MS4 Area.** Land comprising one (1) or more places that receive coverage under one (1) NPDES storm water permit regulated by 327 IAC 15-13 or 327 IAC 5-4-6(a)(4) and 327 IAC 5-4-6(a)(5).

**MS4 Operator.** The person responsible for development, implementation, or enforcement of the minimum control measures for a designated MS4 area regulated under 327 IAC 15-13.

**Peak Discharge.** The maximum rate of flow during a storm, usually in reference to a specific design storm event.

**Permanent Stabilization.** The establishment, at a uniform density of seventy percent (70%) across the disturbed area, of vegetative cover or permanent nonerosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

**Phasing of Construction.** Sequential development of smaller portions of a large project site, stabilizing each portion before beginning land disturbance on subsequent portions, to minimize exposure of disturbed land to erosion.

**Project Site.** The entire area on which construction activity is performed.

**Project Site Owner.** The person required to submit the NOI letter under this Chapter and required to comply with the terms of this Chapter, including either a developer or a person who has financial and operational control of the construction activities and project plans and specifications, including the ability to make modifications to those plans and specifications.

**Sedimentation.** The settling and accumulation of unconsolidated sediment carried by storm water run-off.

**Soil and Water Conservation District.** A political subdivision established under IC 14-32.

**Storm Water Pollution Prevention Plan.** A plan developed to minimize the impact of storm water pollutants resulting from construction activities.

**Storm Water Quality Measure.** A practice or a combination of practices, to control or minimize pollutants associated with storm water run-off.

**Strip Development.** A multilot project where building lots front an existing road.

**Temporary Stabilization.** The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover,

anchored mulch, or other nonerosive material applied at a uniform density of seventy percent (70%) across the disturbed area.

**Tracking.** The deposition of soil that is transported from one (1) location to another by tires, tracks of vehicles, or other equipment.

**Trained Individual.** An individual who is trained and experienced in the principles of storm water quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make judgments regarding storm water control or treatment and monitoring.

## 816-4

### **Submittal Requirements**

The following information (A or B and D and E) must be submitted by the project site owner for all projects subject to the provisions of this Chapter:

- (A)** Construction Plans (for all projects other than single-family residential developments consisting of four (4) or fewer lots or a single family residential strip development where the developer offers for sale or lease without land improvements, and the project is not part of a large common plan of development or sale)

For projects requiring compliance with this Chapter, the project owner shall develop a set of construction plans that must include at a minimum the following:

1. Project narrative and supporting documents, including the following:
  - a. An index indicating the location, in the construction plans of all information required by this subsection;
  - b. Description of the nature and purpose of the project;
  - c. Legal description of the project site. The description should be to the nearest quarter section, township, and range, and include the civil township;
  - d. Soil properties, characteristics, limitations, and hazards associated with the project site and the measures that will be integrated into the project to overcome or minimize adverse soil conditions;
  - e. General construction sequence of how the project site will be built, including phases of construction;
  - f. Hydrologic Unit Code (14 Digit) available from the United States Geological Survey (USGS);
  - g. A reduced plat or project site map showing the lot numbers, lot boundaries, and road layout and names. The reduced map must be legible and submitted on a sheet or sheets no larger than eleven (11) inches by seventeen (17) inches for all phases or sections of the project site, and
  - h. Identification of any state or federal water quality permits that are required for construction activities associated with the owner's project site.
2. Vicinity map depicting the project site location in relationship to recognizable local landmarks, towns, and major roads, such as a USGS topographic quadrangle map or county highway map.



3. An existing project site layout that must include the following information:
  - a. Location and name of all wetlands, lakes, and water courses on or adjacent to the project site;
  - b. Location of all existing structures on the project site;
  - c. One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists;
  - d. Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Survey, or an equivalent publication, or as determined by a soil scientist. A soil legend must be included with the soil map;
  - e. Identification and delineation of vegetative cover, such as grass, weeds, brush, and trees, on the project site;
  - f. Land use of all adjacent properties and location of any existing building or structures on land of adjacent owners which are within one-hundred (100) feet of subject property which may be affected by any proposed land disturbing activities, and
  - g. Existing topography at a contour interval (maximum five (5) foot intervals) appropriate to indicate drainage patterns.
  - h. Identification of any historic or prehistoric ruins or monuments, objects of antiquity, geological landmarks or monuments, and any state or federally protected species or habitats.
4. Final project site layout, including the following information:
  - a. One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists;
  - b. Proposed final topography at a contour interval appropriate to indicate drainage patterns, and
  - c. Information (including copies of approved permits) regarding any off-site borrow, stockpile, or disposal areas that are associated with a project site and under the control of the project site owner.
5. A grading plan, including the following information:
  - a. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site;
  - b. Location of all proposed site improvements, including roads (including road elevations), utilities, lot delineation and identification, proposed structures, and common areas;
  - c. Location of all soil stockpiles and borrow areas, and
  - d. Existing and proposed topographic information.
6. A drainage plan prepared in accordance with Chapter 761 "Storm Water Management" of the Monroe County Code.
7. A storm water pollution prevention plan associated with construction activities. The plan shall meet the methods and standards adopted by the Indiana Department of Natural

Resources and/or set forth in the Indiana Construction Site Erosion Control Manual and must include the following:

- a. Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures;
- b. Temporary stabilization plans and sequence of implementation;
- c. Permanent stabilization plans and sequence of implementation;
- d. Temporary and permanent stabilization plans shall include the specifications and application rates for soil amendments and seed mixtures and the type and application rate for anchored mulch;
- e. Construction sequence describing the relationship between implementation of storm water quality measures and stages of construction activities;
- f. Self-monitoring program including plan and procedures;
- g. A description of potential pollutants to storm water discharges, and
- h. Material handling and storage associated with construction activity shall meet the spill prevention and spill response requirements in 327 IAC 2-6-1.

8. The post-construction storm water pollution prevention plan. The plan must include the following information:

- a. A description of potential pollutant sources from the proposed land use, which may reasonably be expected to add a significant amount of pollutants to storm water discharges;
- b. Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality measures;
- c. A description of measures that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed;
- d. A sequence describing when each post-construction storm water quality measure will be installed;
- e. Storm water quality measures that will remove or minimize pollutants from storm water run-off;
- f. Storm water quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat, and
- g. A narrative description of the maintenance guidelines for all post-construction storm water quality measures to facilitate their proper long-term function. This narrative description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction storm water quality measures.

**(B)** Construction Plans (for single-family residential developments consisting of four (4) or fewer lots or a single family residential strip development where the developer offers for sale or lease without land improvements, and the project is not part of a large common plan of development or sale)

1. For projects requiring compliance with this Chapter, the project owner shall develop a set of construction plans that must include at a minimum the following:
  - a. An index indicating the location, in the construction plans, of all required items in this subsection;
  - b. Description of the nature and purpose of the project;
  - c. Legal description of the project site. The description should be to the nearest quarter section, township and range, and include the civil township;
  - d. Soil properties, characteristics, limitations, and hazards associated with the project site and the measures that will be integrated into the project to overcome or minimize adverse soil conditions;
  - e. Hydrologic Unit Code (14 Digit) available from the United States Geological Survey (USGS), and
  - f. Identification of any state or federal permits that are required for construction activities associated with the project site owner's project site.
2. Vicinity map depicting the project site location in relationship to recognizable local landmarks, towns, and major roads, such as a USGS topographic quadrangle map or county or municipal road map.
3. A project site layout that must include the following information:
  - a. Location and name of all wetlands, lakes, and water courses on or adjacent to the project site;
  - b. Location of all existing structures on the project site (if applicable);
  - c. One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists;
  - d. Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Survey, or an equivalent publication, or as determined by a soil scientist. A soil legend must be included with the soil map;
  - e. Identification and delineation of vegetative cover, such as grass, weeds, brush, and trees, on the project site;
  - f. Land use of all adjacent properties and location of any existing building or structures on land of adjacent owners which are within one-hundred (100) feet of subject property which may be affected by any proposed land disturbing activities;
  - g. Existing and proposed topography at a contour interval appropriate to indicate drainage patterns;
  - h. Location of all proposed site improvements, including roads, utilities, lot delineation and identification, and proposed structures.
  - i. Identification of any historic or prehistoric ruins or monuments, objects of antiquity, geological landmarks or monuments, and any state or federally protected species or habitats.
4. A storm water pollution prevention plan associated with the construction activities. The plan shall meet the methods and

standards adopted by the Indiana Department of Natural Resources and/or set forth in the Indiana Construction Site Erosion Control Manual and must include the following:

- a. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site;
- b. Location of all soil stockpiles and borrow areas;
- c. Location, size, and dimensions of all storm water drainage systems, such as culverts, storm sewers, and conveyance channels;
- d. Locations where storm water may be directly discharged into ground water, such as abandoned wells or sinkholes. or note if none exist;
- e. Locations of specific points where storm water discharge will leave the project site;
- f. Name of all receiving waters. If the discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water;
- g. Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures;
- h. Temporary stabilization plans and sequence of implementation of implementation of storm water quality measures;
- i. Temporary and permanent stabilization plans shall include the following:
  - i. Specifications and application rates for soil amendments and seed mixtures.
  - ii. The type and application rate for anchored mulch, and
- j. Self-monitoring program plan and procedures.

**(C)** Upon finding of reasonable cause, the Planning Administrator may require modification to the construction plan if it is determined that changes are necessary due to site conditions or project design changes. Revised plans, if requested, must be submitted to the Planning Department within twenty-one (21) calendar days of a request for modification.

**(D)** Notice of Intent Letter

A NOI letter meeting the provisions of 327 IAC 15-5-5 and 327 IAC 15-5-6 shall be submitted to the Indiana Department of Environmental Management, the Monroe County Soil and Water Conservation District, and the Monroe County Planning Department following written approval of the project's construction plans from the Planning Department.

**(E)** Financial Guaranty of Performance

1. As a condition of approval for the issuance of a permit, the Administrator shall require the Applicant to post a performance guaranty with the County Engineer to ensure that the required improvements are completed and/or dedicated in the manner

prescribed by this Ordinance, unless exempted under the provisions of this Chapter;

2. For grading permits, the performance guaranty shall be in the amount of one hundred and ten percent (110%) of the estimated completion cost of the required erosion and sediment control measures as set forth in the construction plan and storm water pollution prevention plan. For logging harvest permits not otherwise exempted by this Chapter the performance guaranty shall be the aggregate of a fixed amount for each road cut proposed;
3. The period within which the required improvements must be completed ("performance period") shall be specified in the Improvement Agreement, and shall not exceed five (5) years from the date of the permit approval;
4. The Administrator may amend the financial guaranty and the Improvement Agreement to extend the performance period provided the provisions of 816-8 are adhered to and upon a finding that the Applicant has been unable to complete the required improvements despite due diligence;
5. The financial guaranty and the Improvement Agreement shall name the Plan Commission and/or Monroe County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney as to form (See Monroe County Code Section 860-6), sufficiency and manner of execution as set forth in this Ordinance, and
6. The guaranty and Improvement Agreement shall be secured by either an irrevocable letter of credit or a cashier's check in the amount of the guaranty. The beneficiary of such guaranty shall be the Plan Commission and/or Monroe County. The financial guaranty shall be issued by a financial institution (guarantor) that maintains an office within sixty (60) miles of Monroe County, Indiana, at which the financial guaranty may be presented for payment. Letters of credit submitted pursuant to this Chapter shall comply with Monroe County Code Section 860-8. Cashiers checks submitted pursuant to this Chapter shall be held by the County Treasurer until the performance guaranty is released or reduced as provided in this Ordinance.

**(F) General Requirements for Storm Water Quality Control**

All storm water quality measures and erosion and sediment controls necessary to comply with this Chapter must be implemented in accordance with the construction plan and sufficient to satisfy the following:

1. Sediment laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures to minimize sedimentation;
2. Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including

garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations;

3. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site;
4. Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing of the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations;
5. Storm water runoff leaving a project site must be discharged in a manner that is consistent with applicable state or federal law;
6. The project site owner shall post a notice near the entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project filed office. The notice must be maintained in a legible condition and contain a copy of the completed NOI letter, NPDES permit number, and Monroe County Improvement Location Permit, where applicable. The notice shall also contain the name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person, the telephone number of the Monroe County Planning Department and the location of the construction plan if the project site does not have an on-site location to store the plan;
7. The permit and posting of the notice under section (6) does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site;
8. The storm water pollution prevention plan shall serve as a guide for storm water quality, but should not be interpreted to be the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this Chapter, all measures necessary to adequately prevent polluted storm water runoff and to comply with all other county and state statutes and regulations;

9. The project site owner shall inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this Chapter and the conditions and standards of the storm water pollution prevention plan and the schedule for proposed implementation;
10. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas;
11. Appropriate measures shall be planned and installed as part of an erosion and sediment control system;
12. All storm water quality measures must be designed and installed under the guidance of a trained individual;
13. Collected runoff leaving a project site must be either discharged directly into a well defined, stable receiving channel or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner;
14. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet;
15. Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water runoff;
16. Unvegetated areas that are scheduled or likely to be left inactive for fifteen (15) days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with density of less than seventy percent (70%) shall be reestablished using appropriate methods to minimize erosion potential;
17. During the period of construction activities, all storm water quality measures necessary to meet the requirements of this Chapter shall be maintained in working order'
18. Implementation of a self-monitoring program that includes a written evaluation of the project site prepared by a trained individual by the end of the next business day following each measurable storm event and at a minimum of one (1) time per week. The evaluation must address the maintenance of existing storm water quality measures to ensure they are functioning properly and will identify

additional measures necessary to remain in compliance with all applicable statutes and rules. Written evaluation reports must include the name of the individual performing the evaluation, the date of the evaluation, problems identified at the project site, and details of corrective actions recommended and completed. All evaluation reports for the project must be made available to the County within forty-eight (48) hours of a request;

19. Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate the surface or ground water or degrade soil quality;
20. Final stabilization of a project site is considered achieved when all land disturbing activities have been completed and a uniform (for example, even distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) has been established on all unpaved areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed and construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use of disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements identified in this section;
21. Whenever feasible, natural vegetation shall be retained and protected;
22. Water runoff shall be minimized and retained on site whenever possible to facilitate ground water recharge;
23. Natural or constructed slopes in excess of twelve percent (12%) shall not be subjected to development unless the project engineer can demonstrate conclusively to the satisfaction of both the Administrator and the County Engineer that said limitation can be overcome in such a manner as to prevent hazard to life, hazard to property, adverse effects on the safety, use or stability of a public way or drainage channel, and adverse impact on the natural environment;
24. No grading, filling, clearing of vegetation, operation of equipment, or disturbance of the soil shall take place in areas where any historic or prehistoric ruins or monuments, objects of antiquity, or geological landmarks or monuments are present until protection measures are approved and implemented. The Indiana Department of Natural Resources shall approve the protection measures before the plans are approved by the Department. Whenever during excavation there are uncovered or become apparent any such areas not previously accounted for in the construction plans, all work in the immediate area shall cease until the Indiana Department of Natural Resources



determines what precautions should be taken to preserve the historic artifacts, and

25. No land disturbing activities shall take place in areas where a state or federally protected species and/or habitats are present until protection measures are approved and implemented. The Indiana Department of Natural Resources, the U.S. Fish and Wildlife Service, and other applicable state or federal agency shall approve the protection measure before the plans are approved by the Department. Whenever during construction activities there are identified species and/or habitats not previously accounted for in the construction plans, all work in the immediate area shall cease until the appropriate state or federal agency determines what precautions should be taken to protect the species and/or habitat.

816-5

**General Requirements for Individual Building Lots Within a Permitted Project**

- (A) All storm water quality measures, including erosion and sediment control, necessary to comply with this Chapter must be implemented in accordance with the plan and sufficient to satisfy (B) of this Section;
- (B) Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:
  1. The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with the activities on the individual lots;
  2. Installation and maintenance of a stable construction site access;
  3. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance;
  4. Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved;
  5. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the areas with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules;
  6. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with a temporary or permanent surface stabilization, and
  7. For individual residential lots, final stabilization meeting the criteria of this Chapter will be achieved when the

individual lot operator completes final stabilization or has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

816-6

**Project Termination**

- (A) All necessary erosion and sediment control measures installed under this Chapter shall be adequately maintained for one (1) year after completion of the approved plan or until such measures have been stabilized as determined by the Administrator. The Plan Commission, by rule, may require and establish standards for maintenance bonds, or other assurances, to guarantee compliance with the maintenance requirement of this Chapter;
- (B) The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of storm water quality measures that are to remain on the project site;
- (C) The project site owner shall submit a Notice of Termination (NOT) letter to the Commissioner and a copy to both the Monroe County Soil and Water Conservation District and the Monroe County Planning Department with the following:
  - 1. Except as provided in (2) of this Section, the project owner shall submit an NOT letter when the following conditions have been met:
    - a. All land disturbing activities, including construction on all building lots, have been complete and the entire site has been stabilized, and
    - b. All temporary erosion and sediment control measures have been removed.
  - 2. The project site owner may submit a NOT letter to obtain early release from compliance with this rule if the following conditions are met:
    - a. The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous areas not to exceed one (1) acre;
    - b. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individuals lot operators of all undeveloped lots;
    - c. All public and common improvements, including infrastructure, have been complete and permanently stabilizes and have been transferred to the appropriate local entity;

- d. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality, and
- e. All permanent storm water quality measures have been implemented and are operational.

**816-7**

**Inspection and Enforcement**

- (A) The Planning Department or other designated representative may inspect any project site involved in construction activities regulated by this Chapter at reasonable times. The Department or its designated representatives may make recommendations to the project site owner or their representative to install appropriate measures beyond those specified in the storm water pollution prevention plan to achieve compliance;
- (B) All persons engaging in construction activities on a project site shall be responsible for complying with the storm water pollution prevention plan and the provisions of this Chapter;
- (C) The Department shall investigate potential violations of this Chapter to determine which person may be responsible for any violation. The Department shall, if appropriate, consider public records of ownership, building permits, Improvement Location Permits, and other relevant information, which may include site inspections, storm water pollution prevention plans, notices of intent, and other information related to the specific facts and circumstances of the potential violation. Any person causing or contributing to a violation of any provisions of this Chapter shall be subject to enforcement as provided for in this Ordinance and may further be subject to enforcement under IC 13-14-10, IC 13-15-7, and IC 13-30;
- (D) If remaining storm water quality measures are not properly maintained by the person occupying or owning the property, the Department may pursue enforcement against that person for correction of deficiencies, and
- (E) Construction plans and supporting documentation associated with the quality assurance plan must be made available to the Department or its designated representatives within forty-eight (48) hours of such a request.

**816-8**

**Duration of Coverage**

- (A) A permit issued under this Chapter is granted for a period of five (5) years from the date coverage commences;
- (B) Once the five (5) year permit term duration is reached, a general permit issued under this Chapter will be considered expired, and, as necessary for construction activity continuation, a new NOI letter would need to be submitted in accordance with (C) of this Section, and
- (C) To obtain renewal of coverage under this Chapter, the information required under 816-4 must be submitted to the Planning Department

ninety (90) days prior to the termination of coverage under this Chapter; unless the Administrator determines that a later date is acceptable. Coverage under renewal NOI letters will begin on the date of expiration from the previous five (5) year permit term.

(END OF CHAPTER)

## CHAPTER 817

### ZONING ORDINANCE: VIOLATIONS AND ENFORCEMENT

#### 817-1. Violations

- (A) The erection, demolition, conversion, construction, enlargement, moving or maintenance of any structure, or the use of any land, structure or premises, which is contrary to any of the provisions of this ordinance, is hereby declared to be a common nuisance and an unlawful violation of this ordinance.
- (B) The erection, demolition, conversion, construction, enlargement, moving or maintenance of any structure, or the use of any land, structure, or premises, which is contrary to any requirement, condition or commitment imposed or made by the Board, Commission, Administrator or applicant under the provisions of this ordinance, is hereby declared to be a common nuisance and an unlawful violation of this ordinance.
- (C) Any person, whether as principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, acts contrary to any provision of this ordinance or a condition or commitment made thereunder, shall be liable for maintaining a common nuisance and shall be in violation of this ordinance.

#### 817-2. Penalty

Any person who violates this ordinance shall be guilty of a Class C ordinance violation and shall be subject to a civil penalty of not more than three hundred dollars (\$300.00) for each such violation. Each day any such violation is committed or permitted to continue constitutes a separate ordinance violation.

#### 817-3. Enforcement Procedures

- (A) It shall be the duty of the Administrator to enforce the provisions of this ordinance in the manner and form and with the powers provided by this ordinance.
- (B) If the Administrator finds that any provision of this ordinance is being, or has been, violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Administrator's discretion.
- (C) The final written notice (and the initial written notice may be the final notice) shall state what action the administrator intends to take if the violation is not corrected.
- (D) If the violation is not corrected, the Administrator shall seek Board authority to pursue the remedies authorized by this ordinance.
- (E) The above notwithstanding, in cases where delay would seriously threaten the effective enforcement of the ordinance or pose a danger to the public health, safety or welfare, the administrator may seek enforcement without prior written notice or Board authority by invoking any of the remedies authorized by this ordinance.

**Authorized Remedies for Violations**

- (A) Upon a reasonable belief that a person is violating a provision of this ordinance or a condition, requirement or commitment imposed or made thereunder, the Administrator may seek, with the assistance of the Commission Attorney, the following civil remedies:
- (1) a civil penalty for ordinance violation;
  - (2) a temporary restraining order, preliminary injunction or permanent injunction to restrain a person from violating the ordinance or a condition, requirement or commitment imposed or made thereunder; and,
  - (3) a mandatory injunction directing a person to perform a condition, requirement or condition imposed or made under the ordinance or to remove a structure erected in violation of the ordinance.

The foregoing remedies may be sought by any property owner specially damaged by any such violation of the ordinance.

- (B) In the event the Administrator finds that a violation of the terms and provisions of an approval, certificate or permit granted pursuant to these regulations has occurred, the Administrator may use the following administrative remedies:
- (1) suspend and withhold other approvals, certificates and/or permits relevant to the development or use of the site on which the violation has occurred (e.g., if a structure which is subject to a Commission-approved development plan is occupied prior to the issuance of a land use certificate therefore, and such land use certificate cannot be issued because all improvements serving such structure (as shown on the approved development plan, including sewage disposal systems) have not been properly installed or have not become operational, the Administrator shall not issue any additional improvement location permits for structures within the development plan until all previously approved improvements serving such structure are properly installed and operational, and such structure otherwise qualifies for the issuance of a land use certificate); and/or,
  - (2) issue a stop work order and instruct the Building Permit Official to suspend and withhold all building code inspections relevant to the development or use of the site on which the violation has occurred (e.g., if the terms and provisions of an erosion control/grading plan have been violated, the Building Permit Official shall, at the Administrator's request, suspend and withhold all subsequent building code inspections at the site of the violation, until the violation has been corrected, as determined by the Administrator)(The Building Permit Official shall comply with the Administrator's instructions in this regard); and/or,
  - (3) draw on an applicable letter of credit, or other financial guaranty, as necessary to affect any remedial actions required to abate the violation; and/or

- (4) revoke the permits, certificates and/or approvals that have been violated.

The purpose of each of the foregoing administrative remedies is to encourage compliance with the terms and provisions of the approval, certificate and/or permit without having to resort to litigation. If used, the Administrator shall apply the foregoing remedies in a measured and reasonable fashion to achieve their recognized purpose (e.g., withholding or revoking only those permits that relate directly to the violation, such as improvement location permits for the structures that would be primarily served by the unfinished street).

- (C) The administrator may issue ordinance violation notices for violations of the Monroe County Zoning Ordinance. The ordinance violation notices may be processed through the Monroe County Ordinance Violation Bureau procedures specified in the Monroe County Code Section 115-5. If the person to whom the notice is issued does not file an admission with the Ordinance Violation Bureau in a timely manner, the Administrator may address the violation by employing any other enforcement remedies authorized by law and may seek civil penalties in the full amount authorized by Zoning Ordinance Section 817-2.
- (D) The remedies provided for in these regulations shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

**[end of chapter]**

## CHAPTER 818

### ZONING ORDINANCE: PERMIT, CERTIFICATE, AND APPROVAL REVOCATION

#### 818-1. Authority to Revoke

Any permit, certificate or approval issued or granted under this ordinance may be revoked by the Administrator, in accordance with the provisions of this chapter, if the Administrator finds that the recipient of the permit, certificate or approval ("recipient") fails to use, develop or maintain the subject property in accordance with the plans submitted, the requirements and standards of this ordinance, any additional requirements or conditions imposed by the County, Board, Commission or Administrator, or any commitments or self-imposed conditions made by the recipient.

#### 818-2. Effect of Revocation

- (A) No person may continue to improve or make use of the subject property after a permit, certificate or approval has been revoked.
- (B) The County, Board, Commission, or Administrator may not issue any additional permits, certificates or approvals directly affecting or relative to the subject property until the basis for the revocation has been removed by the applicant or the matter otherwise resolved by the County, Board, Commission, Administrator or recipient.

#### 818-3. Revocation Procedure – First Revocation Notice

- (A) If the Administrator finds that sufficient grounds exist for the revocation of a permit, certificate or approval, the Administrator shall send the recipient ten (10) days written notice of intent to revoke, shall inform the recipient of the specific basis found to justify revocation, and shall specify the actions necessary to avoid revocation.
- (B) Within five (5) days of giving notice of intent to revoke, the Administrator shall, upon request, review the basis of the intended revocation with the recipient.
- (C) The recipient shall implement the actions specified by the Administrator within ten (10) days of the date of notice or within such other reasonable time as may be determined by the Administrator.
- (D) If the Administrator revokes a permit, certificate or approval, the Administrator shall send the recipient with a written notice of revocation which specifies the specific basis of the revocation and which informs the recipient of his right to appeal the Administrator's action.

#### 818-4. Revocation Procedure following the First Revocation Notice

- (A) In the event that a subsequent violation of the ordinance occurs and a first attempt of revocation has previously occurred, this procedure may be followed.
- (B) If the Administrator finds that sufficient grounds exist for the revocation of a permit, certificate or approval, the Administrator shall send the recipient written notice of revocation, and shall inform the recipient of the specific basis found to justify revocation. With the notice of revocation, the Administrator shall inform the recipient of their right to appeal the Administrator's action. The revocation becomes effective the date the written notice is issued and the use must cease immediately.



**818-5.**

**Appeal of Revocation**

- (A)** The revocation of any permit, certificate or approval may be appealed to the Board by any person claiming to be adversely affected by the revocation.
- (B)** Every appeal shall be filed within fourteen (14) days from the date of the order, requirement, decision or determination.
- (C)** Notice of hearing on the appeal shall be given ten (10) days prior to the Board's hearing date and may be made a part of the Notice of Hearing by the Administrator.
- (D)** The Board's hearing on the Administrator's action shall be de novo, in the same manner as though the application was originally filed with the Board.
- (E)** The decision of the Board with respect to revocation shall be the final administrative decision on the subject. Any further appeal would be to the courts through writ of certiorari.

**[end of chapter]**

**CHAPTER 819**

**ZONING ORDINANCE: FEES**

**819-1. Fee Requirement and Payment**

- (A) Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees specified by Plan Commission rule and posted in the Plan Commission Office.
- (B) No part of any filing fee shall be returnable to the applicant except by order of the Plan Commission or of a court of competent jurisdiction. All fees shall be payable to the Monroe County Plan Commission, and shall be deposited according to procedures established by the County Auditor.

**819-2. Exemptions from Fee Requirement**

Governmental agencies shall be exempt from paying fees for improvement location permits, land use certificates or any other permit prescribed by these regulations.

**819-3. Waiver of Fee Requirement**

An applicant or petitioner may request a waiver of the fee requirement pursuant to and in accordance with Monroe County Code Section 270-16.

**[end of chapter]**

## CHAPTER 820

### ZONING ORDINANCE: BOARD OF COMMISSIONERS

#### 820-1. General Powers of the Board of Commissioners

The Board of Commissioners may:

- (A) hear and determine petitions for the vacation of public ways or places in accordance with the procedures and limitations set forth and incorporated in IC 36-7-3;
- (B) adopt, amend and repeal the Comprehensive plan in accordance with the procedures and limitations set forth and incorporated in the 500 series of IC 36-7-4;
- (C) adopt, amend and repeal the Zoning Ordinance (text or maps) in accordance with the procedures and limitations set forth and incorporated in the 600 series of IC 36-7-4;
- (D) determine the zoning districts in which the subdivision of land may occur and adopt, amend and repeal an ordinance containing provisions for subdivision control in accordance with the procedures and limitations set forth and incorporated in the 700 series of IC 36-7-4;
- (E) determine whether to allow planned unit developments;
- (F) establish an advisory plan commission in accordance with the procedures and limitations set forth and incorporated in the 200, 300, and 400 series of IC 36-7-4 and remove and replace the citizen members of the Advisory Plan Commission;
- (G) establish an advisory board of zoning appeals in accordance with the procedures and limitations set forth and incorporated in the 900 series of IC 36-7-4 and appoint, remove and replace the citizen members of the Advisory Plan Commission;
- (H) establish a Historical Preservation Board of Review in accordance with the procedures and limitations set forth and incorporated in IC 36-7-4 and IC 36-7-11, and appoint, remove and replace the members of the Board of Review;
- (I) adopt an ordinance imposing an impact fee on new development within the County Jurisdictional Area in accordance with the procedures and limitations set forth and incorporated in the 1300 series of IC 36-7-4;
- (J) establish a joint district planning and zoning commission in accordance with the procedures and limitations set forth and incorporated in IC 36-7-5.1; and
- (K) exercise all powers of boards of commissioners with respect to planning, zoning and land use conferred by or reasonably inferred from all laws relating to planning, zoning and land use.

#### 820-2. General Duty of the Board of Commissioners

The Board of Commissioners shall give consideration to the general policy and pattern of development set out in the Comprehensive Plan in the:

- (A) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;
- (B) authorization, construction, alteration, or abandonment of public ways, public places, public lands, public structures, or public utilities; and
- (C) adoption, amendment, or repeal of zoning ordinances (including zone maps), subdivision control ordinances, historic preservation ordinances, and other land use ordinances.

**[end of chapter]**

## CHAPTER 821

### ZONING ORDINANCE: ADVISORY BOARD OF ZONING APPEALS

#### 821-1. Establishment

The Monroe County Advisory Board of Zoning Appeals is hereby established in accordance with the Advisory Planning law set forth in Indiana Code Chapter 36-7-4.

#### 821-2. Membership

The Board shall consist of five (5) citizen members as follows:

- (A) Three (3) citizen members appointed by the Board of County Commissioners. One (1) of the Board of Commissioners' appointees must be a member of the Plan Commission. The two other appointees may not be members of the Plan Commission.
- (B) One (1) citizen member appointed by the County Council. The County Council appointee may not be a member of the Plan Commission.
- (C) One (1) citizen member appointed by the Plan Commission. The Plan Commission appointee must be a member of the Plan Commission other than the member appointed by the County Commissioners.

Each appointing authority may appoint an alternate citizen member to act during the absence or disability of a regular appointee of the authority.

#### 821-3. Qualifications of Members

The members of the Board may not hold other elective or appointive office in municipal, county, or state government, except as permitted by Section 2 of this chapter. A member must be a resident of the County Planning Jurisdictional Area.

#### 821-4. Terms of Office

- (A) The Board was established by Ordinance 86-19, passed on August 29, 1986, and said Ordinance provided that members be appointed for the following terms: one (1) member for a term of one (1) year; one (1) member for a term of two (2) years; one (1) member for a term of three (3) years; and two (2) members for a term of four (4) years. Board members were appointed to the foregoing terms. All subsequent members shall be appointed for a term of four (4) years which term expires on the first Monday of January of the fourth year after the member's appointment.
- (B) A member may serve until his successor is appointed and qualified. A member may be reappointed.

#### 821-5. Removal of Member

The appointing authority may remove a member from the Board for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at his residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the Monroe Circuit Court.

**821-6. Vacated Membership**

If a vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.

**821-7. Expenses**

If the Board determines that it is necessary or desirable for members to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Board may pay the applicable membership fees and all actual expenses of the members, subject to County Council appropriation of funds.

**821-8. Conflict of Interest**

A member of the Board may not participate in a hearing or decision of the Board concerning a zoning matter in which he has a direct or indirect financial interest. 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.

**821-9. Official Action**

An action of the Board is not official unless it is authorized by a majority of the entire membership of the Board.

**821-10. President and Vice President**

At the first Board meeting of each year, the Board shall elect a president and vice president from its members. The vice president shall act as president during the absence or disability of the president.

**821-11. Secretary**

The Board may appoint a secretary and such employees as are necessary for the discharge of its duties, subject to County Council appropriation.

**821-12. Rules of Procedure**

The Board shall adopt rules concerning the filing of appeals, applications for variances, conditional uses and special exceptions, 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.

**821-13. Meetings and Records**

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, prepare written findings of fact 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 shall be public records to the extent required by IC 5-14-3-1 et seq.

**821-14. Findings of Fact**

All decisions of the Board on all matters within its jurisdiction and authority shall be committed to writing and shall be supported by written specific findings of fact on each material element pertaining to the matter under consideration.

**821-15. General Powers and Duties**

The Board:

- (A) shall hear and determine appeals from and review any order, requirement, decision or determination made by the Plan Director, a staff member or administrative officer, board or committee designated by the Zoning Ordinance, other than the Plan Commission, made in the enforcement of the Zoning Ordinance or the issuance of permits required by the Zoning Ordinance.
- (B) may reverse or affirm, wholly or partially, 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. Reversal or modification must rest upon a finding by the Board that the initial order, requirement, decision or determination was improper as a matter of law or fact.
- (C) shall hear, and approve or deny, special exceptions to the Zoning Ordinance but only in the classes of cases and in accordance with the criteria specified in the Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval.
- (D) shall approve or deny variances of use from the terms of the Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval.
- (E) shall approve or deny variances from the development standards (e.g., height, bulk, area and density) of the Zoning Ordinance but not from said standards as they may apply to subdivisions.

**821-16. Appeal Procedures**

- (A) An appeal filed with the Board must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the Board by rule.
- (B) The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the Board, transmit to the Board all documents, plans, and papers (or certified copies of the same) constituting the record of the action from which an appeal was taken.
- (C) When an appeal from the decision of an official or board has been filed with the Board, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the Board that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by court order.
- (D) The Board shall fix a reasonable time for the hearing of administrative appeals, exception, uses, and variances.
- (E) Public notice in accordance with IC 5-3-1-2 and IC 5-3-1-4 and due notice to interested parties shall be given at least ten (10) days before the date set for the hearing.

- (F) The party taking the appeal, or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties. At the hearing, each party may appear in person, be agent, or by attorney.
- (G) The Board shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.
- (H) The Board staff and other persons may appear before the Board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.
- (I) A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board. Not less than five (5) days before the hearing, however, the staff may file with the Board a written statement setting forth any facts or opinions relating to the matter.
- (J) The Board may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than four (4) days before the hearing, the Board may also require the petitioner to furnish each adverse party with a copy of the petition and a plot plan of the property involved.
- (K) Upon appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken.
- (L) The Board shall make its decision on any matter specified in Section 16 of this chapter at the meeting at which the matter is first presented or at the conclusion of the hearing on the matter if the hearing is continued. Within five (5) days after making any decision, the Board shall file in the office of the Board a copy of its decision.

**821-17.**

**Commitments**

- (A) In the case of a petition for a variance, conditional use or special exception from the terms of the Zoning Ordinance, the Board may permit or require the owner of the affected parcel to make a written commitment concerning the use or development of the affected parcel.
- (B) The Board may adopt rules: governing the creation, form, recording, modification, enforcement, and termination of commitments; and, designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments.
- (C) Commitments shall be recorded in the Monroe County Recorder's Office and shall take effect upon the granting of the exception, use or variance. Unless modified or terminated by the Board, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person had actual notice of the commitment. A commitment may be modified or terminated only by the Board at a public hearing after notice as provided by rule.



- (D) By permitting or requiring commitments, the Board does not become obligated to approve or deny any request.
- (E) Conditions imposed on the granting of an exception, use or variance are not subject to the rules applicable to commitments.
- (F) The rules applicable to commitments do not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

**821-18.**

**Judicial Review**

Each decision of the Board on a matter specified in Section 16 is subject to review by certiorari.

**[end of chapter]**

## CHAPTER 822

### ZONING ORDINANCE: ADVISORY PLAN COMMISSION

#### **822-1. Establishment**

The Monroe County Advisory Plan Commission is hereby established in accordance with the Advisory planning law set forth in IC 36-7-4.

#### **822-2. Membership**

The Plan Commission shall consist of nine (9) members, as follows:

- (A)** One (1) member appointed by the Board of Commissioners from its membership.
- (B)** One (1) member appointed by the County Council from its membership.
- (C)** The County Surveyor or a qualified deputy appointed by the County Surveyor.
- (D)** The County Agricultural Extension Educator.
- (E)** Five (5) citizen members, of whom no more than three (3) may be of the same political party, appointed by the Board of Commissioners.

Each appointing authority may appoint an alternate member to act during the absence or disability of a regular appointee of the authority.

#### **822-3. Qualifications of 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. A citizen member must be a resident of the County Planning Jurisdictional Area.

#### **822-4. Terms of Office**

- (A)** The Plan Commission was established by Ordinance 86-19, passed on August 29, 1986, and said Ordinance provided that citizen members be appointed for the following terms: one (1) member for a term of one (1) year; one (1) member for a term of two (2) years; one (1) member for a term of three (3) years; and two (2) members for a term of four (4) years. Citizen members were appointed to the foregoing terms. All subsequent citizen members shall be appointed for a term of four (4) years which term expires on the first Monday of January of the fourth year after the citizen member's appointment.
- (B)** The term of office of a member appointed from the membership of the Board of Commissioners or from the membership of the County Council shall be coextensive with the appointee's membership on the appointing authority, unless the appointing authority appoints, at its first regular meeting in any year, another to serve as its

representative.

- (C) The term of office of an appointee of the County Surveyor shall be for one (1) year but may not exceed the appointing County Surveyor's term of elected office or the appointee's term of employment as a Deputy County Surveyor.
- (D) A member serves until his successor is appointed and qualified. A member may be reappointed.

**822-5. Removal of Member**

The appointing authority may remove a member from the Plan Commission for cause. The appointing authority must mail notice of the removal along with written reasons for the removal, to the member at his residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the Monroe Circuit Court. The Circuit Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

**822-6. Vacated Membership**

If a vacancy occurs among the Plan Commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. If a vacancy occurs in the office of the County Surveyor, then the County Engineer shall be a member of the Plan Commission during the time the office of the County Surveyor is vacant.

**822-7. Expenses**

If the Plan Commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Plan Commission may pay the applicable membership fees and all actual expenses of the members or employees, subject to County Council appropriation of funds.

**822-8. Conflict of Interest**

A Plan Commission member may not participate as a Plan Commission member in a hearing or decision of the Plan Commission concerning a zoning matter in which the member has a direct or indirect financial interest. The Plan Commission shall enter in its records the fact that its member has such a disqualification and the name of the alternate member, if any, that participates in the hearing or decision in place of the regular member. A Plan Commission member directly or personally represent another person in a hearing before the Plan Commission or Board of Commissioners concerning a zoning matter. A Plan Commission member may not receive mileage or compensation under Section 9 above for attendance at a meeting at which the member is disqualified from participation, during any part of the meeting, for having a direct or indirect financial interest in a zoning matter.

**822-9. Official Action**

An action of the Plan Commission is not official unless it is authorized, at a regular or special meeting, by a majority of the entire Plan Commission membership or by a majority of the Executive Committee pursuant to Section 18 of this chapter.

**822-10. President and Vice President**

At its first regular meeting in each year, the Plan Commission shall elect from its membership a president and a vice president. The vice president may act as president of the Plan Commission during the absence or disability of the president.

**822-11. Secretary**

The Plan Commission may appoint and fix the duties of a secretary, who is not required to be a member of the Plan Commission.

**822-12. Meetings and Records**

- (A) The Plan Commission shall fix the time for holding regular meetings each month or as necessary. Special meetings of the Plan Commission may be called by the president or by two (2) members of the Plan Commission upon written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if: (1) the date, time, and place of a special meeting are fixed in a regular meeting; and, (2) all members of the Plan Commission are present at that regular meeting. All regular and special meetings of the Plan Commission shall be open to the public. The Plan Commission may schedule executive session meetings pursuant to IC 5-14-1.5-1 et seq.
- (B) The Plan Commission shall: keep minutes of its proceedings; keep records of its examinations and other official actions; prepare written findings of fact in support of each of its decisions; and record the vote, disqualification, abstention, or failure to vote of each member upon each question. All Plan Commission minutes and records shall be filed in the office of the Plan Commission and shall be public records to the extent required by IC 5-14-3-1 et seq.

**822-13. Staff and Services**

- (A) The Plan Commission shall prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the Plan Commission, which compensation must conform to the salaries and compensations fixed before that time by the County Council. The Plan Commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the commission is necessary.
- (B) The Plan Commission may contract for special or temporary services and any professional counsel.
- (C) The Plan Commission may designate a hearing examiner or a committee of the Plan Commission to conduct any public hearing required to be held by the Plan Commission. Such a hearing must be held upon the same notice and under the same rules as a hearing before the entire Plan Commission, and the examiner or committee shall report findings of fact and recommendations for decision to the Plan Commission. The Plan Commission shall, by rule, provide reasonable opportunity for interested persons to file exceptions to the findings and recommendations, and if any exception is filed in accordance with those rules, the Plan Commission shall

render its decision without further hearing.

**822-14.**

**General Powers and Duties**

The Plan Commission shall:

- (A) Supervise, and make rules for, the administration of the affairs of the Plan Commission;
- (B) Prescribe uniform rules pertaining to investigations and hearings;
- (C) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission;
- (D) Prepare, publish, and distribute reports, ordinances and other material relating to the activities authorized under this chapter;
- (E) Adopt a seal;
- (F) Certify to all official acts;
- (G) Supervise the fiscal affairs of the Plan Commission;
- (H) Prepare and submit an annual budget in the same manner as other County departments and be limited in all expenditures to the provisions made for the expenditures by the County Council;
- (I) Sue and be sued collectively by its legal name "Monroe County Plan Commission" with service of process on the president of the Plan Commission.
- (J) Make recommendations to the Board of Commissioners concerning:
  - (1) the adoption of the comprehensive plan, ordinance and amendments; and,
  - (2) any other matter, within the jurisdiction of the Plan Commission, authorized by the advisory planning law;
- (K) Render decisions concerning and approve:
  - (1) plats or replats of subdivisions;
  - (2) development plans for residential, commercial, and industrial uses; and,
  - (3) variances to subdivision standards;
- (L) Assign street numbers to lots and structures and renumber lots and structures, and notify the Circuit Court Clerk or Board of Registration, the administrator of the County's enhanced emergency telephone system, and the United States Postal Service of said numbering or renumbering no later than the last day of the month following the month in which the action is taken;
- (M) Name and rename streets, in accordance with the guidelines set forth in Section 21

of this Chapter, and notify the Circuit Court Clerk or Board of Registration, the administrator of the County's enhanced emergency telephone system, and the United States Postal Service of said naming or renaming no later than the last day of the month following the month in which the action is taken; and

- (N) Establish a schedule of reasonable fees to defray the administrative costs connected with: processing and hearing administrative appeals and petitions for rezoning, special exceptions, conditional uses, temporary uses and variances; issuing permits; and, other official actions taken under the Zoning Ordinance.

**822-15. Citizen Committees**

The Plan Commission, by resolution, may establish advisory committees of citizens interested in problems of planning and zoning. In its resolution establishing such a committee, the Plan Commission shall specify the terms of its members, its purposes, and whether the committee is of perpetual or limited duration. Each advisory committee shall:

- (A) study the subject and problems specified by the Plan Commission and recommend to the commission additional problems in need of study;
- (B) advise the Plan Commission concerning how the subject and problems relate particularly to different areas and groups in the community; and
- (C) if invited by the Plan Commission to do so, sit with and participate, without the right to vote, in the deliberations of the commission, when subjects of mutual concern are discussed.

A citizen committee shall report only to the Plan Commission and shall make inquiries and reports only on the subject and problems specified by the Plan Commission's resolution establishing the committee.

**822-16. Executive Committee**

- (A) The Plan Commission may establish an executive committee of not less than three (3) nor more than nine (9) persons appointed by the Plan Commission from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its operation requires a two-thirds (2/3) majority vote of the entire membership of the Plan Commission.
- (B) A majority of the executive committee may act in the name of the Plan Commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the Plan Commission.

**822-17. Gifts and Grants**

The Plan Commission may accept gifts, donations, and grants from private or governmental sources for advisory planning purposes. Any money so accepted shall be deposited with the Monroe County Treasurer, in a special nonreverting Plan Commission fund to be available for expenditures by the Plan Commission for the purposes designated by the source. The Monroe County Auditor shall draw warrants against the special nonreverting fund only on vouchers signed by the president and secretary of the Plan Commission.

**Alternate Procedure**

- (A) The Plan Commission may appoint a hearing officer and may establish an alternate procedure under which the hearing officer may approve or deny variances from the design standards of the Zoning Ordinance, special uses, conditional uses, and special exceptions from the terms of the Zoning Ordinance. With respect to such matters, the hearing officer shall have the power of the Board of Zoning Appeals. The hearing officer may be a Board of Zoning Appeals member, a Plan Commission staff member, or any other person. The Plan Commission may appoint more than one hearing officer. A hearing officer serves at the pleasure of the Plan Commission and may be removed by the Plan Commission at any time, without cause.
- (B) With respect to an alternate procedure, the Plan Commission may adopt rules:
- (1) limiting the kinds of variance, special use, contingent use, conditional use, or special exception petitions that may be filed under the alternate procedure;
  - (2) permitting the hearing officer, in appropriate circumstances, to transfer a petition filed under the alternate procedure to the Board of Zoning Appeals;
  - (3) requiring the creation of minutes and records of the proceedings before the hearing officer and the filing of the minutes and records as public records; and
  - (4) regulating conflicts of interest and communications with the hearing officer, so as to require the same level of conduct required of the Board of Zoning Appeals in the conduct of its business.
- (C) The Plan Commission staff may file a written objection to a petition for a variance, exception, or use if:
- (1) it would be injurious to the public health, safety, morals, and general welfare of the community; or
  - (2) the use or value of the area adjacent to the property included would be affected in a substantially adverse manner.
- (D) If a written objection is filed by the Plan Commission staff, the petition shall:
- (1) be considered withdrawn; or
  - (2) be transferred to the Board of Zoning Appeals if requested by the petitioner.
- (E) The Plan Commission staff may indicate that it does not object to the approval of the petition if specified conditions are attached. If the applicant does not accept these conditions, the petition shall:
- (1) be considered withdrawn; or
  - (2) be transferred to the Board of Zoning Appeals if requested by the petitioner.
- (F) The hearing officer may impose conditions and may permit or require the owner of a

parcel of property to make a written commitment concerning the use or development of that parcel, in the same manner that the Board of Zoning Appeals may impose conditions or require written commitments. If the applicant for the variance, exception, or use does not accept these conditions or make the commitment, the petition shall:

- (1) be considered withdrawn; or
  - (2) be transferred to the Board of Zoning Appeals if requested by the petitioner.
- (G) The hearing officer may not modify or terminate any commitment made to the hearing officer or to the Board of Zoning Appeals.
- (H) A decision of a hearing officer under the alternate procedure may not be a basis for judicial review, but it may be appealed to the Board of Zoning Appeals. An interested person who wishes to appeal a decision of a hearing officer under the alternate procedure must file the appeal with the Board of Zoning Appeals within fourteen (14) days after the decision is made.

**822-19. Review of Zoning Ordinance**

The Plan Commission shall periodically review both the text of the Zoning Ordinance and the Zoning Maps. Such review shall be performed on a regular schedule established by the Plan Commission, but not less frequently than once every two years. Upon review of the text and maps, the Plan Commission shall recommend all appropriate changes to the County Commissioners as proposed amendments to the Zoning Ordinance.

**822-20. Plat Committee**

The Plan Commission may appoint a plat committee to hold hearings on and approve plats and replats, on behalf of the Plan Commission, under the circumstances prescribed in the Subdivision Control Ordinance. The plat committee consists of three (3) or five (5) persons, with at least one (1) of the members being a member of the Plan Commission. Each appointment of a member of the plat committee is for a term of one (1) year, but the Plan Commission may remove a member from the plat committee. The Plan Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise. The plat committee may take action only by a majority vote.

**822-21. Naming and Renaming Streets**

In naming and renaming streets, the Plan Commission shall be guided by the following policies:

- (A) Duplicate street names and names that sound alike shall not be allowed;
- (B) Directional or relative names should not be used (e.g., North Drive, Kirksville Road);
- (C) A continuous street should not change names when the direction of the street changes;



- (D) Predominately north-south streets shall have an "N" prefix if north of the center line and an "S" prefix if south of the center line;
- (E) Predominately east-west streets shall have an "E" prefix if east of the enter line and a "W" prefix if west of the center line;
- (F) The Bloomington Postmaster must be given the opportunity to review and comment on proposed names before their adoption; and
- (G) The Monroe County Highway Engineer and the Monroe County Highway Superintendent must be given the opportunity to review and comment on proposed names before their adoption.

**[end of chapter]**

## CHAPTER 823

### ZONING ORDINANCE: HISTORIC PRESERVATION BOARD OF REVIEW

#### 823-1. Establishment

The County is hereby authorized to appoint members to a Monroe County Historic Preservation Board of Review ("Board of Review"). The Board of Review shall be established by the appointment of its members as herein provided.

#### 823-2. Scope of Authority

The Board of Review shall have all of the powers and duties set forth in Monroe County Code Chapter 810, not inconsistent with IC 36-7-11-1, et seq. In exercising its powers and performing its duties, the Board of Review shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in designated Historic Districts. However, the Board of Review may not consider details of design, interior arrangements, or building features if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in a Historic District obviously incongruous with the Historic District. The Board of Review may not take any action that affects property located outside of the Monroe County planning jurisdictional area.

#### 823-3. Membership; Qualification; Procedures

- (A) The Board of Review shall consist of nine (9) members. Each member shall be appointed by the Monroe County Commissioners and shall serve for a term of three (3) years. The membership shall be staggered so that the terms of three of the members' expire each year. The initial terms of membership may be less than three years as necessary to achieve staggered terms. A membership vacancy shall be filled for the duration of the vacating member's term.
- (B) Candidates for membership on the Board of Review must be interested in the preservation and development of historic sites and areas and must be residents of Monroe County, Indiana. The majority of the members must reside in the County Jurisdictional Area. Membership is open to both professionals and non-professionals in fields related to historic preservation. When possible, at least one person appointed to membership on the Board of Review shall be an architectural historian or other professionally qualified person. Candidates for membership shall be sought who are residents of historic properties, who have restored historic properties, or who are professionals from the disciplines of architecture, history, preservation planning, archaeology, or other historic preservation-related disciplines, such as urban planning, American studies, art history, American civilization, cultural geography, or cultural anthropology. Professionals must meet the minimum qualifications as specified by 36 CFR 61 (Professional Qualification Standards). All members shall serve without compensation except for reasonable expenses incurred in the performance of their duties, subject to the appropriation of funds for that purpose.
- (C) The Board of Review shall elect annually a chairman, a vice chairman. A Planning Department staff member shall be designated to serve as Secretary. The Board or Review shall adopt rules for the transaction of its business which rules shall not be inconsistent with the rules of the Plan Commission and shall not be inconsistent with the provisions of this chapter. The rules shall include the time and place of regular meetings of the Board of Review. All meetings of the Board of Review shall be open

to the public and a public record of the Board of Review's resolutions, proceedings, and actions must be kept by the secretary of the Board of Review. The Board of Review shall hold regular meetings, at least monthly, except when it has no business pending. A decision of the Board of Review is subject to judicial review under IC 36-7-4 as if it were a decision of the Monroe County Board of Zoning Appeals.

**[end of chapter]**

## CHAPTER 824

### ZONING ORDINANCE: PLANNING DEPARTMENT

#### **824-1. Purpose of the Planning Department**

The purpose of the Monroe County Planning Department is to administer and enforce the Zoning Ordinance. The Department consists of the Monroe County Planning Director, the Monroe County Planners, the Monroe County Zoning Inspectors and any other employees deemed necessary by the Plan Commission.

#### **824-2. Duties of Planning Director**

On behalf of the Board of Commissioners, the Board of Zoning Appeals, the Plan Commission and the Board of Review, the Planning Director shall:

- (A)** perform the administrative duties of the department head of the Plan Department, including the supervision of Planning Department personnel and the preparation of Planning Department Budgets;
- (B)** assist the Plan Commission in the preparation and amendment of the Comprehensive Plan by compiling data on land use and development in Monroe County, Indiana, researching planning theories and techniques, conducting forums on local planning issues, and rendering written recommendations to the Plan Commission;
- (C)** administer and enforce the Zoning Ordinance, including the issuance of permits, certificates, notices and orders;
- (D)** keep and maintain careful and comprehensive records of applications and petitions filed, of permits and certificates issued, of inspections made, of reports and recommendations rendered and of notices and orders issued;
- (E)** prepare, keep and maintain the official minutes of all meetings, hearings and proceedings of the Board of Zoning Appeals, the Plan Commission, the Board of Review and the Plan Commission committees and hearing officers;
- (F)** make all records kept by the Planning Department available for public inspection, at reasonable hours, subject to any limitation imposed in accordance with IC 5-14-3, and the Zoning Ordinance;
- (G)** when requested by the Board of Commissioners, investigate any matter concerning or relevant to land use in Monroe County, Indiana, and render a written report to the Board of Commissioners on the same;
- (H)** prepare and submit an annual report of the activities of the Plan Department to the Board of Commissioners, the Board of Zoning Appeals and the Plan Commission; and
- (I)** perform such other duties as may be assigned, from time to time, by the Plan Commission.

**824-3. Duties of the Planners**

On behalf of the Board of Commissioners, the Board of Zoning Appeals, the Plan Commission, the Board of Review and the Planning Director, the Planners shall:

- (A) receive all applications for approvals, recommendations, permits, certificates and appeals and review all such applications for compliance with the Zoning Ordinance;
- (B) receive all petitions for Zoning Ordinance amendment and review all such petitions for compliance with the Comprehensive Plan;
- (C) prepare a report and recommendation on each application or petition received and forward said report and recommendation to the Planning Director;
- (D) provide the public, upon request, with information and materials concerning the Zoning Ordinance and all rules and procedures adopted thereunder, subject to any limitation imposed in accordance with IC 5-14-3, and the Zoning Ordinance; and
- (E) perform such other duties as may be assigned, from time to time, by the Planning Director.

**824-4. Duties of the Zoning Inspectors**

On behalf of the Board of Commissioners, the Board of Zoning Appeals, the Plan Commission, the Board of Review, the Planning Director and the Planners, the Zoning Inspectors shall:

- (A) inspect structures and land uses for compliance with the Zoning Ordinance;
- (B) assist in the review of applications for approvals, recommendations, permits, certificates and appeals;
- (C) assist in the review of petitions for Zoning Ordinance amendment;
- (D) assist the attorney for the Plan Commission in the enforcement of the Zoning Ordinance; and
- (E) perform such other duties as may be assigned, from time to time, by the Planning Director.

**[end of chapter]**

## CHAPTER 825

### ZONING ORDINANCE: ENVIRONMENTAL CONSTRAINTS OVERLAY ZONE

#### 825-1. Purpose

The purpose of the Environmental Constraints Overlay Zone is to:

- (A) Protect and enhance the public health, safety and welfare by
  - (1) Preserving and enhancing the quality of the water supply for residential, industrial and public use;
  - (2) Recommending appropriate regulations for building sites, structures and land uses in the Monroe and Griffey Reservoir watersheds;
  - (3) Improving stormwater management in the watersheds;
  - (4) Preventing pollution, erosion, siltation and the loss of topsoil;
  - (5) Protecting the tax base from impairment due to unwise use of land; and
  - (6) Encouraging watershed mitigation areas.
- (B) Protect and enhance resources as recreational and tourist attractions by
  - (1) Protecting water quality for fish and other aquatic life;
  - (2) Preserving shore cover and the natural beauty of the lakes and streams; and
  - (3) Enhancing and protecting forests, wildlife areas, wetlands, parks and recreational facilities for beneficial water management.

#### 825-2. Development Standards and Administration of the ECO Zone

- (A) Erosion and Drainage Control: in addition to the provisions in Chapter 816 of this Zoning Ordinance and any applicable State and Federal regulations, the following conditions shall apply to development in the ECO Zone:
  - (1) Site plans, subdivision plats, planned unit developments and plans for more than one single family dwelling unit shall be designed by a Professional Engineer registered in the State of Indiana.
  - (2) Construction projects shall minimize disturbance of tree concentrations to the maximum extent reasonable.
  - (3) Streets, parking areas and building pads shall be designed so as to conform closely to existing contours and minimize grading.

- (4)** All development proposals and permit applications shall require an erosion and drainage control plan. The plan shall include measures to minimize erosion during and after construction and shall include measures to intercept any erosion before it leaves a site. Runoff mitigation measures shall include a redundancy against failure during any construction or development activity.
- (5)** All development proposals requiring phasing of the project due to size or other considerations shall also incorporate a binding, recordable commitment or deed restriction for the ongoing maintenance of any stormwater management facilities located on the development site. Such commitment must also include:

  - (a)** Periodic third party inspection and report;
  - (b)** Incorporated Owners Association with financing capability or provisions in the owner's deeds providing for periodic assessments to cover expected stormwater maintenance expenditures;
  - (c)** County authorization to perform necessary maintenance and charge the owners or Owners Association for the work if the owner or Owners Association fails to maintain the stormwater facilities in accordance with good management practices after the County gives written notice and a reasonable opportunity to cure;
  - (d)** County authorization to seek injunctive relief if the owners or Owners Association fail to maintain the stormwater facilities in accordance with good management practices after the County gives written notice and a reasonable opportunity to cure;
  - (e)** Reports by a qualified consultant regarding stormwater detention, soil stabilization, erosion and siltation control, and stormwater runoff quality mitigation. Such reports shall note the presence or absence of hydric soils, karst features, geologic hazard features, existing vegetation, flood prone areas, slopes in excess of twelve (12) percent, perennial and intermittent streams, receiving water bodies for drainage, and the drainage distance to the Fee Take Line. These features shall be marked on a project site map and addressed in the erosion and sediment control and drainage plans.
- (6)** All construction projects in the Lake Monroe and Lake Griffey watersheds which require a grading permit shall be inspected a minimum of every two weeks from ground breaking to stabilization, and within forty-eight (48) hours of any precipitation event exceeding a ten (10) year, 24-hour precipitation event. Inspections shall be carried out by the County erosion control inspectors, but may also be conducted by a licensed Professional Engineer under contract to the developer or construction contractor, subject to the submission of an Erosion Control Report after every inspection.
- (7)** There shall be a pre-construction conference on the site of future development activity for all projects where more than one acre will be disturbed. This conference shall include the developer, contractor, job foreman, County erosion control inspector, and a representative from any other County or public agency as deemed necessary, based on review of

the project plans by planning staff. A public record of the conference will be kept in the file of the project construction permit file for the grading and improvement location permits.

- (8) All construction or development activities which are done in phases shall require stabilization of earth disturbance from each phase prior to the start of the next phase of the development. This requirement shall be enforced regardless of the size of the phase, development, or disturbance area.
- (B) Forestry Activities: forestry activities will be encouraged to employ Best Management Practices described in written form by the Indiana Department of Natural Resources.
- (C) Agriculture Activities, including Livestock Feeding: agricultural and livestock feeding activities should be carried out in conjunction with a soil and water conservation plan prepared in conjunction with the Natural Resources Conservation Service. Any area of the watersheds where land disturbance is prohibited shall also be restricted from any tillage or other earth disturbing activity. Confined livestock feeding operations shall not be permitted in the watersheds. Existing agricultural land uses shall be permitted in accordance with Chapter 803 of this Zoning Ordinance.

**825-3.**

**Specific Restrictions for Sensitive Lands**

- (A) Setback Distance from Lake Bodies: the minimum setback, measured horizontally, from the normal pool elevation shall be 125 feet. The following restrictions shall pertain to this designated area:

  - (1) There shall be no land disturbance of any kind within this setback, including construction, removal of vegetation, agricultural activity, logging operation, or construction of infrastructure.
  - (2) No erosion control or mitigation activities shall be carried out on the lake shore, at the water's edge, or along the Fee Take Line without the appropriate permits obtained from the County or any other required agency.
  - (3) Restoration and mitigation activities intended to reduce erosion and improve water quality on public land shall be carried out only with the permission of appropriate agencies, including the Army Corps of Engineers and the Indiana Department of Natural Resources.
  - (4) The following activities may be permitted:

    - (a) The clearing of brush less than three (3) inches in diameter to create pedestrian access to the Fee Take Line, to be no more than six (6) feet in width, and to be surfaced with permeable material to prevent erosion.
    - (b) The removal of tree branches or tree trunks provided said trees present a clear and immediate danger to property or persons. Tree stumps shall remain in place.
- (B) Setback Distance from Tributaries and Streams: riparian buffer zones, measured from the stream/vegetation interface line, shall be established to a distance of 100 feet from each side of all intermittent and perennial streams as shown on the U.S.



Geological Survey 7½ minute topographic maps. Agricultural uses existing prior to the adoption of this Zoning Ordinance are not required to provide riparian buffer zones if they are legal, pre-existing nonconforming uses (also known as grandfathered uses). Agricultural uses will need to provide riparian buffer zones only when there is a change in use from non-agricultural activities to agricultural uses. The following restrictions shall pertain to land within riparian buffer zones:

- (1)** No earth disturbance, removal of vegetation, logging operation, and agricultural and livestock feeding activities are permitted except for the following:

    - (a)** Installation or construction of infrastructure crossings,
    - (b)** Selective logging operations, as defined in the *Best Management Practices Handbook* from the Forest Practices Working Group of the Indiana Department of Natural Resources, subject to securing a logging permit from the County Planning Department, and
    - (c)** Removal of snags and logjams.
  - (2)** Where infrastructure crossings are necessary, erosion and sediment control plans will be submitted to the reviewing bodies. Such plans shall include:

    - (a)** Specifications for practices to be used in minimizing disturbance;
    - (b)** Methods for revegetation;
    - (c)** Documentation of any sensitive area which may be disturbed.
  - (3)** Removal of tree branches or tree trunks is permitted if said trees present a clear and immediate danger to property and persons. Tree stumps shall be left in place.
- (C)** Floodplains and Floodways: areas designated as flood prone areas, including floodways, floodway fringe areas, and floodplains, are subject to development conditions found in Chapter 808 of this Zoning Ordinance.
- (D)** Steep Slopes: there will be no earth moving or grading, large scale logging operations, or agricultural tilling on slopes designated as nondisturbable areas, and shall be referenced in the Monroe County Soil Survey.
- (E)** Limited Soils: any areas designated by the Monroe County Soil Survey as “Severe” with respect to development or movement activities must be identified and included within the mitigation activities proposals of required erosion and sediment control plans.
- (F)** Sensitive Karst and Other Geological Terrain: in any area in the watershed which contains sinkholes or other karst features where construction or significant earth disturbance is proposed, no construction or earth disturbance shall take place within fifty (50) feet of the outer rim of a sinkhole unless a geological and geophysical survey indicates that such construction or earth disturbance is appropriate. A

twenty-five (25) foot vegetative buffer from the outer rim toward the center of a sinkhole is also required.

- (1) A required geological and geophysical survey shall show the following:
  - (a) The identification of sinkholes, springs and caves on a site plan, drawn to scale;
  - (b) That the proposed earth disturbance or construction would not negatively and materially affect the water quality in the watershed;
  - (c) The structural integrity of any proposed structure with respect to the indicated karst feature(s).
- (2) Construction activity is prohibited in areas designated as the following, according to Special Report 47, "Geology for Environmental Planning in Monroe County, Indiana" (Indiana Department of Natural Resources):
  - (a) Limestone residuum over siltstone bedrock in the Ramp Creek Watershed, and
  - (b) New Providence Shale, the lowest formation in the Borden Group.

**825-4. Overlay Area Regulations**

In addition to the applicable regulations set forth in the Monroe County Zoning Ordinance, the following regulations shall apply to land use within the ECO Zone.

**(A) Area 1 Regulations**

- (1) The maximum land slope upon which any land disturbance involved in construction of buildings, driveways, roads, parking lots, and utilities can occur shall be twelve (12) percent. The percent slope shall be measured as a six (6) foot fall in any fifty (50) foot distance. The design should be suited to the lot to minimize the amount of cut and fill.
- (2) There shall be no disturbance of natural vegetation beyond the twelve (12) percent slope.
- (3) The maximum residential density that shall be allowed shall be one unit per five (5) acres.
- (4) Lots fronting on the lake require a minimum of 300 feet total lake frontage.
- (5) Each dwelling unit shall have at least one acre of total contiguous land which is equal to or less than twelve (12) percent slope.

**(B) Area 2 Regulations**

- (1) The maximum land slope upon which any land disturbance involved in construction of buildings, driveways, roads, parking lots, and utilities can occur shall be fifteen (15) percent. The percent slope shall be measured as

a 7.5 foot fall in any fifty (50) foot distance. The design should be suited to the lot to minimize the amount of cut and fill.

- (2) There shall be no disturbance of natural vegetation beyond the fifteen (15) percent slope line, subject to the requirements of 825-3.
- (3) The maximum residential density that shall be allowed shall be one unit per 2.5 acres.
- (4) Each dwelling unit shall have at least one acre of total contiguous land which is equal to or less than fifteen (15) percent slope.

**(C) Area 3 Regulations**

- (1) The maximum land slope upon which any land disturbance involved in construction of buildings, driveways, roads, parking lots, and utilities can occur shall be eighteen (18) percent. The percent slope shall be measured as a nine (9) foot fall in any fifty (50) foot distance. The design should be suited to the lot to minimize the amount of cut and fill.
- (2) There shall be no disturbance of natural vegetation beyond the eighteen (18) percent slope line, subject to the requirements of 825-3.
- (3) The maximum residential density that shall be allowed shall be one unit per 2.5 acres.
- (4) Each dwelling unit shall have at least one acre of total contiguous land which is equal to or less than eighteen (18) percent slope.

**(D) Area 4 Regulations**

- (1) The area designated on the Environmental Constraints Overlay Zone as Area 4 shall be developed at Area 3 densities unless the following conditions occur or exist:
  - (a) Sanitary sewer systems are installed and operating in the areas designated;
  - (b) Water supply systems are installed and are able to pump water sufficient to meet the needs of increased density; and
  - (c) Roadway level of service will be maintained without significant investment of public resources for corrective measures.
- (2) Provided that criteria in (1) above are met, the following regulations shall apply to development in Area 4:
  - (a) The maximum land slope upon which any land disturbance may occur is eighteen (18) percent. The percent slope shall be measured as a nine (9) foot fall in any fifty (50) foot distance.
  - (b) The maximum residential density that shall be allowed shall be three (3) units per acre where sufficient sanitary sewer capacity exists.

- (c) The maximum residential density that shall be allowed is 1 unit per 2.5 acres for septic sewer systems.
- (d) There shall be no disturbance of natural vegetation beyond the eighteen (18) percent slope and subject to the requirements in 825-3.
- (e) All approvals for density provisions under this section are conditional pending the submission and approval of a mitigation plan for managing problem sites within the Monroe Reservoir watershed, as detailed by the Environmental Constraints Overlay Committee Report, which was adopted by the County Commission on July 5, 1996.

**(E) Detention Basin Location Waiver**

- (1) Detention basins may be located beyond the slope restriction limits specified in this chapter if a waiver is approved by the Monroe County Drainage Board through a majority decision of the voting members present.
- (2) The Drainage Board may approve a waiver under this section only upon a determination in writing that:
  - (a) the amount of land disturbing activity will be reduced by granting the waiver;
  - (b) construction of the detention basin will not occur between October 1 and March 31;
  - (c) an erosion control plan that meets the requirements of Chapter 816 has been submitted for the access road and detention basin;
  - (d) granting the waiver will decrease erosion and increase the stability of the channel downstream; and
  - (e) approving the waiver will not have a significant adverse impact on the purpose of the Environmental Constraints Overlay Zone as described in section 825-1.
- (3) The Drainage Board has the authority to attach any conditions of approval it determines necessary to further the purposes of this chapter.

**825-5. Exceptions**

For existing parcels of record for which there are no sites for the construction of a building, associated driveway and utilities that meet the requirements of this Chapter, the following exceptions shall apply with regard to the construction of a single family residential unit:

- (A) Exception from provisions of Chapter 825-4 (A1). Land disturbances (including disturbance of natural vegetation), involved in the construction of buildings, driveways, parking lots, and utilities, may occur on land slopes of twelve (12%) percent or greater only to the extent necessary to construct the same. The design shall be suited to the lot to minimize the amount of land disturbance.

- (B)** Exception from provisions of Chapter 825-4 (A3). The provisions of 825-4 (A3) shall not apply.
- (C)** Exception from provisions of Chapter 825-4 (A4). The provisions of 825-4 (A4) shall not apply.
- (D)** Exception from provisions of Chapter 825-4 (A5). The provisions of 825-4 (A5) shall not apply.
- (E)** Exception from provisions of Chapter 825-4 (B1). Land disturbances (including disturbance of natural vegetation), involved in the construction of buildings, driveways, parking lots, and utilities, may occur on land slopes of fifteen (15%) percent or greater only to the extent necessary to construct the same. The design shall be suited to the lot to minimize the amount of land disturbance.
- (F)** Exception from provisions of Chapter 825-4 (B3). The provisions of 825-4 (B3) shall not apply.
- (G)** Exception from provisions of Chapter 825-4 (B4). The provisions of 825-4 (B4) shall not apply.
- (H)** Exception from provisions of Chapter 825-4 (C1). Land disturbances (including disturbance of natural vegetation), involved in the construction of buildings, driveways, parking lots, and utilities, may occur on land slopes of eighteen (18%) percent or greater only to the extent necessary to construct the same. The design shall be suited to the lot to minimize the amount of land disturbance.
- (I)** Exception from provisions of Chapter 825-4 (C3). The provisions of 825-4 (C3) shall not apply.
- (J)** Exception from provisions of Chapter 825-4 (C4). The provisions of 825-4 (C4) shall not apply.

All other provisions of Chapter 825 shall apply unless granted a variance or waiver in accordance with the provisions of this Ordinance. If there exists more than one site for the construction of a home, associated driveway and utilities or development of a land use activity other than one single family residence is proposed, development of the site shall be subject to the provisions of Chapter 825 unless otherwise granted a variance or waiver in accordance with the provisions of this Ordinance.

## CHAPTER 826

### ZONING ORDINANCE: CLUSTER SUBDIVISION DESIGN

#### 826-1. Purpose

The purpose of this chapter is to allow developers greater flexibility and variety in the creation of residential subdivisions while preserving significant community and natural resources by allowing developers to cluster the residential units on areas of the project site best suited for development and protecting the remaining land as open space.

#### 826-2. Standards for Design

This chapter acknowledges the right of the property owner to develop land to the gross density indicated on Table 4-1 *Height, Bulk, Area, and Density Requirements for Zoning Districts* in Chapter 804. Residential development may not exceed the gross density of the zoning district except as provided in 826-2 (B). No minimum lot size is required, but all of the other development standards of the residential zoning classification most appropriate to the design density of the cluster subdivision must be met.

##### A Determining Density or Yield

1 Applicants have the option of estimating the legally permitted density on the basis of mathematical percentages and formulas contained in this ordinance, or on the basis of a yield plan. The yield plan is conceptual in nature and not intended to involve significant engineering costs, but it must be realistic and not show potential house sites or streets in areas that would not be legally permitted in a conventional layout.

2 A yield plan consists of conventional lot and street layouts conform to the Subdivision Control Ordinance. A yield plan includes, at minimum, basic topography, location of wetlands, 100-year floodplain, steep slopes, karst areas, and soils subject to slumping, expansion, or erosion as indicated in the Geological Survey for Monroe County prepared by the State of Indiana Department of Natural Resources. The yield plan must be realistic and not show potential house sites or streets in areas that would not be legally permitted in a conventional layout.

3 On sites not served by public sewerage or a centralized private sewage treatment facility, soil suitability for individual septic systems shall be documented in a written certified statement by a soil scientist or Monroe County Health Department sanitarian.

##### B Density Incentives

###### 1 To Encourage the Use of Cluster Subdivisions

A density bonus of 15 percent above the permitted gross density for the zoning district is offered to encourage the use of cluster subdivisions. A minimum bonus of one dwelling unit is guaranteed by this provision.

###### 2 To Endow Maintenance Fund

Monroe County allows a density bonus to generate additional income for the applicant for the express and sole purpose of endowing a permanent fund to offset open space maintenance costs. The amount designated for the Endowment Fund shall be 20 times the amount estimated to be required on a yearly basis to maintain the open space. 75 percent of the net selling price of the density bonus lots shall be donated to the Endowment Fund for the preservation of open space lands within the subdivision. Such estimates shall be prepared by an agency or organization with experience in open space management acceptable to the Plan Commission. This fund shall be transferred by the developer to the designated entity with ownership and maintenance responsibilities (e.g. a homeowners association, a land trust, or the County).

3 To Encourage Public Access

A density bonus is offered for the dedication of land for public use, including trails, active recreation, municipal spray irrigation fields, etc. The density bonus is calculated on the basis of one dwelling unit per five acres of publicly accessible open space. The decision whether to accept an applicant's offer to dedicate open space for public access shall be at the discretion of the County Commissioners with a recommendation provided by the County Parks and Recreation Board, and shall be guided by the recommendations contained in the County's *Comprehensive Plan for Recreation, Parks, and Green Space*, particularly those sections dealing with trail networks and/or recreation facilities.

4 To Encourage Low and Moderate Income Housing

A density increase is permitted where the subdivision proposal provides on-site or off-site housing opportunities for low- or moderate-income (LMI) families. For each LMI housing unit provided under this section, one additional building lot or dwelling unit shall be permitted, up to a maximum 15 percent increase in dwelling units. LMI housing is herein defined as units to be sold or rented to families earning 70 to 120 percent of the county median income, adjusted for family size, as determined by the US Department of Housing and Urban Development.

C Minimum Percentage of Open Space

The minimum percentage of land that shall be designated as permanent open space, and protected through a conservation easement shall be as specified below:

1. The open space shall comprise a minimum of 50 percent of the buildable area of the tract. The buildable area of the tract is calculated by excluding the following:
  - a. Special Flood Hazard Area as specified in Chapter 808;
  - b. Wetlands as specified in Chapter 801;
  - c. Slopes 15% or greater as specified in Chapter 825 Area 2 Regulations;
  - d. Sinkhole Conservancy Areas as specified in Chapter 829;
  - e. Drainage Easements as specified in Chapter 856;
  - f. Riparian Conservancy Areas as specified in Chapter 801;
  - g. Rights-of-way as specified in Chapter 801;

- h. Easements for access and in excess of 250 feet in length and 25 foot in width;
  - i. Pole of a flag lot as specified in Chapter 801; and,
  - j. Setbacks as specified by Ordinance.
2. All undivided open space shall be restricted from further subdivision, except as permitted under Chapter 827, through a permanent conservation easement, in a form acceptable to the County and duly recorded in the County Recorder's Office.
  3. The required open space may be used for underground drainage fields for individual or community septic systems.
  4. Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground pipelines.

#### A Location of Open Space

Two types of land comprise the open space: Primary Conservation Areas and Secondary Conservation Areas. All lands within both Primary and Secondary Conservation Areas are required to be protected by a permanent conservation easement, prohibiting any further development.

1 Primary Conservation Areas. This category consists of the unbuildable land described in 826-2 (C)(1).

2 Secondary Conservation Areas. Land that would otherwise be buildable under local, state, and federal regulations if not for this ordinance's open space requirement.

Secondary Conservation Areas shall include a 50-foot deep greenway buffer along all waterbodies and watercourses, and wetlands soils classified as "very poorly drained" in the County soil survey prepared by the USDA Soil Conservation Service. A recent soil analysis of the site, prepared by a qualified professional, that offers more accurate information may be used instead of the soil survey.

Secondary Conservation Areas shall be guided by the maps and policies contained in the Plan Strategies and Policies section of the Monroe County Comprehensive Land Use Plan, and shall typically include areas with natural, architectural, or cultural significance.

3 General Locational Standards

Undivided open space shall be directly accessible to the largest practicable number of lots within a cluster subdivision. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of farmland, or other resource areas vulnerable to trampling damage or human disturbance). Where the undivided open space is designated as separate, noncontiguous parcels, no parcel shall consist of less than three (3) acres in area nor have a length-to-width ratio in excess of 4:1, except such areas that are specifically designed as village



greens, ballfields, upland buffers to wetlands, waterbodies or watercourses, or trail links.

4 Interconnected Open Space Network

The protected open spaces that would be open to the public are those lands that have been required to be dedicated to public use, never more than 10 percent of a development parcel's gross acreage, and typically configured in a linear fashion as an element of the County's long-range open space network.

D Evaluation Criteria

In evaluating the layout of lots and open space, the following criteria will be considered by the Plan Commission as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. The Plan Commission shall evaluate proposals to determine whether the proposed Plan:

1 Protects and preserves all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the County for essential infrastructure or active or passive recreation amenities).

2 Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.

3 Avoids siting new development on prominent hilltops or ridges by taking advantage of lower topographic features.

4 Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the US Environmental Protection Agency, and/or the Indiana Department of Natural Resources.

5 Designs around and preserves sites of historic, archaeological, or cultural value, and their environs, as needed to safeguard the character of the feature, including but not limited to stone walls, spring houses, barn foundations, cellar holes, earthworks, and burial grounds.

6 Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads.

7 Provides active recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby zone lots.

8 Provides open space that is reasonably contiguous. Fragmentation of open space should be minimized so that resource areas are not divided into numerous small parcels located in various parts of the development, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential open space land on adjacent parcels. Such subdivision open space shall be designed as

part of larger, contiguous and integrated greenway systems per the Plan Strategies and Policies section of the Monroe County Comprehensive Land Use Plan.

826-3. Site Planning Procedures

A Elements of the Cluster Subdivision Process

Plans prepared under the Cluster Subdivision Chapter shall meet the provisions, procedures, and design standards of the Monroe County Subdivision Control Ordinance unless otherwise stated.

1 Pre-Application Conference. A meeting introducing the applicant and site designer(s) to the County's Zoning and Subdivision Control Ordinances and procedures, to discuss the applicant's objectives in relation to the County's official policies and ordinance requirements.

2 Conceptual Plan. As used in this chapter, Conceptual Plan refers to a preliminary sketch plan drawn to scale by a registered land surveyor or registered professional engineer to illustrate a conceptual layout for open space lands, house sites, and street alignments. After receiving the Conceptual Plan, the Planning Staff shall approve it, approve it with conditions, or disapprove it, stating its reasons in writing.

3 Preliminary Plat Submission, in accordance with the procedures and requirements described in the Subdivision Control Ordinance.

4 Final Plat Submission, in accordance with the procedures and requirements described in the Subdivision Control Ordinance.

826-4. Ownership and Maintenance of Open Space

A Ownership Standards

Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the County. The ultimate owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc.

1 Offer of Dedication. The County shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The County may, but shall not be required to, accept undivided open space provided: (1) such land is accessible to the residents of the County; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and (3) the County agrees to and has access to maintain such lands. Where the County accepts dedication of common open space that contains improvements, the County may require the posting of financial security to ensure structural integrity of said improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15 percent of the actual cost of said improvements and installation.

2 Homeowners Association. The undivided open space and associated facilities may be held in common ownership by a homeowners association. The association shall be formed and operated under the following provisions:

a The developer shall provide the Plan Commission a description of the association, including its bylaws and methods for maintaining the open space.

b Membership in the association is automatic and mandatory for all purchasers of homes therein and their successors.

c The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the County on the association.

d The homeowners association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands, but such a lease agreement shall provide:

- (1) that the residents of the development shall at all times have access to the open space lands contained therein, except croplands during the growing season;
- (2) that the undivided open space to be leased shall be maintained for the purposes set forth in this ordinance; and
- (3) that the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the County, at the election of the developer and/or homeowners association, as the case may be.

e Lease agreements so entered upon shall be recorded with the County Recorder within 30 days of their execution and a copy of the recorded lease shall be filed with the County Planning Department.

### 3 Condominiums

The undivided open space and associated facilities may be controlled through the use of a condominium agreement, approved by the County.

### 4 Dedication of Easements

The County may accept easements for public use of any portion or portions of undivided open space land, title of which is to remain in ownership by condominium or homeowners association, provided: (1) such land is accessible to County residents; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and (3) a satisfactory maintenance agreement is reached between the developer, condominium or homeowners association, and the County.

5 Transfer of Easements to a Private Conservation Organization

An owner may transfer easements to a private, nonprofit organization, among whose purpose it is to conserve open space and/or natural resources, provided that:

- a the organization has demonstrated a perpetual existence;
- b the conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
- c a maintenance agreement acceptable to the homeowners association board is entered into by the developer and the organization.

B Maintenance Standards

1 In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the County may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.

2 Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of this ordinance. The County is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the violation(s) within 20 days.

3 Should any bill(s) for maintenance of undivided open space by the County be unpaid by November 1 of each year, a late fee of 15 percent shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

**[end of chapter]**

## CHAPTER 827

### ZONING ORDINANCE: BUSINESS AND INDUSTRIAL OVERLAY DISTRICT

#### 827-1. Purpose

The purpose of the Business and Industrial (BI) Overlay District is to retain the potential for business and industrial development in areas identified on the Comprehensive Land Use Plan as best suited for such uses while permitting limited residential development in cluster subdivisions. The restrictions of the BI Overlay to allow future business and industrial uses are designed to permit the development of the property for the general welfare of the entire community.

#### 827-2. Applicability

The provisions of this ordinance apply to parcels of land within the Agriculture/Rural Reserve district designated with the Business and Industrial Overlay as indicated on the Official Zoning Maps.

#### 827-3. Agricultural Uses within the BI Overlay

The permitted agricultural uses are limited to the following categories: Agricultural Uses-Land Animal Related and Agricultural Uses-Non-Animal Related.

#### 827-4. Business and Industrial Uses within the BI Overlay

The permitted uses are limited to those allowed in the Light Industrial and Heavy Industrial districts. The Agriculture/Rural Reserve designation will remain in place until a developer files a rezone petition for a Light Industrial or Heavy Industrial designation with the preliminary plat of a project. The County will administer the rezone process and make the necessary map changes. The rezone is required prior to final plat approval.

#### 827-5. Residential Uses within the BI Overlay

- A Residential uses acknowledge the right of the property owner to develop the land to the gross density indicated on Table 4-1 *Height, Bulk, Area, and Density Requirements for Zoning Districts* in Chapter 804.
- B Residential development within the BI Overlay must be clustered, not to exceed the gross density of the zoning district. This allows attainment the full residential development potential to be concentrated on a portion of the property while retaining the remaining land as open space. The open space is deed restricted to allow only the agricultural uses specified in 827-3 and the business and industrial uses specified in 827-4.
- C Residential lots created within the BI Overlay shall have a note placed on the deed to the parcel notifying potential buyers of the probability of agricultural, business, and industrial uses on the adjacent lots.

#### 827-6. Standards for Cluster Subdivision Design within the BI Overlay District

A The requirements and process for cluster subdivision design within the BI Overlay are the same as those of Chapter 826 *Cluster Subdivision Design* with the provisions noted below. The parenthetical citations note the section of Chapter 826 to which the provision applies.

1 A maximum residential density of 1 dwelling unit per every 5 acres shall apply to all land in the BI Overlay. The maximum total residential development on a tract shall not exceed twenty (20) percent of the total buildable area of the tract, based on the procedures defined in Chapter 826 of this ordinance.

2 While Primary Conservation Areas shall be protected with a permanent conservation easement, Secondary Conservation Areas designed for future business and industrial development shall be protected with a conditional conservation easement that allows for the agricultural uses specified in 827-3 and the business and industrial uses specified in 827-4 [826-2(C)(2) and 826-2(D)];

3 The active recreation requirement does not apply [826-2(C)(3)].

4 Land well suited for business and industrial uses can be counted toward the Secondary Conservation Area requirements [826-2(D)(2)];

5 Secondary Conservation Areas designed for future business and industrial development shall be buffered from the lots of the cluster subdivision. Pedestrian access between the two areas shall be limited if provided at all. [826-2(D)(3)]; and

6 The Evaluation Criteria focus on whether the project preserves and maintains mature woodlands and creates sufficient buffer areas to minimize conflicts between residential and agricultural, business, and industrial uses [826-2 (E)(2)].

7 House shall be located no closer than 100 feet from Secondary Conservation Areas designed for future business and industrial development [826-3 (B)(6)(b)].

**[end of chapter]**

## CHAPTER 828

### ZONING ORDINANCE: PROPOSALS TO EXTEND SANITARY SEWER SERVICE

#### 828-1. Purpose and Authority

Pursuant to Indiana Code Section 36-7-4-503 the Monroe County Comprehensive Land Use Plan is inclusive of existing sewers and plans and policies for their development and extension within the Comprehensive Land Use Plan. Indiana Code Section 36-7-4-504 required each government entity within the planning jurisdiction to give consideration to the general policy and pattern of development set out in the comprehensive plan in the authorization, acceptance, or construction of sewers and connections. In order to assist the City of Bloomington Utilities in said consideration, and as required by the *Rules, Regulations and Standards of Service for City of Bloomington Utilities*, pursuant to the map which is included in said rules and which shall be adopted by the Plan Commission specifying those areas for which the Plan Commission Review specified in these regulations shall be required. In the areas so designated, the Plan Commission shall review proposals to extend sanitary sewer service, accept wastewater, or allow connection to an interceptor sewer for proposed development, except as modified by Section (karst, steep slopes, wetlands, water resources).

#### 828-2. Criteria

The Commission shall consider the following criteria:

- (A) The Comprehensive Plan's recommended land use and development policy for the area;
- (B) The Comprehensive Plan's recommended policy with respect to the provision of sanitary sewer service to the area, and the relation of such service to 815-1 above;
- (C) The effect of the proposed sanitary sewer service or acceptance of flow on development patterns and the consistency of this effect with the Comprehensive Plan's land use and development policy.

#### 828-3. Additional Factors

The Plan Commission may recommend approval of a proposed expansion of sanitary sewer service if it finds the following conditions are present:

- (A) Conformance of proposed development to be served by sewer extension or acceptance of flow with existing zoning;
- (B) The extent to which zoning decisions or development approvals specific to site have superseded the land use and development policy of the Comprehensive Plan;
- (C) The extent to which the proposed sewer extension or acceptance of flow serves existing development as opposed to facilitating or enabling new development.

#### 828-4. Findings

The Commission shall make explicit findings on each criterion listed above. If the

Commission determines that the proposed sewer extension or acceptance of flow is consistent with the Comprehensive Plan, the Planning Department will forward a Finding of Appropriateness for Sewer Service Extension to the Bloomington Utilities Director.

**[end of chapter]**



## CHAPTER 829

### ZONING ORDINANCE: KARST AND SINKHOLE DEVELOPMENT STANDARDS

#### **829-1. Purpose and Intent**

The purpose of this chapter is to establish review procedures, use limitations, design standards and performance standards applicable to site developments that encompass or affect sinkholes or other karst features. The intent of this chapter is to protect the public health, safety and welfare by requiring the development and use of environmentally constrained areas to proceed in a manner that promotes safe and appropriate storm water management and ground water quality.

#### **829-2. Policy**

Unless expressly stated otherwise or contrary to context, the provisions of this chapter shall be interpreted and applied in accordance with the following policies:

- (A) Development in areas that encompass or affect sinkholes or other karst features (i.e., in “sinkhole areas”) is prohibited unless expressly permitted by this chapter or until it is demonstrated that the development would have no significant detrimental impact on storm water management or ground water quality.
- (B) Potential impacts on storm water management and ground water quality must be identified, assessed and addressed through written studies at the earliest stages of the development approval process (e.g., during the preliminary plat, development plan or site plan approval stages).
- (C) The extent and sophistication of any required study should directly reflect the nature and complexity of the proposed development and of the development site (e.g., the more complex the karst features, the more extensive and sophisticated the study).
- (D) All applicable Federal, State and Local permits shall be obtained prior to construction.

#### **829-3. Development Requirements**

- (A) This chapter shall apply to all public, private and institutional land disturbing activities, with the following exception:
  - (1) Logging, mineral extraction, and agricultural uses.
    - (a) Accessory structures and roadways used for mineral extraction uses shall comply with the Ordinance if there is an anticipated impact on any adjacent property;

- (b) Accessory structures and roadways used for logging and agricultural uses shall comply with the Ordinance; and,
  - (c) The above notwithstanding, the filling or plugging of a sinkhole with any material (e.g. earthen, manmade, animal or vegetable) in a way that adversely affects stormwater management or groundwater quality is prohibited.
- (B) Any report, study, plan, calculation or proposal required by this chapter shall be provided by the petitioner at the petitioner's cost.
- (C) Sinkhole conservancy areas (SCA) shall be established to the following minimum standards in all sinkhole areas subject to the sinkhole evaluation requirement of Section 829-4:
  - (1) For sinkholes less than or equal to one quarter (0.25) acre in area, the SCA shall, at a minimum, encompass the entire sinkhole and all of the area within twenty-five (25) feet of the sinkhole rim.
  - (2) For all sinkholes greater than one quarter (0.25) acre in size, the SCA shall, at a minimum, encompass all of the area within fifty (50) feet of the post-development sinkhole flooding area as determined in 829-6 or all of the area within twenty-five (25) feet of the sinkhole rim, whichever is less.
  - (3) For compound sinkholes, the SCA shall be established in accordance with parts (1) and (2) above for each component sinkhole and for the compound sinkhole. For example, if the compound sinkhole is greater than one quarter (0.25) acre in area, the SCA shall comply with part (2). The SCA for sinkholes that are less than one quarter (0.25) acre in area and that are within the compound sinkhole must comply with part (1). It is possible that areas within the rim of a compound sinkhole will not be subject to a SCA.

If a SCA is required to be established on a parcel that was not, or will not be created by recorded plat, a legal description of the SCA shall be included on the recorded deed of the parcel.

- (D) Setbacks and Use Restrictions. The following setbacks and use restrictions are established.
  - (1) No new construction of any of the following shall be permitted within the SCA:
    - (a) Commercial or industrial structures;
    - (b) Private drives, streets, and highways unless the County Highway Engineer and Drainage Engineer conclude that traffic safety

considerations outweigh stormwater and water quality considerations;

- (c) Storage yards or parking lots for materials, vehicles and equipment;
  - (d) Residential structures and accessory structures;
  - (e) Public, semi-public and office facilities;
  - (f) Swimming pools and other amusement and recreational services unless expressly permitted; and/or
  - (g) Stormwater detention features that have not been approved by the drainage board.
- (2) Construction of the following shall not be permitted within twenty-five (25) feet of the sinkhole rim regardless of size of sinkhole:
- (a) structures for storage of hazardous material(s); and/or
  - (b) any structure associated with a use allowed in Light Industrial (LI) or Heavy Industrial (HI) zones.
- (3) Residential, commercial, and industrial structures and public, semi-public and office facilities shall not be constructed within the sinkhole rim unless the lowest floor elevation is a minimum of five (5) feet above the sinkhole flooding elevation, or one (1) foot above the lowest elevation on the sinkhole rim, whichever is less, and provided that a statement of a registered professional engineer or geologist is submitted to the Administrator (see definitions Chapter 801) indicating that foundation conditions are suitable for such structures.
- (4) Individual Wastewater Systems
- (a) Septic tanks shall not be located within the SCA.
  - (b) Septic Disposal Fields or wastewater stabilization ponds (lagoons) shall not be located within twenty-five (25) feet of the SCA.
- (5) Pesticides and fertilizers may be used in sinkhole areas only in accordance with the rules and regulations of the State of Indiana Pesticide Review Board and with industry standards.
- (6) Operation of heavy construction equipment is prohibited in the SCA unless:

- (a) it is demonstrated to the Administrator that the operation of such equipment is necessary to prevent clear and imminent danger to persons and property;
  - (b) the operation of such equipment is necessary to implement a drainage and/or erosion control plan approved by the Drainage Board; and/or
  - (c) if the operation of such equipment is required for the removal of material from a previously filled sinkhole.
- (7) Underground utility lines, equipment and facilities shall be installed in a manner that does not disturb a sinkhole eye or disrupt the natural pattern of storm runoff into the sinkhole. Sanitary sewer lines installed within a SCA shall be water grade pipe.
  - (8) Recreational facilities such as unpaved hiking, jogging, and bicycling trails, playgrounds, and exercise courses, are permitted within the SCA.
  - (9) Golf courses and grass playing fields are permitted within the SCA subject to approval of a Management Plan for use of pesticides and fertilizers by the Administrator.
  - (10) Clearing and pruning of trees as well as understory, and limited grubbing of roots is permitted within the SCA provided that equivalent or improved protective living vegetative ground cover is maintained.
  - (11) Landscaping and minor gardening is permitted in the SCA provided erosion and sediment discharge is limited through use of minimum tillage and mulches. Normal yard and landscaping maintenance is permitted.
  - (12) Construction of light incidental landscaping and recreational structures (such as gazebos, playground equipment, etc.), is permitted in the SCA but not within the sinkhole eye. Such structures may not be placed within a SCA on excavated foundations or concrete pads but may be placed on small concrete post-hole foundations.

The above notwithstanding, no land disturbing activity may occur within a SCA if that development, construction or use is determined by the Administrator to violate the intent of this chapter.

- (E) Newly formed or pre-existing sinkholes that become active in a way that causes an immediate threat to nearby structures, roadways, persons, and/or property may be stabilized and filled provided existing drainage patterns are not changed. This subsection authorizes conditional, emergency action to remediate a hazardous condition. However, within thirty (30) days of the action, the person responsible for taking the action shall submit a report to the Administrator detailing the actions used to stabilize and/or fill the sinkhole. The report shall be reviewed by

the County Drainage Engineer and County Surveyor to determine whether existing drainage patterns were changed by the action. If the Engineer and Surveyor find that existing drainage patterns were changed, the person responsible for the action shall promptly take all measures necessary to restore the drainage patterns and to otherwise comply with this Chapter.

(F) Stormwater Detention in Sinkholes. The Administrator, upon the Drainage Board's recommendation, may waive detention requirements to allow increased runoff into sinkholes and may authorize excavation within a sinkhole flooding area in order to provide additional water detention storage, upon finding that:

- (1) the flooding concerns expressed through Section 829-6 will be satisfactorily addressed;
- (2) there are no other areas on the site suitable for detention; and
- (3) there will be no significant impact on the karst system or upon water quality.

In cases where concentrated runoff is directed to sinkholes, temporary and permanent erosion control measures, as detailed in a plan approved by the Administrator shall be implemented to prevent channel erosion.

(G) Modification of Sinkholes to Increase Outflow Rates. Increasing outflow rates of sinkholes by excavating the sinkhole eye or installing disposal wells for diverting surface runoff to the groundwater system is prohibited, unless:

- (1) it is demonstrated to the satisfaction of the Administrator and/or the Drainage Engineer that such an action is necessary to safeguard persons or property from clear and imminent danger; or
- (2) such an action is required to implement a drainage and/or erosion control plan that was approved by the Administrator.

(H) Altered Sinkholes. Filling or altering of sinkholes without an improvement location permit constitutes a zoning violation. In the event, corrective measures must be taken. No corrective or remedial measures shall be undertaken until a remediation plan has been approved by all relevant County entities or representatives and the Administrator has issued an improvement location permit for the plan. No building permits will be issued, or zoning or subdivision approvals granted until the remedial measures specified in the improvement location permit have been completed and approved.

(I) Airport Evaluation. With respect to all land owned, used and/or held by the Monroe County Board of Aviation Commissioners (BAC) for airport purposes, a Section 829-4 sinkhole evaluation (Airport Evaluation) may be made for the entire property (Airport Property). If made for the entire Airport Property, the Airport Evaluation shall be submitted to the Administrator, the Monroe County Drainage Board and the Monroe County Plan Commission for their review.

Upon a finding of compliance with this chapter and with other relevant County Code chapters, the foregoing entities shall approve the Airport Evaluation.

- (1) All future development, construction and land disturbing activities (Development Activities) at the Airport Property shall be:
  - (a) Consistent with the approved Airport Evaluation;
  - (b) Remedial actions suggested by the Airport Evaluation and required as a part of the Airport Evaluation approval may be implemented at one time or may be implemented in phases in conjunction with future Development Activities; and,
  - (c) For each proposed Development Activity, BAC shall seek site plan approval and, in connection with that process, shall submit for review and approval that portion of the Airport Evaluation relevant to the proposed Development Activities.
- (2) The original Airport Evaluation shall remain in full force and effect for a period of five (5) years from the date it is approved by the County Planning Commission. During that period of time, Development Activities at the Airport Property are subject to the approved terms and provisions of the Airport Evaluation and to the zoning and drainage regulations in effect on the date the Airport Evaluation was approved.
- (3) The Airport Evaluation shall be re-evaluated after a five (5) year period.
  - (a) The BAC may apply for additional five (5) year extensions without limitation;
  - (b) Each request for a re-evaluation of the Airport Evaluation shall be reviewed by the Administrator and may be approved administratively, subject to compliance with current law; and,
  - (c) If the Administrator finds that further extension of the Airport Evaluation is not possible under the Federal, State or County Code regulations in effect at the time of review, the BAC shall be promptly notified and shall be given a period of one (1) year beyond the expiration of the current five (5) year period to bring the Airport Evaluation into compliance with the relevant regulations.
- (4) The Airport Evaluation shall be consistent with the Federal and State authorities with respect to Airport Property development requirements.
  - (a) Federal and State standards and requirements will supersede local standards in the event of a conflict or discrepancy; and

- (b) In the event that Federal and/or State standards change during the period Airport Evaluation approval, activities may continue in accordance with such changes until the end of the period for which the Airport Evaluation was approved.

**829-4. Sinkhole Evaluation and Plan Requirements**

A Sinkhole Evaluation shall be performed for each site subject to this chapter (i.e., sites upon which sinkholes are fully or partially located and/or which drain to sinkholes). A Sinkhole Evaluation shall include the information set forth in subsections A through F of this section.

The following types of developments or sites may be excepted from full compliance with the Sinkhole Evaluation requirements upon the petitioner's request and a finding by the Administrator that significant drainage or water quality impacts will not result from the development or the use of the site:

- (1) administrative and minor subdivisions;
- (2) lots created greater than 10 acres for agricultural and residential uses; and
- (3) existing lots of record for which single-family residential use is proposed.

The above notwithstanding, neither the Administrator nor the Drainage Board may except a development or a site from subsection 829-4 (E). The burden of proof for establishing that there will be no significant impacts shall rest with the petitioner.

(A) A plat or site plan for the proposed subdivision or development, setting forth the following information for each of the enumerated items:

- (1) Sinkholes
  - (a) Location and limits of the area of the sinkhole depression as determined by field surveys or other reliable sources as may be approved by the Administrator. Location of sinkholes based solely upon USGS 7 ½ Minute Series Quadrangle Maps will not be considered sufficient unless field verified by a registered Indiana Surveyor, Engineer, or geologist.
  - (b) Location and elevation of the sinkhole eye or low point.
  - (c) Topographic contours at maximum intervals of two (2) feet, and spot elevations sufficient to determine the low point on the sinkhole rim and the profile of the potential overflow areas.
  - (d) Minimum floor elevations of any existing structures located within the sinkhole rim.

drainage

- (e) Elevation of any public or private roadway or drive located within or adjacent to the sinkhole.
- (2) Flooding limits as determined in Section 829-6.
- (3) Water considerations specified in Section 829-7, including, without limitation:
  - (a) The approximate location of public or private water supply sources such as springs or wells within 500 feet of the site.
  - (b) Boundaries of any known recharge areas to wells or springs.
- (4) Other geologic features: location of caves, springs, faults and fracture trends, geologic mapping units.
- (5) Proposed discharge points: the location, type and size of all points at which concentrated discharges of stormwater into the sinkhole are proposed. The drainage area to each point of concentrated discharge shall be delineated on the plan and the size of the area noted.
- (6) Existing watercourses which drain into the sinkhole.
- (7) All other information required to demonstrate or assess compliance with this chapter, as specified by the Administrator.
- (8) The location of the foregoing items with respect to the location of the proposed or existing roads, detention ponds, significant landscaping features, property lines, underground utilities, and other structures.
- (B) A drainage area map showing the sinkhole watershed area, and where the site is located in a sinkhole cluster area. This map shall be extended to include, in the watershed area, any sinkholes located downstream of the site which may receive overflow drainage from the site.
- (C) Proposed SCA in accordance with Chapter 829-3 (C).
- (D) An analysis of the orientation and flow of the sinkhole drainage system, as detailed on the subsection (B) map. The use of dye trace injection testing to produce an accurate mapping of the system may be required by the Administrator when the system drains towards an area that has known flooding problems and for which the flow pattern has not been established through previous dye testing, and when significant increases or decreases in the runoff to sinkholes is expected to result from the proposed development. Significant increases generally occur if the residential density is greater than one lot per two acres (or a commercial development with equivalent impervious surfaces).



- (E) The approximate location of karst features must be shown on the final plat based on the best available mapping and/or noted on the deeds if no plat is recorded for the subdivision.
- (F) All other information deemed necessary by the Administrator.

**829-5. Permit Requirement**

No person or persons shall engage in the grading of land or modification of a sinkhole within the SCA or the area that would be covered by a SCA as described in 829-3 (C) without first securing an improvement location permit from the Administrator .

- (A) The owner of the property or person having an interest therein shall submit an application for a permit to the Administrator along with the sinkhole evaluation required by 829-4. The Administrator shall submit all applications to the County Drainage Engineer for review and comment and may, upon the Drainage Engineer's recommendation, submit an application to the Drainage Board for review and comment.
- (B) Upon review of the information presented by the applicant, the site, and other information as may be available, the Administrator may issue a permit for work to be performed in the SCA.
  - (1) All work shall be performed in accordance with the requirements of the Zoning Ordinance and any conditions of permit approval; and,
  - (2) The Administrator may designate certain areas where grading or construction equipment is not permitted or is otherwise limited.
- (C) Karst-Related Non-Buildable Areas. In addition to establishing a plan for grading and use of construction equipment, the Administrator may, based upon the topography, geology, soils, history of the sinkhole (such as past filling) and the developer's engineer's storm water analysis and plan, establish sinkhole-related non-buildable areas:
  - (1) No buildings, parking areas, grading or other structures shall be permitted within the sinkhole-related non-buildable area unless otherwise authorized by the Administrator; and
  - (2) No private drives, streets, and highways shall be permitted within the sinkhole-related non-buildable area unless the County Highway Engineer and Drainage Engineer conclude that traffic safety considerations outweigh stormwater and water quality considerations.

**829-6. Flooding Considerations**

- (A) Sinkhole Flooding Area. Except in cases in which the annual exceedance probability (AEP) of 1% (100 year storm) has been determined in a published

flood insurance study, the sinkhole flooding area shall be determined for each sinkhole for both pre-development and post-development conditions, assuming no subsurface outflow from the sinkhole.

Where the estimated volume of runoff exceeds the volume of the sinkhole depression, the depth, spread and path of overflow shall be estimated using methods established by the Drainage Board and shown on the plan.

The overflow volume shall be included in determining the maximum estimated flooding elevations in the next downstream sinkhole. This analysis shall continue downstream until the lowest sinkhole of the sinkhole cluster is reached or overflow reaches a surface watercourse.

The volume of runoff considered shall be that which results from a rainstorm with a 1% AEP and a duration of forty-eight (48) hours. The runoff volume shall be determined by the method set forth in the Natural Resource Conservation Service's TR-55 Manual.

No further flooding analysis will be required provided that:

- (1) The post-development flooding area of any sinkhole which receives drainage from the site is located entirely on the site.
  - (2) A drainage easement covering the post-development flooding area is provided for any off-site sinkhole or portion of a sinkhole which receives increased peak rates of runoff from the site. If the receiving sinkhole is not contiguous to the site, an easement must also be provided for the waterway which connects the site to the sinkhole.
  - (3) The minimum floor elevation of any existing structure is at least two (2) feet higher than the estimated flooding elevation from the 1% AEP 48-hour storm.
  - (4) The increase in volume of runoff from the site does not cause the flooding depth on any existing public road to exceed the maximum depth as determined by the Drainage Board.
- (B) Detailed Flooding Analysis. In cases where the conditions set forth in (A) above cannot be met, a detailed flooding analysis will be required if any increase in runoff volume is proposed or expected. As part of the detailed flooding analysis, a runoff model must be made and a reservoir routing analysis performed for the sinkhole watershed using hydrograph techniques as established by the Drainage Board.
- (C) The following alternative methods may be proposed and approved, singly or in combination, to keep flooding levels at pre-development levels:

- (1) Diversion of Excess Runoff to Surface Watercourses. Where feasible, increased post-development runoff may be diverted to a surface watercourse, provided that
  - (a) Any increase in peak runoff rate in the receiving watercourse does not create or worsen existing flooding problems downstream; and
  - (b) The diverted storm water remains in the same surface watershed.

Storm sewers, open channels and other appurtenances provided for diversions shall be designed in accordance with applicable sections of these Design Criteria.

The effect of diverted water on downstream watercourses and developments, and requirements for additional detention facilities prior to release of runoff to the surface watercourse shall be determined as established by the Drainage Board.

- (2) Storage of Excess Runoff within the Sinkhole Watershed. If consistent with the intent of this chapter, detention facilities may be constructed within the sinkhole watershed or the area of the sinkhole outside of the sinkhole flooding area as determined for post-development conditions.
- (D) The flooding considerations set forth in this section are designed and are intended to ensure that:
- (1) Inflow rates to the sinkhole are maintained at or below pre-development values; and
  - (2) Sediment and erosion control and water quality considerations set forth in this chapter can be satisfied.

#### **829-7. Water Quality Considerations**

Because sinkholes provide direct recharge routes to groundwater, water quality in wells, caves, and springs may be affected by discharge of runoff from developed sinkhole areas. Consequently, and as more fully specified in subsections A through D below, the Sinkhole Evaluation must address potential impacts of proposed development on receiving groundwaters and must propose water quality management measures to mitigate such impacts.

- (A) Receiving Groundwater Use. The Sinkhole Evaluation Report shall identify whether the site lies within a critical area or a sensitive area based upon the following classifications.
  - (1) Critical Areas. The following areas are classified as critically sensitive to contamination from runoff and thus, are critical areas for purposes of this chapter:

- (a) Areas within 100 feet of private water supply wells.
- (b) Areas within 300 feet of public water supply wells.
- (c) Areas within 500 feet of springs used for public or private water supply.
- (d) Areas within 1000 feet of caves providing habitat to rare or endangered species.

The distances listed above may be extended by the Administrator where the recharge areas for a well, spring, or cave have been determined by studies by a qualified engineer or geologist. The length of the extension may be no greater than necessary to achieve the policies of this chapter.

- (2) Sensitive Areas. Sinkhole areas that are not within critical areas are classified as sensitive for groundwater contamination for purposes of this chapter.
- (B) Groundwater Contamination Hazard. The relative potential for groundwater contamination shall be classified as low, moderate, or high depending upon the nature of the proposed land use, development density and amount of directly connected impervious area. The Sinkhole Evaluation shall identify whether the proposed development poses a low, moderate, or high hazard to groundwater uses, as defined below:
- (1) Low Hazard. The following land uses are classified as posing a relatively low hazard to groundwater contamination:
    - (a) Residential developments on sewer, provided directly connected impervious areas discharging to the sinkhole are less than or equal to one (1) acre in total area;
    - (b) Parks and recreation areas;
    - (c) Low density commercial and office developments, provided directly connected impervious areas discharging to the sinkhole are less than or equal to one (1) acre in total area; and
    - (d) Discharge from graded areas less than or equal to one (1) acre.
  - (2) Moderate Hazard. The following land uses are classified as posing a relatively moderate hazard to groundwater contamination:
    - (a) Concentrated discharge from streets, parking lots, roofs, and other directly connected impervious areas having an area greater than one (1) acre and less than or equal to five (5) acres;

- (b) Multifamily residential developments and higher intensity office developments, provided the directly connected impervious areas discharging to the sinkhole are less than or equal to five (5) acres; and
  - (c) Discharge from graded areas greater than one (1) acre and less than or equal to five (5) acres.
- (3) High Hazard. The following land uses are classified as posing a high hazard to groundwater contamination:
  - (a) Collector and arterial streets and highways;
  - (b) Railroads;
  - (c) Concentrated discharge from streets, parking lots, roofs, and other directly connected impervious areas having an area greater than five (5) acres;
  - (d) Commercial, industrial, and manufacturing areas;
  - (e) Individual wastewater treatment systems;
  - (f) Commercial feed lots or poultry operations; and
  - (g) Discharge from graded areas greater than five (5) acres.
- (C) Water Quality Management Measures. The majority of sinkholes drain a limited watershed area. For sinkholes where the surrounding drainage area is small enough that the area draining to the sinkhole flows predominantly as sheet flow, potential impacts on water quality can be addressed in many cases by erecting and maintaining reliable silt control barriers around the sinkhole during construction and providing a vegetative buffer area around the sinkhole to filter out potential contaminants.
 

When the volume of runoff into the sinkhole increases to the point where flow becomes concentrated surface flow, the degree of effort required to capture and filter out contaminants increases significantly.

Concentrated surface flow occurs naturally when the sinkhole watershed area reaches a sufficient size for watercourses leading into the sinkhole to form. Concentrated surface flow results as urbanization occurs due to construction of roads, storm sewers, and drainage channels. Subsurface flows can become concentrated through utility trenches.
- (D) Mitigation of Stormwater Runoff. The following water quality management measures may be used to mitigate the impact of storm water runoff quality. Temporary sediment controls are required for all sites. The other measures listed

may be used singly or in combination as needed based upon the potential groundwater contamination hazard of the proposed development.

(1) Sediment and Erosion Control

- (a) Nonconcentrated (sheet) flow: existing ground cover shall not be removed within twenty-five (25) feet of the sinkhole flooding area and a temporary silt barrier shall be erected and maintained around the outer perimeter of the buffer area during the construction period. Vegetative cover must be of sufficient quality and density to provide desired filtration. If existing vegetative cover is sparse, it must be improved to sufficient quality and density to provide the desired filtration.
- (b) Concentrated surface and subsurface flow: a sediment basin will be required at each point where concentrated flows are discharged into the sinkhole. Sediment basins shall be designed according to criteria set forth in the *Indiana Handbook for Erosion Control in Developing Areas*. A permanent sediment basin may be required by the Drainage Board in some cases. This requirement shall be based on the watershed area, the disturbance that the proposed project will create, and the availability of suitable sites for a sediment basin.

(2) Minimizing Directly Connected Impervious Area.

- (a) The groundwater contamination hazard category for impervious areas may be reduced by reducing the amount of directly connected impervious area. This is the area of roofs, drives, streets, parking lots, etc., which are connected via paved gutters, channels, or storm sewers.
- (b) Directly connected impervious areas can be reduced by providing sized grass swales, vegetative filter strips or other Best Management Practices to separate paved areas.

(3) Diversion of Runoff.

- (a) Concentrated discharges to sinkholes can be reduced to manageable levels or avoided by diverting runoff from impervious areas away from sinkholes where possible.
- (b) Diversions shall be done in a manner that does not increase flooding hazards on downstream properties and, generally, shall not be directed out of the surface watershed in which the sinkhole is located.

(4) Filtration Areas. For areas having a low groundwater contamination hazard and where flow into the sinkhole occurs as sheet flow, water quality requirements can be satisfied by maintaining a permanent

vegetative buffer area with a minimum width of twenty-five (25) feet around the sinkhole flooding area.

- (5) Grassed Swales and Channels.
  - (a) For areas having a low groundwater contamination hazard, concentrated flows from directly connected impervious areas of less than one (1) acre may be discharged into the sinkhole through grassed swales and channels.
  - (b) Swales and channels shall be designed for non-erosive velocities and appropriate temporary erosion control measures such as sodding or erosion control blankets shall be provided.
- (6) Storage and Infiltration. Storage and infiltration basins shall be designed to capture the first one-half (0.5) of an inch of runoff from the tributary drainage area and release the runoff over a minimum period of twenty-four (24) hours. Standard outlet structures for sedimentation and infiltration are shown in the *Indiana Handbook for Erosion Control in Developing Areas*. Storage and infiltration will be required in the following cases:
  - (a) All areas having a high groundwater contamination hazard.
  - (b) Areas having a moderate groundwater contamination hazard and where concentrated inflow occurs.
- (7) Hazardous and Toxic Materials. Facilities which involve storage or handling of hazardous or toxic materials shall comply with the State of Indiana Department of Environmental Management.

**[end of chapter]**

## CHAPTER 830

### ZONING ORDINANCE: LANDSCAPING

#### 830-1.

##### Purpose

The purpose of this chapter is to establish minimum standards for the provision, installation, and maintenance of landscape plantings in order to complement the natural environment and achieve a healthy, beautiful, and safe community. These regulations are intended to:

- (A) Preserve Monroe County's existing natural vegetation and the incorporation of native plants, plant communities, and ecosystems into landscape design, where possible.
- (B) Foster aesthetically pleasing development that will protect and preserve the appearance and character of the community and foster a sense of place.
- (C) Increase the compatibility of development with both adjacent development and the natural environment.
- (D) Improve environmental quality, habitat for wildlife, and watershed health by recognizing the numerous beneficial effects of landscaping upon the environment.
- (E) Maintain and increase the value of land by requiring landscaping to be incorporated into development, thus becoming by itself a valuable capital asset.
- (F) Provide direct and important physical and psychological benefits to human beings through the use of landscaping to reduce noise and glare, provide shade and cooling, and to break up the monotony and soften the harsher aspects of urban development.
- (G) Eradicate or control certain exotic plant species that have become nuisances because of their tendency to damage public and private works, to have a negative effect upon public health, or to disrupt or destroy native ecosystems.
- (H) Promote innovative and cost-conscious approaches to the design, installation, and maintenance of landscaping.
- (I) Establish procedures and standards for the administration and enforcement of this Landscaping Ordinance.

#### 830-2.

##### Applicability

This Landscape Ordinance shall apply to all public, private, and institutional development, with the following exceptions:

- (A) previously approved development;
- (B) development of an individual single family detached residence or single duplex on a lot of record; and



- (C) additions to nonresidential structures that are under 10% of the gross floor area or 5,000 square feet, whichever is less; and

In all other cases, whenever a site plan review is required by Chapter 815 of this Zoning Ordinance, all yard and parking areas shall be landscaped in accordance with the requirements of this chapter.

**830-3. Enforcement**

Wherever site plan review is required by this Zoning Ordinance, a landscape plan shall be a required part of such site plan. No permanent land use certificate or certificate of occupancy shall be issued without completion of all landscaping shown on the landscape plan required herein. Failure to implement the approved landscape plan, including preservation of existing features, or to maintain the landscaping shall be a violation of this Zoning Ordinance subject to the penalties outlined in Chapter 817.

- (A) Landscaping for commercial and industrial applications must be maintained in perpetuity, unless limited or revoked by legislation, by Plan Commission or Board of Zoning Appeals approval, or by other government action (e.g., condemnation of site) that conflicts with the maintenance requirement.
- (B) Residential landscaping must be maintained for 2 years.

**830-4. Content of Landscape Plan**

A landscape plan shall conform to the following requirements:

- (A) A landscape plan is required for each lot within the proposed development. It is recommended that the landscape plan be prepared by a landscape architect, nurseryman, or other professional experienced in landscape design and the installation and care of plant materials.
- (B) All landscape plans submitted for approval as a component of a required site plan shall show the entire zoning lot to scale and shall contain the following information:
  - (1) the location and dimensions of all existing and proposed structures, parking lots and drives, roadways and right-of-way, sidewalks, bicycle paths, ground signs, refuse disposal areas, bicycle parking areas, freestanding electrical equipment, recreation facilities, utility lines and easements, freestanding structural features, and other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;
  - (2) the name and address of the owner, developer, and plan preparer, the date the plan was prepared, scale, and north arrow;
  - (3) the location, quantity, size, Density Value (D Value), and name--both botanical and common--of all proposed planting materials;

- (4) the location, size, and common name of existing trees and individual shrubs/perennials/grasses/ferns, areas of dense trees or shrubs, and other natural features, indicating which are to be preserved and which are to be removed;
- (5) the approximate location and generic identification of existing structures and plant materials within the yard of adjoining properties;
- (6) existing and proposed grading of the site, including proposed berming, indicating contours at not more than two-foot intervals. The planning staff may waive this requirement for situations in which grading is negligible;
- (7) specification of the type and boundaries of all proposed vegetative ground cover;
- (8) design of fences and other significant accessory structures;
- (9) the location of barriers to be placed at or beyond the drip line of any trees to be preserved, and the type of material to be used for the barrier;
- (10) planting and installation details as necessary to ensure conformance with all required standards;
- (11) details indicating specific grading measures or other protective devices where trees are to be preserved in areas of cut and fill;
- (12) a tabulation clearly displaying the relevant statistical information necessary for the Plan Commission to evaluate compliance with the provisions of this ordinance;
- (13) soil mix used for landscaped areas; and,
- (14) A plan sheet shall be provided that identifies the parking lot areas that contribute runoff to landscaped bioretention areas and that labels the amounts of both these watershed areas and of the landscaped areas.

**830-5.**

**Preservation of Existing Features**

- (A) Trees and shrubs/perennials/grasses/ferns already existing on land subject to the provisions of this chapter shall be preserved wherever feasible. Criteria for judging the feasibility of retaining existing vegetation include:
  - (1) the practicability of arranging site plan components around existing features. In general, plans for groups of structures should be designed so as to preserve tree masses, individual tree specimens, and small stands of trees or shrubs/perennials/grasses/ferns;
  - (2) the condition of the vegetation with respect to continued vitality;
  - (3) the amount of healthy vegetation the area involved will support;

- (4) the practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation;
  - (5) the desirability or lack thereof of a particular tree or species by reason of its appearance; historic or ecological significance; botanical characteristics; and the function the vegetation would fulfill as a site plan component;
  - (6) the potential for interference with utility services or with passage or visibility along roads or walkways; and,
  - (7) the possibility of preserving the vegetation while meeting the development needs through pruning rather than removal.
- (B) Existing trees at least 2 inch caliper within the Bufferyard that are preserved will contribute to 100 required Density Value (D Value) at the rate of 35D for every three inches of caliper except on lots under one (1) acre, where the maximum D value awarded shall be 100. Existing trees/shrubs/perennials/grasses/ferns within the perimeter parking lot or streetscape will be evaluated in the same manner as new shrubs/perennials/grasses/ferns based on the species.
- (C) Existing vegetation outside of buffer yards shall be preserved and credited toward the required landscaping. Vegetation shall be credited as follows:
- (1) Deciduous Trees: A credit of 1 tree per every 4 inches in caliper of an existing qualified tree per 830-5(A) is earned. No single existing tree shall count towards more than 3 required trees.
  - (2) Evergreen Trees: A credit of 1 tree per every 12 feet in height of an existing qualified tree per 830-5(A) is earned. No single existing tree shall counts towards more than 3 individual trees.
  - (3) Shrubs: A credit of 1 shrub per every 1 existing qualified shrub per 830-5(A) is earned.
- (D) Substantial barriers shall be specified on the Landscape Plan and shall be placed at or beyond the drip line of trees to be protected. These barriers shall remain in place during heavy construction on the site, and no vehicle, machinery, tools, chemicals, construction materials, or temporary soil deposits may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees.
- (E) Where trees are to be preserved in areas of cut or fill, specific grading measures or other protective devices, such as tree wells, tree walls, or specialized fill and pavement designs shall be required and shall be fully detailed on the Landscape Plan.

**General Landscaping Requirements**

All land areas that are not covered with buildings and pavement or used for agricultural purposes shall be appropriately landscaped in accordance with the requirements of this Chapter. Landscaping shall be provided in the areas specified and of the minimum number or intensity, expressed in D Value, specified below.

- (A) The tables of materials included in this chapter provide measures of landscaping intensity, expressed as Density Value (D Value) for bufferyards or number of species, as a means of establishing compliance with these regulations. When plant materials listed in the table are used for bufferyards, they will be assigned the D Value specified in section 830-14. The Administer may be petitioned to include Plant materials not listed. Once approved, plant materials not listed will be assigned a D Value based on height, spread, and/or crown at maturity, using the best available resources to determine mature characteristics. A landscape architect, nurseryman, or other professional experienced in the installation and care of plant materials should be consulted to ensure that the plants proposed are appropriate and will survive.
- (B) Where front and rear yards overlap side yards, the yard shall be treated as part of the yard having the greater required number of plants or D Value.
- (C) The scale and nature of landscape materials shall be appropriate to the size of the structures and the available space. Growth characteristics should be considered. Materials shall be located to avoid interference with overhead and underground utilities and utility easements or vehicular or pedestrian movement and visibility.
- (D) Plant material shall be selected to achieve an intended purpose such as pollution filtration, control storm water runoff, shading, screening, wildlife habitat, ornamentation, etc.
- (E) Trees shall be planted to maintain a minimum five foot clearance between the tree trunk and structures, building overhangs, walls, fences, property lines, and other trees.
- (F) Plantings should be arranged to promote energy conservation according to LEED standards; e.g. use of tall deciduous trees on the south and west sides of buildings to provide shade from the summer sun and planting evergreens on the north of buildings to dissipate the effect of winter winds.
- (G) All trash dumpsters, trash pads, loading areas consisting of two or more loading spaces, loading docks, and service and maintenance areas shall be screened from land in a residential zone and all adjacent public roads. Screening may be achieved by using a six foot high, completely opaque fence or wall, a six foot high berm, or a six foot high evergreen screen planted nine feet on center in a double staggered row.
- (H) Ground-mounted heating and cooling units for nonresidential structures shall be adequately screened so as not to be visible from streets and/or adjacent properties.

- (I)** Native wildflowers, grasses and other vegetative ground cover shall be used for all open space, including parking lot islands, except for:

  - (1)** decorative mulch planting beds extending no more than 6 inches beyond the drip line of shrubbery and a 6 foot diameter surrounding trees, and
  - (2)** inert stabilization in areas subject to severe runoff, erosion, or ponding. Where stone or other inert materials are to be used for ground cover, they shall be specifically identified on the landscape plan. Any area not so designated shall be required to have grass or vegetative ground cover.
- (J)** All landscaping shall conform to the regulations established for visibility triangles to maintain safe sight distances and intersections and points of access as designated in section 804-3.
- (K)** Except as provided in 830-6 (L) and 830-10(B)(6) below, all landscape areas shall be separated from parking lot areas by reinforced concrete curbing. Unreinforced extruded curbing shall be prohibited. The width of curbing shall be excluded from the calculation of the minimum dimensions of all required landscape areas.
- (L)** All landscaped areas at the front line of off-street parking spaces shall be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six inches above the finish surface of the parking area, be properly anchored and continuously maintained in good condition. Wheel stops shall not be placed in locations of anticipated intense pedestrian traffic.
- (M)** Minimum open space shall be as required by the Zoning Ordinance Height, Bulk, Area, and Density Provisions chapter.
- (N)** Maximum number of one particular species can not constitute more than 20% of the required D value or species count for each category.
- (O)** Professional landscape design is encouraged to fulfill the landscaping requirements of this chapter. Required plantings can be arranged according to design elements and site characteristics (i.e. wet soils, part shade etc.). Informal and natural plant arrangements are encouraged.
- (P)** Soils in landscaped areas must be a minimum 18 inch depth of a mix appropriate for the plantings and drainage conditions.
- (Q)** All traditionally landscaped areas must be mulched with hardwood at a depth appropriate to the plantings.

**830-7.**

**Bufferyard Landscaping Requirements**

- (A)** The following bufferyard requirements are intended to physically separate and visually screen adjacent land uses that are not fully compatible.
- (B)** To determine the required size of the buffer, two variables are considered: the nature of the adjacent use and the amount of required vegetation.

  - (1)** Use Table 30-1 to determine the buffer type required for the situation. The table assigns a minimum bufferyard to each potential development scenario. If the adjoining property has a mix of land uses, the highest intensity of use determines the bufferyard's required size.
  - (2)** After determining the bufferyard type, refer to Table 30-2 which enumerates the physical design requirements of each bufferyard. At least 45% of the D Value must be shade trees.

- (C)** If woodlands are located within the minimum landscaped yard, preservation may be applied toward the planting requirement. If existing woodlands are located in only part of the minimum landscaped yard, the D Value requirement is proportionately reduced.
- (D)** A six foot high opaque fence or wall may be located within the bufferyard reducing the required D Value by 50%.
- (E)** The bufferyard should incorporate bioretention where deemed appropriate by the Drainage Engineer; see 830-10 for specifications. Details to utilize bioretention can be coordinated with the County Drainage Engineer and the Administrator. Use of bioretention may reduce other storm water requirements on the site.

Table 30-1 Minimum Required Bufferyard							
ADJOINING USES							
P R O P O S E D U S E		Single Family Dwelling	Two Family Dwelling	Multi Family Dwelling	Low Intensity Use	Medium Intensity Use	High Intensity Use
	Single Family Dwelling	None	A*	B*	C*	C*	D*
	Two Family Dwelling	A	None	A*	B*	C*	D*
	Multi Family Dwelling	B	A	None	B*	B*	D*
	Low Intensity Use	C	B	B	None	A*	C*
	Medium Intensity Use	C	C	B	A	None	B*
	High Intensity Use	D	D	D	C	B	None
* The maximum buffer that may be required.							

Table 30-2 Bufferyard Types		
Type	Minimum Landscaped Yard	D Value Required per 100 Linear Feet of Property Line or Right-of-Way*
A	10 feet	105
B	10 feet	210
C	15 feet	315
D	20 feet	420
* Linear does not mean all plantings have to be arranged in a linear fashion, natural groupings are encouraged.		

830-8.

**Parking Lot Landscaping Requirements**

The following landscape requirements applied to parking lots are intended to provide natural filtration for storm water, screen parking areas from the street, prevent large expanses of unbroken paving, and provide shade to cool paved areas during the hot summer months. The requirements are established for three areas: along the public right-of-way, along the parking lot's perimeter, and in the lot's interior.

To provide filtration, landscaped areas for parking lots shall include bioretention facilities sized and constructed to temporarily store an amount of runoff referred to as the "water quality volume" or "first flush volume" from the entire parking lot. Water quality volume is the storage volume necessary to serve at least one-half inch of runoff over the drainage area to be served by the bioretention facility. See Section 830-10 for specifications. A plan sheet shall be provided that identifies the parking lot areas that contribute runoff to landscaped bioretention areas and that labels the amounts of both these watershed areas and of the landscaped areas.

If the water quality volume requirement is satisfied by existing vegetation, the need for a new bioretention facility may be waived by the Administrator pursuant to Section 12. If the site only partially receives drainage, then only the area that receives the drainage need be designed with bioretention.

**(A) Landscaping Along the Right-of-Way**

Landscape strips shield views of parked cars to passing motorists and pedestrians, and may establish coordination among architecturally diverse buildings. To provide flexible standards that reflect site constraints and opportunities, three options are available to meet the landscaped strip requirements.

**(1) Parking Lot Landscaped Strip, Option 1**

Provide a minimum ten-foot wide strip between a right-of-way and the parking lot, planted with a minimum of 1 tree, 10 shrubs, and 10 shrubs/perennials/grasses/ferns for every 35 lineal feet of street frontage, excluding driveway openings. Groupings of plant materials shall be mulched.

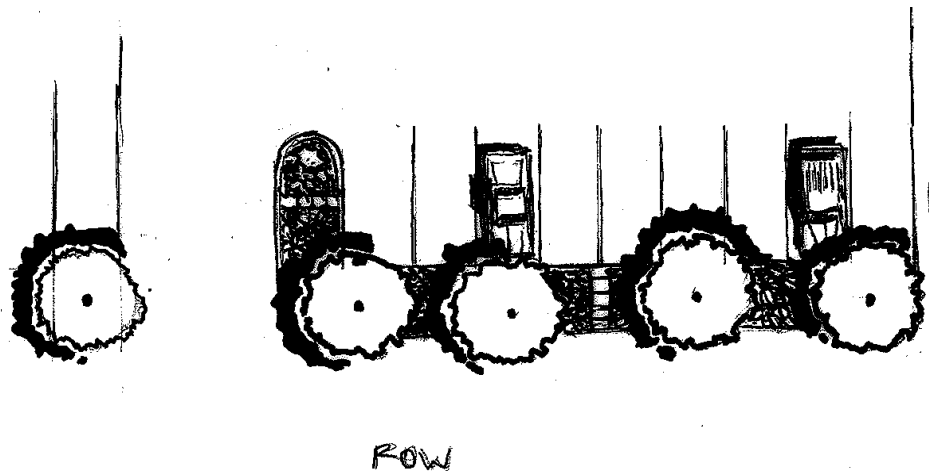


Figure 30-1 Parking Lot Landscaped Strip, Option 1



**(2) Parking Lot Landscaped Strip, Option 2**

Provide a berm at least 2.5 feet higher than the finished elevation of the parking lot. The berm shall have a minimum side slope of 3:1 and a minimum crown width of two feet. Live vegetation must cover the berm with a minimum of 1 tree, 7 shrubs, and 8 shrubs/perennials/grasses/ferns for every 35 lineal feet of street frontage, excluding driveway openings. Groupings of plant materials shall be mulched.

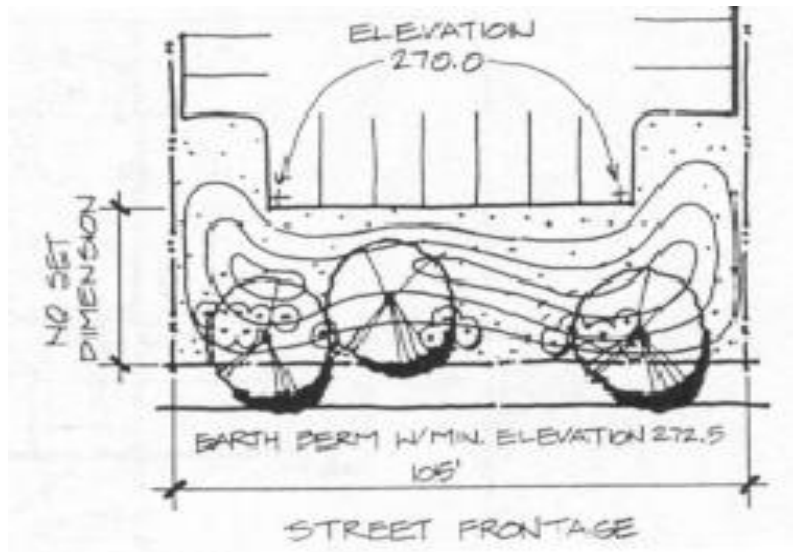


Figure 30-2 Parking Lot Landscaped Strip, Option 2

**(3) Parking Lot Landscaping Strip, Option 3**

Preserve a minimum 25 foot wide strip of existing woodlands in lieu of the landscaping requirement.

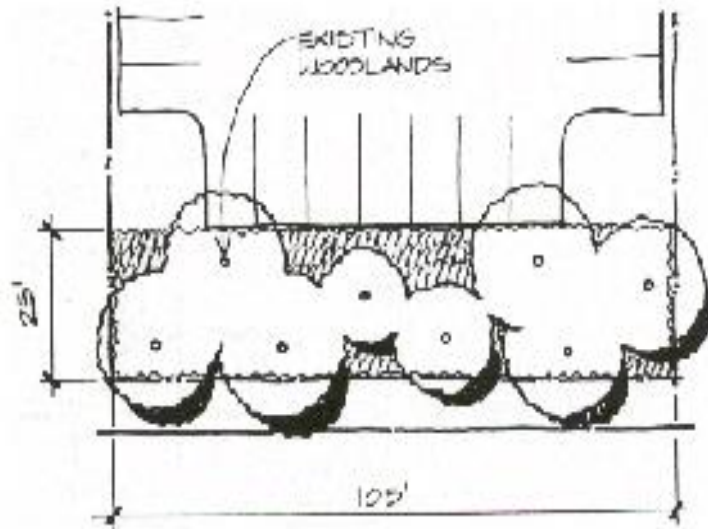


Figure 30-3 Parking Lot Landscaped Strip, Option 3

**(B) Perimeter Landscaping**

Perimeter landscaping is required to treat storm water through improved filtration, sedimentation, and biological processes. In addition, perimeter landscaping defines parking areas and prevents two adjacent lots from becoming one large expanse of paving. The required perimeter landscaping between adjacent lots does not preclude the need to provide vehicular access between the lots.

- (1) Figure 30-4 illustrates the required perimeter landscape strip. The landscape strip must be a minimum of 5 feet wide.

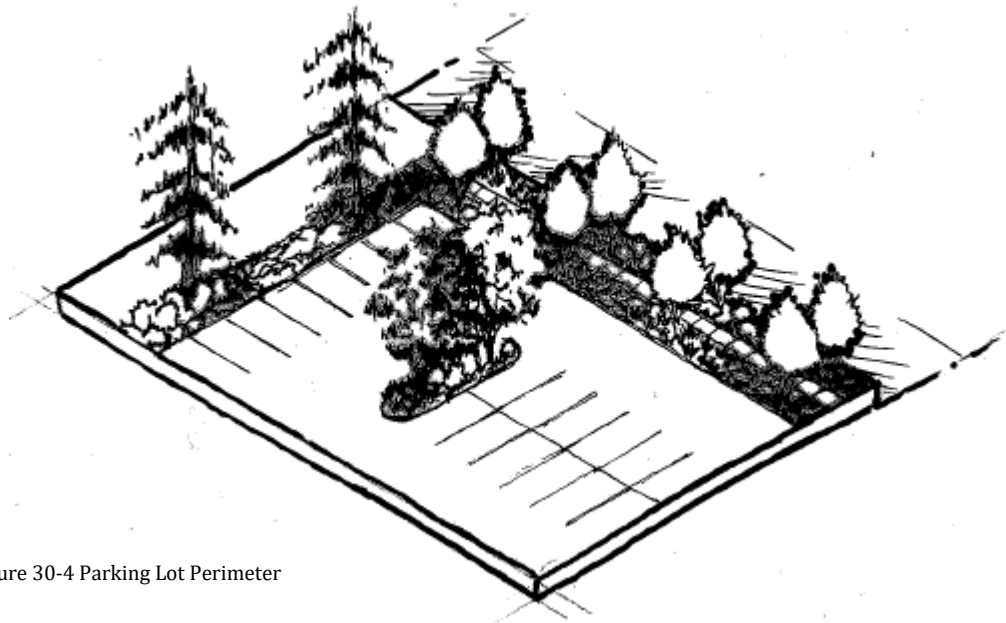


Figure 30-4 Parking Lot Perimeter

- (2) 1 tree, 10 shrubs, and 10 shrubs/perennials/grasses/ferns are required for every 35 lineal feet around the parking lot area excluding vehicular access aisles.
- (3) The applicant may preserve existing woodlands at least 25 feet in width in lieu of the above perimeter landscaping requirements.

(C) **Interior Landscaping**

Interior parking lot landscaping requirements are required for all parking. Figure 30-5 illustrates how to calculate the required interior lot planting. All areas within the lots perimeter are counted, including planting islands, curbed areas, corner lots, parking spaces, and all interior driveways and aisles. Only driveways and aisles with no parking spaces located on either side are excluded from the interior area calculation.

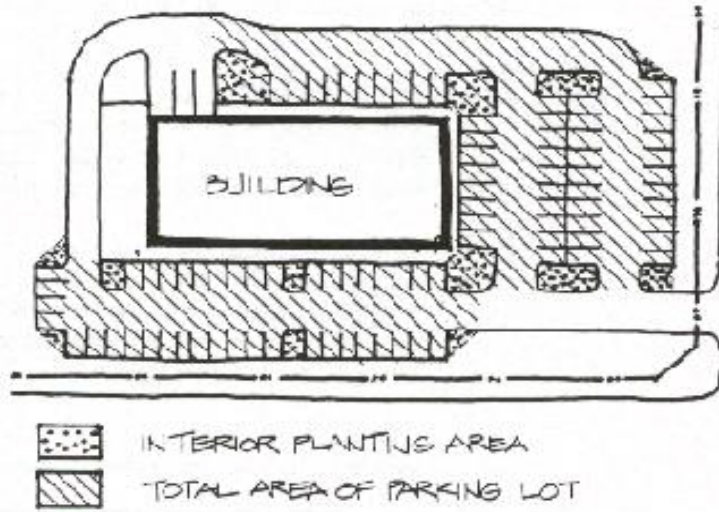


Figure 30-5 Parking Lot Interior Calculations

- (1) In recognition that larger lots have greater visual and environmental impact than smaller lots, a sliding scale is used to determine the required amount of landscaping. The required landscaping is designated on Table 30-3.

<b>Table 30-3 Required Interior Planting Area of Parking Lots</b>	
<b>Total Area of Parking Lot</b>	<b>Percent of the Total Area of Lot that Must be an Interior Planting Area</b>
0 to 49,999 sq. ft.	5%
50,000 to 149,999 sq ft	8%
150,000 sq. ft. or larger	10%

- (2) Landscaped areas outside the parking lot may not be used to meet the interior planting requirement.
- (3) All rows of parking spaces shall be provided a terminal island of at least 162 square feet of area to protect parked vehicles, provide visibility, confine moving traffic to aisles and driveways, and provide space for landscaping.
- (4) Landscaped islands of at least 162 square feet of area shall be provided every 10 spaces or less within a row of spaces for residential sites and every 15 spaces or less within a row of spaces for commercial developments. Planting islands should be evenly spaced throughout the parking lot to consistently reduce the visual impact of long rows of parked cars. Islands shall be utilized where needed to control vehicular circulation and define major drives. Landscape strips between two facing parking aisles can also be used to meet the interior planting requirement.
- (5) Landscaped islands of at least 162 square feet are required to have 1 tree, 10 shrubs, and 10 shrubs/perennials/grasses/ferns. Each additional 10 square feet shall require 1 additional shrub and 1 shrubs/perennials/grasses/ferns. Trees must have a clear trunk at least six feet above the finished grade to allow for visibility and vehicular circulation beneath the tree canopy.
- (6) Landscape strips between two facing parking isles shall be a minimum of 5 feet wide. 1 tree, 10 shrubs, and 10 shrubs/perennials/grasses/ferns are required every 35 lineal feet.
- (7) To prevent cars from parking too close to trees or damaging shrubs, a curb or wheel stop must be provided. Planting islands parallel to parking spaces must be a minimum of five feet wide to allow car doors to swing open.

**Commercial and Industrial Streetscapes**

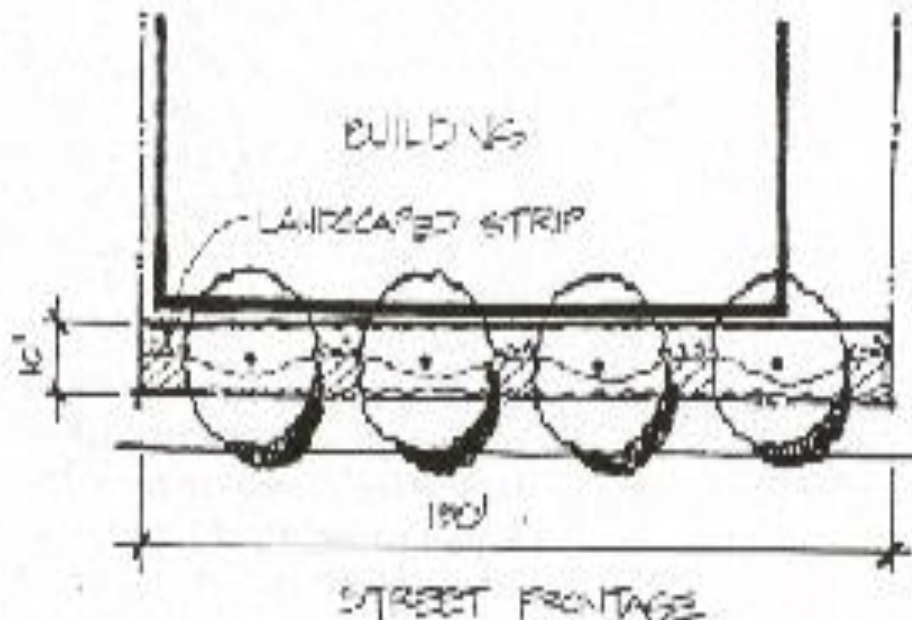
The following landscape strip requirements apply to all commercial and industrial zones and all nonresidential uses within a residential zone. The strip must be located on the property, adjacent to the public right-of-way, and may not include paved surfaces, with the exception of driveway openings and pedestrian sidewalks or trails that cross the strip. The streetscape may not be required when land is abutting or adjoining a bridge or overpass, or would not be visible from the right-of-way or would not otherwise meet the safety and aesthetic objectives of the requirement. An applicant whose property is impacted by this condition may apply to the Administrator for an administrative waiver from the Streetscape provision.

For all impervious areas that slope towards the streetscape, the associated landscaped area shall be designed as a bioretention area sufficiently sized and constructed to serve the water quality volume requirement of Section 8. Traditional options can only be used where drainage is not received (unless woodlands are being preserved). There are 3 traditional streetscape options available to meet the landscaped strip requirements.

**(A) Traditional Streetscape Options (site does not receive drainage):****(1) Commercial and Industrial Landscaped Strip, Option 1**

Provide a minimum 5 foot wide strip between a right-of-way and the parking lot, planted with a minimum of 1 tree, 10 shrubs, and 10 shrubs/perennials/grasses/ferns for every 35 lineal feet of street frontage, excluding driveway openings.

Groupings of plant materials shall be mulched. Required streetscape landscaping shall be reasonably distributed throughout all landscaped areas. It is suggested that the required plantings be planted in clusters or irregular patterns.



**(2) Commercial and Industrial Landscaped Strip, Option 2**

Provide a landscape strip a minimum of 5 feet wide and maximum of 20 feet wide and an average width of 10 feet strip adjacent to the public right-of-way, planted with a minimum of 1 shade tree, 10 shrubs, and 10 shrubs/perennials/grasses/ ferns for every 35 lineal feet of street frontage, excluding driveway openings.

Groupings of plant materials shall be mulched. Required streetscape landscaping shall be reasonably distributed throughout all landscaped areas. It is suggested that the required plantings be planted in clusters or irregular patterns.

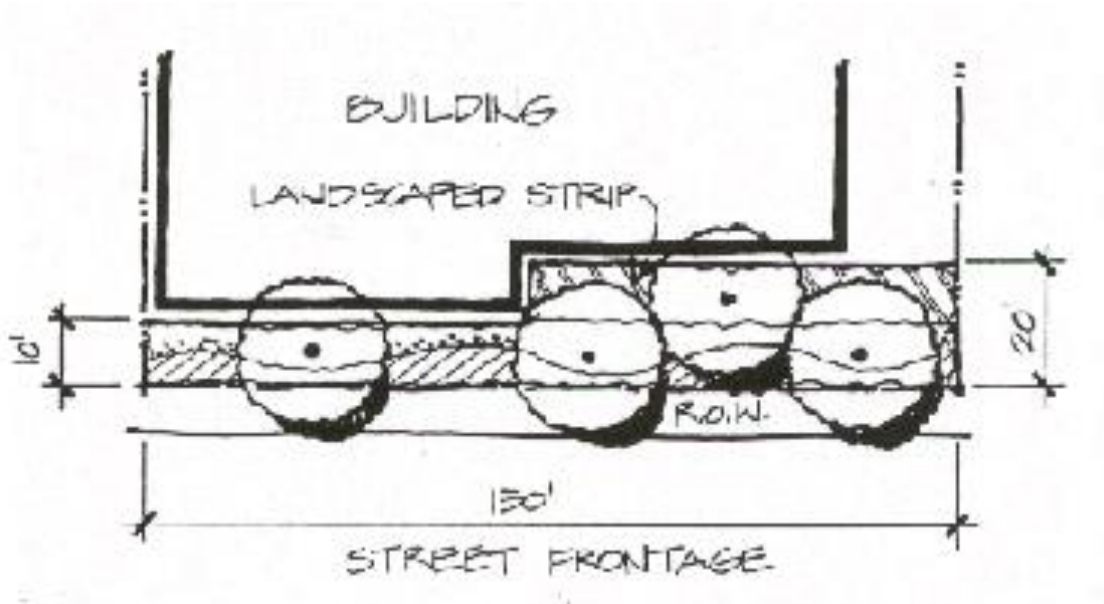


Figure 30-7 Commercial and Industrial Landscaped Strip, Option 2

- (3) **Commercial and Industrial Landscaped Strip, Option 3**  
Preserve a 25 foot wide strip of existing woodlands in lieu of the landscaping requirement.

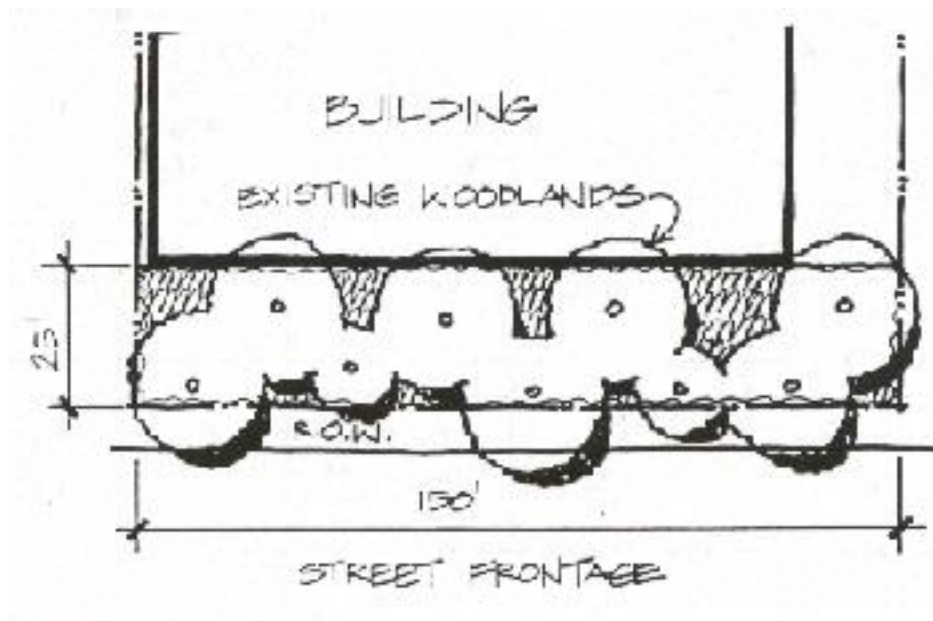


Figure 30-8 Commercial and Industrial Landscaped Strip, Option 3



**830-10. Bioretention Design**

Bioretention design and associated landscaping combines drainage and landscaping on a site for the purposes of naturally cleaning storm water with native plants. Bioretention reduces non-point source pollution thereby contributing to a healthier watershed and cleaner drinking water. Details of the required bioretention design should be coordinated with the County Drainage Engineer and the Planning Administrator.

Bioretention design is required for each parking lot requirement (along the right-of-way, perimeter, and interior) and streetscape requirements where the site will receive drainage. General specifications and sizing examples are given below. Examples are shown in Figures 30-9 through Figure 30-12. Bioretention required plantings supersede other parking lot and streetscape requirements.

**(A) Required Values**

Provide an average of at least 1 tree, 4 shrubs or small trees, 120 ferns, grasses, sedges, and perennials (with a minimum use of 20% of ferns, grasses, or sedges, and 20% perennials) per 300 square feet of bioretention area exclusive of filter strips. For landscape islands containing less than 300 square feet, use no large trees and at least 1 small tree along with shrubs or small trees, ferns, grasses, sedges, and perennials at the densities prescribed above. See Tables 30-12 through 30-15 for recommended bioretention plants.

For landscape bioretention areas that are larger than required in Chapter 830, turf grass or other suitable stabilization shall be allowed for the excess landscaped area.

**(B) Bioretention Specifications**

- (1)** *Filter Strips.* Two foot wide turf grass filter strips shall be placed between impervious surfaces and some bioretention areas (see Figures 30-9 through 30-12) to provide stable side slopes, to filter particulates, and to provide a mow strip between the other landscape plants and the pavement. The filter strips shall be used only in bioretention areas that are at least 10 feet wide and that contain at least 300 square feet in area.
- (2)** *Ponding Area.* Ponding depth during rain events when overflow begins must range from one to six inches over at least 80% of the bioretention area to encourage complete saturation of the underlying soil mix. Three inches well aged hardwood mulch, decorative stone, or a combination shall be used in all beds.
- (3)** *Overflow practices* are required to prevent more than one inch of flooding in parking areas during rain events.
- (4)** *Soil Amendments.* Soil mix shall be 50% compost, 25% sand, and 25%

top soil. Minimum depth of amended soil shall be 18 inches but will vary with desired capacity. Soil shall be backfilled only after the watershed draining to it has been stabilized. Purpose is for storm water storage and filtration, to absorb pollutants, and facilitate nutrient uptake by plants.

- (5) *Underdrain and Stone bed.* Underdrains bedded in and covered with pea gravel shall be provided so that water does not pond on the surface of the bioretention filter area longer than 12 hours following the end of a rainfall event. All stone should be washed and open graded and provide at least 12 inches of capacity underneath the underdrain (e.g. the underdrain should not be placed at the bottom of the system). The maximum size for an underdrain pipe shall be 4 inches in diameter
- (6) *Edging and Wheel Stops.* All landscape areas incorporating bioretention shall be separated from parking lot areas by either reinforced concrete curbing (with openings for drainage) or by wheel stops (with openings for drainage). Where concrete curbing is not used, reinforced concrete edge strips that are a minimum of 6 inches wide, 12 inches deep and flush with the parking lot surface are required.

**(C) Bioretention Sizing**

Within the bioretention area, the water quality volume may be met by a combination of temporarily ponded water, the water absorbing capacity of the amended soil (20% of the dry soil volume), and the void volume of any stone that will be saturated (25% of the stone volume). There are two sizing options:

- (1) To convert the one-half inch runoff requirement to the corresponding water quality volume requirement (in cubic feet), divide the area draining to the Bioretention filter area (in square feet) by 24.
  - For example, one-half inch of water from a 1000 square foot parking area that drains to a Bioretention filter area corresponds to 41.7 cubic feet of water ( $1000/24=41.7$ ). The bioretention area must therefore be able to contain 41.7 cubic feet of water, through a combination of water ponded on the surface, within the amended soil zone, and within an underlying crushed stone layer.
  - Twenty percent of the soil volume can be counted as water volume, and twenty-five percent of the crushed stone volume can be counted towards the required water volume. For example, in 160 cubic feet of amended soil,  $0.2 \times 160$  cubic feet = 32 cubic feet of water can be stored. In 15 cubic feet of crushed stone,  $0.25 \times 15$  cubic feet = 3.75 cubic feet of water can be stored. A bioretention area with 160 cubic feet of amended soil underlain by 15 cubic feet of stone can therefore hold 32 cubic feet + 3.75 cubic feet = 35.75 cubic feet of water. For the 1000 square foot parking lot example, the amount of water required to be ponded on the surface of the bioretention area would be 47.1 cubic feet – 35.75 cubic feet = 11.35 cubic feet. These required volumes can be provided in a bioretention area with 80 square feet of area if the amended soil depth is two feet, the underlying stone layer is two inches deep, and the depth of water ponded on the surface is one inch.”

(2) Size the Bioretention filter area to equal 10% of the area of impervious surface draining to it.

(D) Examples of Bioretention used to fulfill the landscaping requirements



Figure 30-9 Parking Lot Landscaped Strip  
Bioretention for parking lot perimeter or between rows of parking spaces.

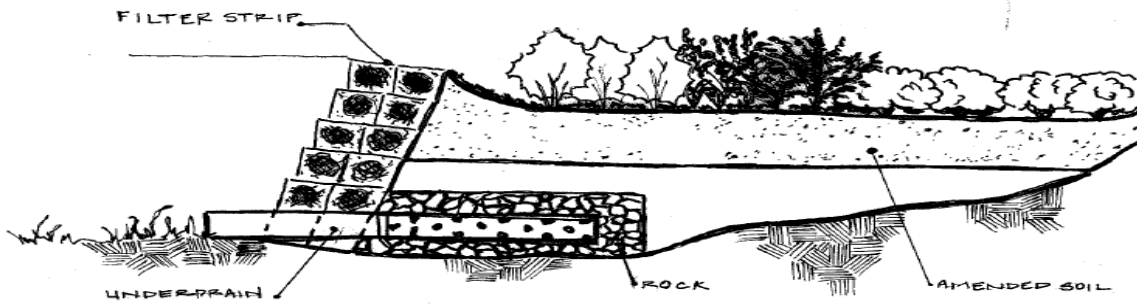


Figure 30-10 Parking Lot Interior and Island Plantings  
Bioretention filter strips for parking lot interiors

Revised 1/13/12

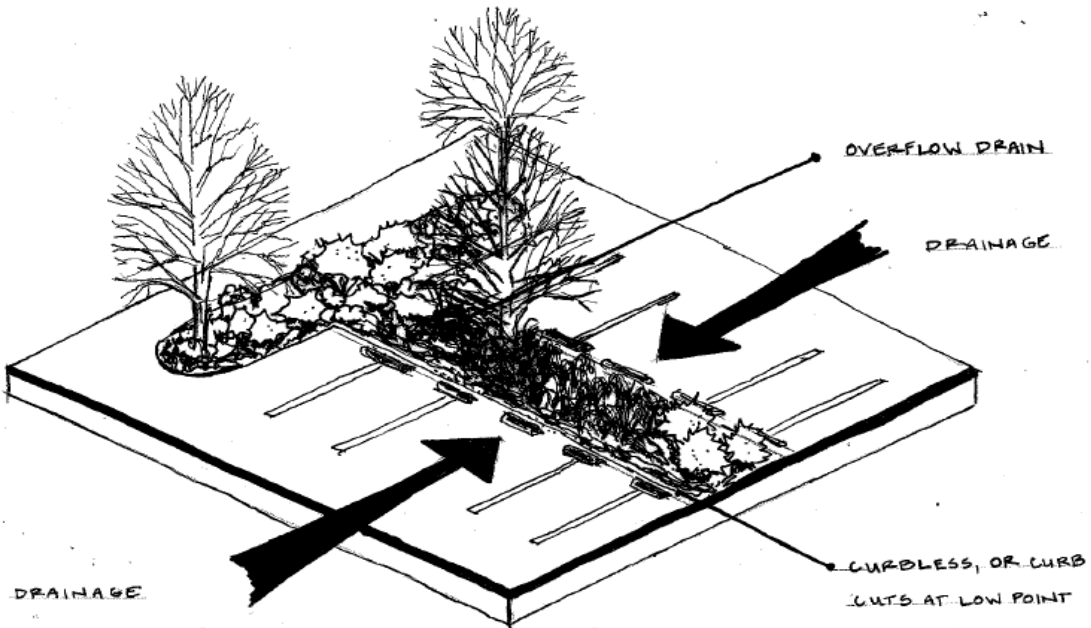
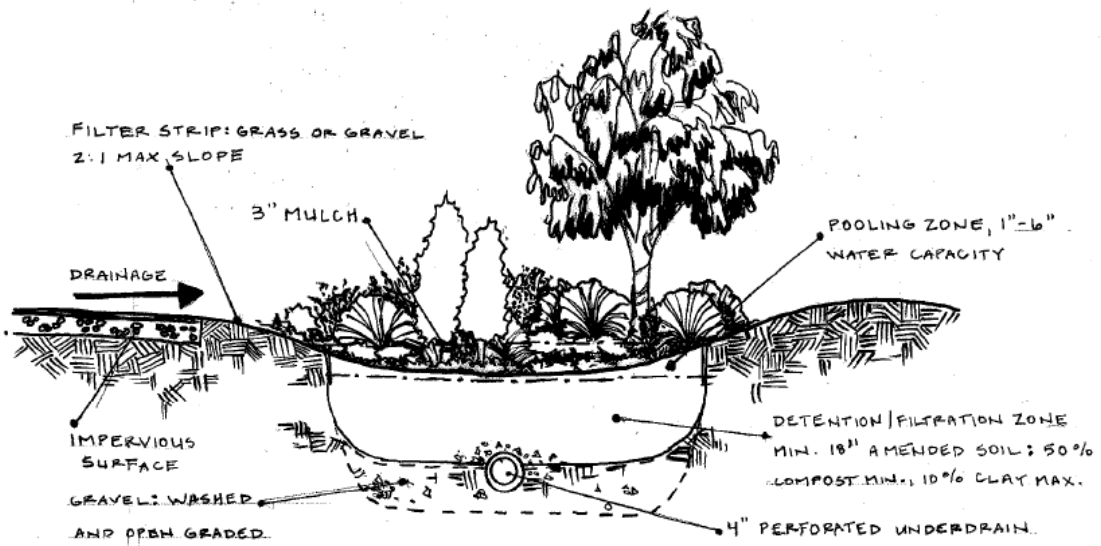


Figure 30-11 Parking Lot Interior and Island Plantings  
Bioretention filter strips for parking lot interiors



830-11.

**Residential Landscaping**

All residential developments, shall meet the following requirements for minimum planting and buffering of rear yards from minor collector streets or higher road classifications.

- (A) Trees in residential subdivisions are to be grouped together to simulate natural tree stands.
- (B) Yards, setbacks, and other open space areas within residential developments shall be landscaped with live vegetation having a D Value of 800 per net acre of development site, but not less than 300 per development site. The minimum number of trees to be planted on each lot is a function of the lot size or number of dwellings. Table 30-4 specifies the minimum tree requirements.

<b>Table 30-4 On-Site Residential Planting Requirements</b>		
<b>Residential Type</b>	<b>Minimum Number of Trees</b>	<b>Notes</b>
Single Family Dwelling Developments	2 per lot	Plant in yards, setbacks, and open spaces.
Two Family Dwelling Developments	2 per dwelling	Total number of trees to be located on lots and in common open space
Multifamily Dwelling Developments	2 per 1,600 sq. ft. or fraction of green area	Plant in yards, setbacks, and open spaces.

- (C) When determining the amount of trees required for multifamily dwellings, the following features are not included in the landscape area calculation: lakes and other water features, required parking lot landscaping along a right-of-way, and interior parking lot landscape areas. Figure 30-13 illustrates this calculation.
- (D) Trees fulfilling the perimeter bufferyard requirements may be counted toward the minimum planting requirements. Existing trees and woodlands may also fulfill part or all of the minimum planting requirements. The trees must exceed 2.5 inches in diameter and must be located on an individual lot within 75 feet of a

dwelling unit. Existing trees that exceed 2.5 inches in diameter and that are located anywhere in the landscape area may fulfill the requirement for trees for multifamily dwellings. For any subdivision, existing trees larger than 2.5 inches in diameter located on an individual or common green may fulfill part of all or the tree requirement for that site.

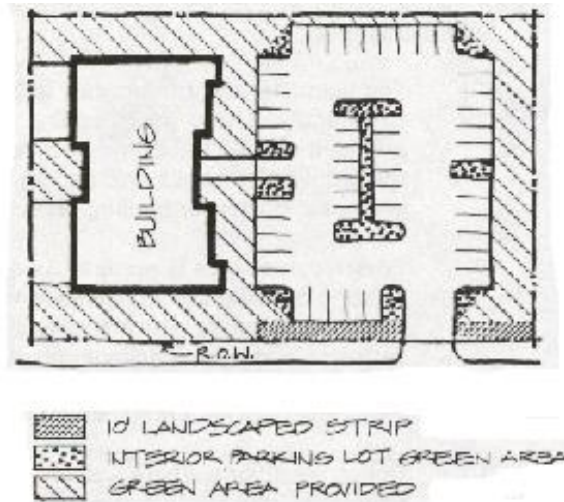


Figure 30-13 Multifamily Dwelling Landscape Area Calculations

- (E) Where the rear of a two-family or multi-family dwelling unit faces a public street, The tract or lot must be screened with plant material at least five feet high. A fence, wall, or berm, in addition to plantings, may also be permitted subject to the approval of the Administrator.
- (F) The rear yard and the lowest story of the rear outside wall of any single family dwelling must be screened from the view of any street classified as a collector or arterial. The buffer is required either on individual lots or as part of the common open space owned and maintained by a homeowners association. The required buffer area width and plants are as follows:
  - (1) *Collector.* A minimum of 35 feet wide with four deciduous trees, 15 evergreen trees, and 30 shrubs/perennials/grasses/ferns per 3,500 square feet of right-of-way (a minimum D Value of 850 points per 3,500 square feet).
  - (2) *Arterial.* A minimum of 50 feet wide with six deciduous trees, 18 evergreen trees, and 40 shrubs/perennials/grasses/ferns per 5,000 square feet of right-of-way (a minimum D Value of 1000 points per 5,000 square feet).
- (G) If existing woodlands are located entirely in the buffer area, preserving the trees may satisfy all plant requirements. If existing woodlands are partially located within the buffer area, the number of deciduous trees, evergreen trees, and shrubs/perennials/grasses/ferns may be proportionately reduced.

**830-12.**

**Modifications**

- (A)** The Administrator, in consultation with the County Drainage Engineer, may approve any landscape proposal s/he deems to be equivalent to the foregoing minimum requirements. Except as provided in 830-11 (B), no such approval shall have the effect of reducing the required setbacks or reducing required D Value for any particular setbacks, buffer, or parking area.
- (B)** Where compliance is required as a result of change in use or expansion of an existing building and compliance with this section will necessitate removal of existing pavement, the planning staff may approve a reduction of parking lot setbacks and other minimum planting areas provided that proposed plantings, screens, and other landscape features are the equivalent to the foregoing minimum requirements in terms of D Value.
- (C)** Under conditions where a strict interpretation of requirements may be either physically impossible or create practical difficulties, an alternative compliance procedure may be used to maintain the spirit--rather than the letter--of the law. The proposed solution must equal or exceed existing requirements. Requests for use of alternative landscaping schemes are justified only when one or more of the following conditions apply:

  - (1)** The sites involve space limitations or unusually shaped parcels;
  - (2)** Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical;
  - (3)** Because of a change in use of an existing site, the required bufferyard is larger than can be provided; and
  - (4)** Safety considerations are involved.

The applicant must provide a justification statement that describes which of the requirements established by the Landscaping Ordinance will be met with modifications, which project conditions justify using alternatives, and how the proposed measures equal or exceed normal compliance. Planning staff will review the alternative compliance application and recommend approval, approval with conditions, or disapproval of the proposal to the planning Administrator. The planning Administrator will make the final decision. Appeals of the decision may be taken to the Board of Zoning Appeals.

- (D)** Occasionally, plant substitutions for species specified on approved landscape plans are required due to seasonal planting problems and a lack of plant availability. Minor revisions to planting plans can be approved in a simple over-the-counter process by the Administrator if there is no reduction in the quantity of plant material or no significant change in size or location of plant materials, and if the new plants are of the same general category and have the same general design characteristics as the materials being replaced. Proposed materials must also be compatible with the microclimate of the site to ensure

healthy plant growth. If the plant substitutions do not fulfill these criteria, then changes to the approved plans must be resubmitted and reviewed for new approval.

- (E) Rain gardens are encouraged and can be substituted to meet some of the required landscaping elements. Details of the Rain Garden can be coordinated with the County Drainage Engineer and approved by the Administrator.

**830-13. Installation and Maintenance**

- (A) Plant materials shall conform to the requirements described in the latest edition of the American Standard for Nursery Stock, which is published by the American Association of Nurserymen. Plants shall be nursery grown.
- (B) Plants shall conform to the measurements specified below.
  - (1) Diameter measurements in inches shall be taken 6 inches above grade for sizes up to 4 inch caliper and 12 inches above grade for sizes above 4 inch caliper. Multi-stem or clump trees of equivalent size shall be allowed.
  - (2) Minimum size for trees (including small trees) shall be 2 inches in diameter.
  - (3) Evergreen trees shall be at least 6 feet in height at installation.
  - (4) Minimum size for shrubs shall be 3 gallon.
  - (5) Minimum size for perennials, grasses, ferns, and endangered shall be plug size (minimum 2 inches X 3 inches).
- (C) It is recommended that a professional horticulturalist//landscape architect/landscape designer should be consulted to determine the proper time to move and install plant material so that stress to the plant is minimized. Planting of deciduous material may be continued during the winter months provided there is no frost in the ground and frost-free topsoil planting mixtures are used.
- (D) After cultivation, all plant materials shall be mulched with a two to three inch layer of shredded bark, peat moss, or another suitable material over the entire area of the bed or saucer.
- (E) The owner of the premises shall be responsible for the maintenance, repair, and replacement of all landscaping materials on the premises.
- (F) All landscape areas shall be kept free of refuse and debris. Fences, walls, and other barriers shall be maintained in good repair.
- (G) It is the responsibility of each private property owner to remove any dead, diseased, or dangerous trees or shrubs, or parts thereof, which overhang or interfere with traffic control devices, public sidewalks, rights-of-way, or property owned by the County. The County shall have the authority to order the removal



of any such trees or shrubs.

**830-14. D Values**

- (A) Trees (Tables 30-5 and 30-6) are worth 35 D points each
- (B) Shrubs (Table 30-7) are worth 8 D points each
- (C) Perennials (Table 30-8), ferns (Table 30-10), and grasses (Table 30-9) are worth 5D points each
- (D) Endangered species (Table 830-11) are worth 10 D points each

**830-15. Tables of Permitted Plant Materials**

- (A) The following tables (Tables 30-5 through 30-15) list the permitted plant materials by botanic and common names. A professional landscape architect/designer should be consulted for plant selection according to site characteristics and drainage.  
  
Cultivars of native species are allowed for all of the plant lists, but their use shall not exceed 50% of the required plantings.
- (B) The types of trees proposed and used to fulfill the streetscape requirements or the landscaping along the right-of-way requirements must be listed in Table 30-5. Tree types proposed to meet all other requirements must be listed in either Table 30-5 or Table 30-6.
- (C) Recommended bio retention plant materials are provided in Tables 30-12 through 30-15. These plants were chosen for their suitability in establishing a diverse, dense plant cover to treat stormwater runoff.

**Table 30-5**

**Trees Suitable for Planting along Public Streets and Highways and in Locations Where Low Maintenance and Hardy Specimens are required.** Trees can also be planted as a part of the Interior Landscape where appropriate.

<b>Table 30-5: Street Trees</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Acer nigrum</i>	Black Maple
<i>Acer rubrum</i>	Red Maple
<i>Acer saccharum</i>	Sugar Maple
<i>Acer x freemanii</i>	Freeman Maple
<i>Aesculus hippocastanum</i>	Horse Chestnut
<i>Carpinus caroliniana</i>	American Hornbeam
<i>Gleditsia tricanthos v. inermis</i>	Honeylocust
<i>Ilex opaca</i>	American Holly
<i>Juniperus silicicola</i>	Southern Redcedar
<i>Juniperus virginiana</i>	Eastern Redcedar
<i>Liquidambar styraciflura</i>	Sweet Gum
<i>Liriodendron tulipifera</i>	Tulip Tree/Yellow-Poplar
<i>Magnolia acuminata</i>	Cucumber Tree
<i>Malus spp.</i>	Crabapple
<i>Nyssa sylvatica</i>	Blackgum/Black Tupelo
<i>Platanus occidentalis</i>	Sycamore
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus coccinea</i>	Scarlet Oak
<i>Quercus imbricaria</i>	Shingle Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus palustris</i>	Pin Oak
<i>Quercus phellos</i>	Willow Oak
<i>Quercus rubra</i>	Northern Red Oak
<i>Quercus shumardii</i>	Shumard Oak
<i>Sassafras albidum</i>	Sassafras
<i>Taxodium distichum</i>	Bald Cypress

**Table 30-6**  
**Trees Acceptable for Use within the Interior of a Site**

<b>Table 30-6: Interior Trees</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Aesculus glabra</i>	Ohio buckeye/Horse chestnut
<i>Betula alleghaniensis</i>	Yellow birch
<i>Betula nigra</i>	River birch
<i>Cercis canadensis</i>	Eastern redbud
<i>Carya alba (tomentosa)</i>	Mockernut hickory
<i>Carya cordiformis</i>	Bitternut/Swamp hickory
<i>Carya glabra</i>	Pignut hickory
<i>Carya illinoensis</i>	Pecan
<i>Carya laciniosa</i>	Shellbark hickory
<i>Carya ovalis</i>	Red Hickory
<i>Carya ovata</i>	Shagbark hickory
<i>Celtis laevigata</i>	Sugarberry/Hackberry
<i>Celtis occidentalis</i>	Common hackberry
<i>Cladrastis kentukea</i>	Yellowwood
<i>Diospyros virginiana</i>	Persimmon
<i>Fagus grandifolia</i>	Caroliniana/American beech
<i>Gymnocladus dioica</i>	Kentucky coffee tree
<i>Hamamelis virginiana</i>	Witch hazel
<i>Juglans cinerea</i>	Butternut
<i>Juglans nigra</i>	Black walnut
<i>Malus ioensis v. ioensis</i>	Prairie crabapple
<i>Ostrya virginiana</i>	Ironwood/Hophornbeam
<i>Pinus strobus</i>	White pine
<i>Prunus nigra</i>	Canada plum
<i>Populus deltoides</i>	Eastern cottonwood
<i>Prunus americana</i>	Wild plum
<i>Prunus serotina</i>	Black cherry
<i>Pyrus coronaria</i>	Sweet crabapple
<i>Quercus alba</i>	White oak
<i>Quercus imbricaria</i>	Shingle oak
<i>Quercus macrocarpa</i>	Bur oak
<i>Quercus marilandica</i>	Blackjack oak
<i>Quercus michauxii</i>	Swamp Chestnut oak
<i>Quercus muhlenbergii</i>	Chinkapin oak/Chestnut oak
<i>Quercus prinus</i>	Rock Chestnut oak
<i>Quercus stellata</i>	Post oak
<i>Quercus velutina</i>	Black oak
<i>Tilia americana</i>	American Linden/Basswood
<i>Tsuga canadensis</i>	Eastern hemlock

**Table 30-7**  
**Shrubs & Small Trees**

<b>Table 30-7: Shrubs &amp; Small Trees</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Alnus incana</i>	speckled alder, mountain alder
<i>Alnus serrulata</i>	smooth alder
<i>Amelanchier arborea</i>	downy serviceberry, shadebush, Juneberry
<i>Amelanchier laevis</i>	allegheny serviceberry
<i>Amelanchier sanguinea</i>	roundleaf serviceberry
<i>Amorpha fruticosa</i>	false indigo, Indigo bush
<i>Aronia melanocarpa</i>	black chokeberry
<i>Asimina triloba</i>	Pawpaw
<i>Ceanothus americanus</i>	New Jersey tea, red root
<i>Cephalanthus occidentalis</i>	buttonbush
<i>Comptonia peregrina</i>	sweet fern
<i>Cornus alternifolia</i>	pagoda dogwood, alternate-leaved dogwood
<i>Cornus amomum</i> ssp. <i>obliqua</i>	swamp dogwood, silky dogwood
<i>Cornus drummondii</i>	rough-leaf dogwood
<i>Cornus florida</i>	flowering dogwood
<i>Cornus racemosa</i>	gray dogwood
<i>Cornus sericea</i>	red-twig dogwood, red-osier dogwood
<i>Corylus americana</i>	American hazelnut or filbert
<i>Crataegus crus-galli</i>	cockspur hawthorn
<i>Crataegus mollis</i>	downy hawthorn
<i>Crataegus phaenopyrum</i>	Washington Hawthorn
<i>Crataegus punctata</i>	dotted hawthorn
<i>Dirca palustris</i>	leatherwood, ropebark
<i>Euonymus americana</i>	strawberry bush, brook euonymus
<i>Euonymus atropurpurea</i>	wahoo, burning bush
<i>Gaylussacia baccata</i>	Black Huckleberry
<i>Ilex glabra</i>	Inkberry
<i>Hypericum hypericoides</i> ssp. <i>hypericoides</i>	St. Andrew's cross
<i>Hypericum prolificum</i>	shrubby St. John's wort
<i>Ilex verticillata</i>	winterberry, black alder
<i>Itea virginica</i>	Virginia Sweetspire
<i>Juniperus</i>	Common juniper, ground juniper, prostrate juniper, US Native only
<i>Lindera benzoin</i>	spicebush
<i>Lonicera dioica</i>	limber or wild honeysuckle
<i>Physocarpus opulifolius</i>	ninebark
<i>Prunus virginiana</i>	chokecherry
<i>Rhamnus caroliniana</i>	Carolina buckthorn
<i>Rhus copallinum</i>	dwarf or winged sumac
<i>Rhus glabra</i>	smooth sumac

<b>Table 30-7: Shrubs &amp; Small Trees</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Rhus typhina</i>	staghorn sumac
<i>Ribes cynosbati</i>	prickly gooseberry, dogberry
<i>Rosa carolina</i>	Carolina rose
<i>Rosa setigera</i>	Illinois or prairie rose
<i>Rubus idaeus ssp. strigosus</i>	red raspberry
<i>Rubus occidentalis</i>	black raspberry, thimbleberry
<i>Salix bebbiana</i>	Bebb willow, long-beaked willow
<i>Salix discolor</i>	pussy willow
<i>Sambucus canadensis</i>	elderberry, common elder
<i>Spiraea alba</i>	meadow sweet
<i>Spiraea tomentosa</i>	steeplesh, hardhack
<i>Staphylea trifolia</i>	bladdernut
<i>Symphoricarpos orbiculatus</i>	coralberry, Indian currant
<i>Thuja occidentalis</i>	American Arborvitae
<i>Vaccinium angustifolium</i>	low-bush blueberry
<i>Vaccinium stamineum</i>	Deerberry
<i>Vaccinium vacillans</i>	Dryland Blueberry
<i>Viburnum</i>	US native only
<i>Viburnum acerifolium</i>	maple leaf viburnum
<i>Viburnum lentago</i>	black haw, nannyberry
<i>Viburnum prunifolium</i>	black haw, nanny berry
<i>Viburnum rufidulum</i>	southern or rusty black haw
<i>Viburnum trilobum</i>	American Cranberry Bush

**Table 30-8****Perennials**

(\*Species with asterisks are shallow water emergent)

<b>Table 30-8: Perennials</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Acorus calamus</i>	Sweet Flag*, calamus
<i>Actaea pachypoda</i>	white baneberry
<i>Actinomeris alternifolia</i>	Wingstem
<i>Alisma subcordatum</i>	Water Plantain*
<i>Allium cernuum</i>	Nodding Wild Onion
<i>Allium tricoccum</i>	wild leek
<i>Amorpha canescens</i>	leadplant
<i>Anemone canadensis</i>	Canada anemone, windflower
<i>Anemone cylindrica</i>	thimbleweed, candle anemone
<i>Anemone virginiana</i>	thimbleweed, tall anemone
<i>Angelica atropurpurea</i>	Angelica
<i>Apocynum androsaemifolium</i>	spreading dogbane
<i>Aquilegia canadensis</i>	columbine
<i>Arisaema triphyllum</i>	Jack-in-the-pulpit, Indian turnip
<i>Aruncus dioicus</i>	goat's beard
<i>Asarum canadense</i>	wild ginger
<i>Asclepias incarnata</i>	swamp milkweed
<i>Asclepias incarnate</i>	Marsh Milkweed
<i>Asclepias tuberosa</i>	Butterflyweed
<i>Asclepias verticillata</i>	whorled milkweed
<i>Aster azureus</i>	Sky Blue Aster
<i>Aster cordifolius</i>	Heart Leaved Blue Wood Aster
<i>Aster ericoides</i>	heath aster, white wreath aster
<i>Aster firmus</i>	Shining Aster
<i>Aster laevis</i>	Smooth Aster
<i>Aster lateriflorus</i>	Side Flowering Aster
<i>Aster novae-angliae</i>	New England Aster
<i>Aster pilosus</i>	frost aster
<i>Aster puniceus</i>	red-stem aster, swamp aster
<i>Aster sericeus</i>	Silky Aster
<i>Aster shortii</i>	Short's Aster
<i>Aster simplex</i>	Panicled Aster
<i>Aster umbellatus</i>	Flat Topped Aster
<i>Astragalus canadensis</i>	milk vetch, Canada milk vetch
<i>Baptisia alba</i>	white false indigo
<i>Baptisia australis</i>	Blue False Indigo
<i>Baptisia leucantha</i>	White False Indigo
<i>Blephilia hirsute</i>	Hairy Wood Mint
<i>Boltonia latisquama</i>	False Aster
<i>Caltha palustris</i>	marsh marigold, cowslip*
<i>Camassia scilloides</i>	wild hyacinth

<b>Table 30-8: Perennials</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Campanula rotundifolia</i>	harebell
<i>Cassia hebecarpa</i>	Wild Senna
<i>Caulophyllum thalictroides</i>	blue cohosh
<i>Chelone glabra</i>	turtlehead
<i>Chelone oblique</i>	Pink Turtlehead
<i>Claytonia virginica</i>	narrow-leaved spring beauty
<i>Collinsonia canadensis</i>	stoneroot, citronella horsebalm
<i>Coreopsis lanceolata</i>	lance-leaved coreopsis
<i>Coreopsis palmata</i>	stiff coreopsis
<i>Coreopsis palmate</i>	Plains Coreopsis
<i>Coreopsis tripteris</i>	tall coreopsis
<i>Dalea candida</i>	white prairie clover
<i>Dalea purpurea</i>	purple prairie clover
<i>Decodon verticillatus</i>	Swamp Loosestrife
<i>Delphinium tricornes</i>	dwarf larkspur
<i>Desmodium canadense</i>	Canada tick-trefoil, Canada tickclover
<i>Desmodium illinoense</i>	Illinois tick-trefoil, Illinois tickclover
<i>Dicentra cucullaria</i>	dutchman's breeches
<i>Dodecatheon meadia</i>	shooting star
<i>Echinacea pallida</i>	Pale Purple Coneflower
<i>Echinacea purpurea</i>	purple coneflower
<i>Eryngium yuccifolium</i>	rattlesnake master, button snake-root
<i>Erythronium americanum</i>	eastern trout lily, yellow trout lily
<i>Eupatorium coelestinum</i>	mist flower
<i>Eupatorium fistulosum</i>	Joe-pye weed
<i>Eupatorium maculatum</i>	spotted Joe-pye weed
<i>Eupatorium perfoliatum</i>	boneset
<i>Eupatorium purpureum</i>	Joe-pye weed
<i>Eupatorium rugosum</i>	white snakeroot
<i>Euphorbia corollata</i>	flowering spurge
<i>Filipendula rubra</i>	Queen of the Prairie
<i>Fragaria virginiana</i>	wild strawberry
<i>Galium triflorum</i>	sweet-scented bedstraw
<i>Gentiana andrewsii</i>	bottle gentian
<i>Gentiana saponaria</i>	closed gentian, soapwort gentian
<i>Geranium maculatum</i>	wild geranium, cranesbill
<i>Helenium autumnale</i>	common sneezeweed
<i>Helianthus divaricatus</i>	woodland sunflower
<i>Helianthus grosseserratus</i>	Sawtooth Sunflower
<i>Helianthus mollis</i>	Downy Sunflower
<i>Helianthus occidentalis</i>	Western Sunflower
<i>Helianthus pauciflorus ssp.</i>	pauciflorus stiff sunflower
<i>Helianthus rigidus</i>	Showy Sunflower
<i>Heliopsis helianthoides</i>	ox-eye sunflower, false sunflower

<b>Table 30-8: Perennials</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Hepatica nobilis v. acuta</i>	sharp-lobed hepatica
<i>Heuchera americana v. hirsuticaulis</i>	alumroot
<i>Heuchera richardsonii</i>	alum root
<i>Hibiscus moscheutos</i>	swamp rose mallow, marshmallow hibiscus
<i>Hibiscus palustris</i>	Swamp Rose Mallow
<i>Hieracium gronovii</i>	hawkweed
<i>Houstonia caerulea</i>	bluets
<i>Hydrastis canadensis</i>	golden seal
<i>Hydrophyllum virginianum</i>	Virginia waterleaf
<i>Hypericum pyramidatum</i>	Great St. John's Wort
<i>Hypoxis hirsuta</i>	yellow star grass
<i>Iris cristata</i>	dwarf crested iris
<i>Iris versicolor</i>	Wild Iris*
<i>Iris virginica v. shrevei</i>	blue flag iris
<i>Justicia Americana</i>	Water Willow*
<i>Lespedeza capitata</i>	roundheaded bush clover
<i>Liatris aspera</i>	rough blazing star, gayfeather
<i>Liatris cylindracea</i>	dwarf blazing star, gayfeather
<i>Liatris scariosa nieuwlandii</i>	Savanna Blazing Star
<i>Liatris spicata</i>	marsh blazing star, gayfeather
<i>Liatris spicata</i>	Dense Blazing Star
<i>Liatris squarrosa</i>	blazing star
<i>Lilium michiganense</i>	Turk's cap lily, Michigan lily
<i>Linum virginianum</i>	woodland flax
<i>Lithospermum canescens</i>	hoary puccoon
<i>Lobelia cardinalis</i>	cardinal flower
<i>Lobelia siphilitica</i>	great blue lobelia
<i>Lupinus perennis</i>	wild lupine
<i>Lycopus americanus</i>	Common Water Horehound
<i>Lysimachia ciliata</i>	fringed loosestrife
<i>Maianthemum canadense</i>	wild lily-of-the-valley, Canada mayflower
<i>Mertensia virginica</i>	bluebells
<i>Mimulus ringens</i>	Monkeyflower
<i>Mitchella repens</i>	partridge berry
<i>Monarda fistulosa</i>	wild bergamot, horsemint, beebalm
<i>Nuphar advena</i>	yellow pond lily, cow lily, spatter dock *
<i>Osmorhiza claytonii</i>	sweet cicely, sweet jarvil
<i>Parthenium integrifolium</i>	Wild Quinine
<i>Peltandra virginica</i>	Arrow Arum*
<i>Penstemon calycocis</i>	Smooth Beardtongue, Smooth penstemon
<i>Penstemon digitalis</i>	Foxglove Beardtongue, Foxglove penstemon
<i>Penstemon hirsutus</i>	hairy beardtongue
<i>Petalostemum candidum</i>	White Prairie Clover



<b>Table 30-8: Perennials</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Petalostemum purpureum</i>	Purple Prairie Clover
<i>Phlox divaricata</i>	blue phlox, sweet William
<i>Phlox paniculata</i>	summer phlox, perennial phlox
<i>Phlox pilosa</i>	prairie phlox, downy phlox
<i>Physostegia virginiana</i>	obedient plant, false dragonhead
<i>Podophyllum peltatum</i>	May apple
<i>Polemonium reptans</i>	Jacob's ladder, Greek valerian
<i>Polygonatum biflorum</i>	Solomon's seal
<i>Pontederia cordata</i>	Pickerel Weed*
<i>Potentilla arguta</i>	white cinquefoil, prairie cinquefoil, tall cinquefoil
<i>Potentilla fruticosa</i>	potentilla, shrubby cinquefoil
<i>Potentilla simplex</i>	common cinquefoil
<i>Pycnanthemum tenuifolium</i>	slender mountain mint
<i>Pycnanthemum virginianum</i>	mountain mint
<i>Ranunculus hispidus</i>	early buttercup, tufted buttercup
<i>Ratibida pinnata</i>	gray-headed coneflower, yellow coneflower
<i>Rhexia virginica</i>	meadow beauty
<i>Rudbeckia fulgida speciosa</i>	Showy Black Eyed Susan
<i>Rudbeckia laciniata</i>	cut-leaf coneflower
<i>Rudbeckia subtomentosa</i>	sweet black-eyed Susan
<i>Ruellia humilis</i>	wild petunia
<i>Sagittaria latifolia</i>	Common Arrowhead*
<i>Salvia lyrata</i>	cancer weed, lyre-leaf sage
<i>Sanguinaria canadensis</i>	bloodroot
<i>Saururus cernuus</i>	Lizard's Tail*
<i>Sedum ternatum</i>	wild stonecrop
<i>Senecio aureus</i>	golden ragwort
<i>Senecio obovatus</i>	Round leaved Golden Ragwort
<i>Silene regia</i>	Royal Catchfly
<i>Silene stellata</i>	starry campion
<i>Silene virginica</i>	fire pink
<i>Silphium integrifolium</i>	rosinweed
<i>Silphium laciniatum</i>	compass plant
<i>Silphium perfoliatum</i>	cup plant
<i>Silphium terebinthinaceum</i>	prairie dock
<i>Sisyrinchium albidum</i>	narrow-leaved blue-eyed grass
<i>Smilacena racemosa</i>	false Solomon's seal, false spikenard
<i>Smilacena stellata</i>	starry Solomon's seal
<i>Solidago caesia</i>	blue-stemmed goldenrod, wreath goldenrod
<i>Solidago flexicaulis</i>	Zig Zag Goldenrod
<i>Solidago gigantea</i>	Late Goldenrod
<i>Solidago graminifolia</i>	Grass Leaved Goldenrod
<i>Solidago juncea</i>	early goldenrod, plume goldenrod
<i>Solidago nemoralis</i>	gray goldenrod, old-field goldenrod

<b>Table 30-8: Perennials</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Solidago ohioensis</i>	Ohio Goldenrod
<i>Solidago patula</i>	Swamp Goldenrod
<i>Solidago riddellii</i>	Riddell's Goldenrod
<i>Solidago rigida</i>	stiff goldenrod
<i>Solidago rugosa</i>	rough-leaved goldenrod
<i>Solidago speciosa</i>	showy goldenrod
<i>Solidago ulmifolia</i>	elm-leaved goldenrod
<i>Sparganium androcladum</i>	Branched Burreed*
<i>Sparganium eurycarpum</i>	Giant Burreed*
<i>Stylophorum diphyllum</i>	celandine poppy
<i>Tephrosia virginiana</i>	goat's rue
<i>Thalictrum dasycarpum</i>	tall or purple meadow rue
<i>Thalictrum dioicum</i>	early meadow rue
<i>Thalictrum thalictroides</i>	rue anemone
<i>Tradescantia ohioensis</i>	Ohio spiderwort
<i>Tradescantia virginiana</i>	Virginia spiderwort, spider lily
<i>Uvularia grandiflora</i>	bellwort, merrybells
<i>Uvularia sessilifolia</i>	wildoats, merrybells
<i>Verbena hastata</i>	blue verbena, blue vervain
<i>Verbena stricta</i>	hoary vervain
<i>Vernonia altissima</i>	Tall Ironweed
<i>Vernonia fasciculata</i>	ironweed
<i>Veronicastrum virginicum</i>	Culver's root
<i>Viola pedata</i>	bird-foot violet
<i>Viola pubescens</i>	yellow violet
<i>Viola soraria</i>	common blue violet, meadow violet
<i>Zizia aurea</i>	golden alexander

**Table 30-9**  
**Grasses & Sedges**

(\*Species with asterisks are shallow water emergent)

<b>Table 30-9: Grasses &amp; Sedges</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Agrostis parennans</i>	ticklegrass, fly-away grass
<i>Andropogon gerardii</i>	big bluestem
<i>Andropogon virginicus</i>	broom sedge
<i>Bouteloua curtipendula</i>	sideoats grama
<i>Brachyelytrum erectum</i>	long-awned wood grass
<i>Bromus kalmii</i>	prairie brome, wild chess
<i>Bromus latiglumis</i>	Tall Brome
<i>Bromus pubescens</i>	Woodland Brome
<i>Calamagrostis canadensis</i>	bluejoint grass
<i>Calamovilfa longifolia var magna</i>	Sand Reed
<i>Carex annectans xanthocarpa</i>	Yellow Fox Sedge
<i>Carex aquatilis</i>	water sedge
<i>Carex bicknellii</i>	Prairie Oval Sedge
<i>Carex brevior Plains</i>	Oval Sedge
<i>Carex bromoides</i>	Brome Hummock Sedge
<i>Carex cephalophora</i>	Short headed bracted sedge
<i>Carex comosa</i>	Bristly Sedge*
<i>Carex crinita</i>	Fringed Sedge
<i>Carex cristatella</i>	Crested Sedge
<i>Carex davisii</i>	Davis Wood Sedge
<i>Carex emoryi</i>	Riverbank Tussock Sedge
<i>Carex frankii</i>	Frank's Sedge
<i>Carex gracillima</i>	Graceful Wood Sedge
<i>Carex granularis</i>	Meadow Sedge
<i>Carex grayi</i>	Burr Sedge
<i>Carex hirtifolia</i>	Hairy Wood Sedge
<i>Carex hystericina</i>	Porcupine Sedge
<i>Carex Jamesii</i>	grass sedge
<i>Carex lacustris</i>	Lake Sedge*
<i>Carex laxiflora</i>	Beech Wood Sedge
<i>Carex lupulina</i>	Hop Sedge
<i>Carex lurida</i>	Lurid Sedge
<i>Carex molesta</i>	Field Oval Sedge
<i>Carex muhlenbergii</i>	Sand Bracted Sedge
<i>Carex muskingumensis</i>	Palm Sedge
<i>Carex normalis</i>	Spreading Oval Sedge
<i>Carex pellita</i>	Wooly Sedge
<i>Carex pennsylvanica</i>	Pennsylvania sedge
<i>Carex plantaginea</i>	plantain-leaved sedge
<i>Carex radiata</i>	Straight styled wood sedge

<b>Table 30-9: Grasses &amp; Sedges</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Carex scoparia</i>	Lance fruited oval sedge
<i>Carex shortiana</i>	Short's Sedge
<i>Carex sparganioides</i>	Burreed Sedge
<i>Carex squarrosa</i>	Narrow leaved cattail sedge
<i>Carex stipata</i>	awl-fruited sedge
<i>Carex stricta</i>	tussock sedge
<i>Carex tribuloides</i>	Pointed Oval Sedge
<i>Carex trichocarpa</i>	Hairy fruited sedge
<i>Carex utriculata</i>	beaked sedge
<i>Carex vulpinoidea</i>	Fox Sedge
<i>Chasmanthium latifolium</i>	inland sea oats, wild oats, river oats, broad-leaf uniola
<i>Cinna arundinacea</i>	Common Wood Reed
<i>Danthonia spicata</i>	poverty grass
<i>Deschampsia caespitosa</i>	Tufted Hair Grass
<i>Diarrhena Americana</i>	Beak Grass
<i>Eleocharis erythropoda</i>	Creeping Spike
<i>Eleocharis palustris</i>	creeping spikesedge, spike rush
<i>Elymus canadensis</i>	Canada wild rye
<i>Elymus hystrix v. hystrix</i>	bottlebrush grass
<i>Elymus riparius</i>	Riverbank Wild Rye
<i>Elymus villosus</i>	Silky Wild Rye
<i>Elymus virginicus</i>	Virginia Wild Rye
<i>Eragrostis spectabilis</i>	purple lovegrass, tumblegrass
<i>Glyceria stricta</i>	American mannagrass, tall mannagrass, reed meadowgrass
<i>Hierochloe odorata</i>	sweet grass
<i>Hystrix patula</i>	Bottlebrush Grass
<i>Juncus Canadensis</i>	Canada Rush
<i>Juncus effusus v. solutus</i>	soft rush*
<i>Juncus interior</i>	inland rush
<i>Juncus torreyi</i>	Torrey's Rush
<i>Koeleria cristata</i>	June Grass
<i>Koeleria macrantha</i>	June grass
<i>Leersia oryzoides</i>	rice cut grass
<i>Panicum virgatum</i>	switchgrass
<i>Schizachyrium scoparium</i>	little bluestem
<i>Scirpus acutus</i>	hardstem bulrush
<i>Scirpus atrovirens</i>	dark green bulrush
<i>Scirpus cyperinus</i>	wool grass
<i>Scirpus fluviatilis</i>	River Bulrush*
<i>Scirpus pendulus</i>	Reddish Bulrush
<i>Scirpus pungens</i>	Three square bulrush
<i>Scirpus validus</i>	great bulrush
<i>Sorghastrum nutans</i>	Indian grass

<b>Table 30-9: Grasses &amp; Sedges</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Spartina pectinata</i>	prairie cordgrass, freshwater cordgrass
<i>Sporobolus asper</i>	dropseed
<i>Sporobolus heterolepis</i>	Prairie Dropseed
<i>Stipa spartea</i>	porcupine grass

**Table 30-10**  
**Ferns**

<b>Table 30-10: Ferns</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Adiantum pedatum</i>	northern maidenhair fern
<i>Asplenium platyneuron</i>	ebony spleenwort
<i>Athyrium filix-femina</i>	lady fern
<i>Botrychium virginianum</i>	rattlesnake fern
<i>Cystopteris bulbifera</i>	bladder fern
<i>Cystopteris protrusa</i>	fragile fern
<i>Dryopteris carthusiana</i>	shield fern, toothed wood fern, spinulose shield fern
<i>Dryopteris cristata</i>	crested wood fern, buckler fern
<i>Dryopteris marginalia</i>	marginal wood fern
<i>Matteuccia struthiopteris</i>	ostrich fern
<i>Onoclea sensibilis</i>	sensitive fern, bead fern
<i>Osmunda cinnamomea</i>	cinnamon fern
<i>Osmunda claytoniana</i>	interrupted fern
<i>Osmunda regalis</i>	royal fern
<i>Phegopteris hexagonoptera</i>	broad beech fern
<i>Polystichum acrostichoides</i>	Christmas fern
<i>Thelypteris palustris</i>	marsh fern
<i>Thelypteris novaboracensis</i>	New York fern, tapering fern

**Table 30-11**  
**Endangered Species**

<b>Table 30-11: Endangered Species</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Asclepias meadii</i>	Mead's milkweed
<i>Cirsium pitcheri</i>	Pitcher's thistle
<i>Trifolium stoloniferum</i>	Running buffalo clover

**Table 30-12**  
**Recommended Trees for Bioretention Areas**

<b>Table 30-12: Recommended Trees for Bioretention Areas</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Acer Rubrum</i>	Red Maple
<i>Betula nigra</i>	River Birch
<i>Gleditsia tricanthos</i>	Honeylocust
<i>Gymnocladus dioica</i>	Kentucky Coffee Tree
<i>Liriodendron tulipifera</i>	Tulip Tree
<i>Nyssa sylvatica</i>	Black Tupelo
<i>Platanus occidentalis</i>	Sycamore
<i>Quercus bicolor</i>	Swamp White Oak
<i>Salix amygdaloides</i>	Peachleaf Willow
<i>Taxodium distichum</i>	Bald Cypress

**Table 30-13**  
**Recommended Shrubs for Bioretention Areas**

<b>Table 30-13: Recommended Shrubs for Bioretention Areas</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Cornus amomum</i>	Swamp Dogwood
<i>Cornus drummondii</i>	Rough-leaf Dogwood
<i>Cornus racemosa</i>	Gray Dogwood
<i>Cornus sericea</i>	Red twig dogwood
<i>Ilex glabra</i>	Inkberry
<i>Ilex verticillata</i>	Winterberry
<i>Itea virginica</i>	Virginia Sweetspire
<i>Salix bebbiana</i>	Bebb willow
<i>Salix discolor</i>	Pussy Willow
<i>Spieaea Alba</i>	Meadowsweet

**Table 30-14**  
**Recommended Perennials for Bioretention Areas**  
 (\*Species with asterisks are shallow water emergent)

<b>Table 30-14: Recommended Perennials for Bioretention Areas</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Acorus calamus</i>	Sweet Flag* (tolerates drying)
<i>Actinomeris alternifolia</i>	Wingstem
<i>Alisma subcordatum</i>	Water Plantain*
<i>Allium cernuum</i>	Nodding Wild Onion

**Table 30-14: Recommended Perennials for Bioretention Areas**

<b>Botanic Name</b>	<b>Common Name</b>
<i>Anemone canadensis</i>	Canada anemone
<i>Anemone cylindrical</i>	Candle Thimbleweed
<i>Anemone Virginiana</i>	Tall Thimbleweed,
<i>Angelica atropurpurea</i>	Angelica
<i>Aquilegia canadensis</i>	columbine
<i>Asclepias incarnata</i>	Swamp milkweed
<i>Asclepias incarnate</i>	Marsh Milkweed
<i>Asclepias tuberosa</i>	Butterflyweed
<i>Aster azureus</i>	Sky blue aster
<i>Aster cordifolius</i>	Heart leaved blue aster
<i>Aster ericoides</i>	Heath Aster
<i>Aster firmus</i>	Shining Aster
<i>Aster laevis</i>	Smooth Aster
<i>Aster lateriflorus</i>	Side flowering aster
<i>Aster novae-angliae</i>	New England aster
<i>Aster pilosus</i>	Frost Aster
<i>Aster puniceus</i>	Red Stem Aster, Swamp Aster
<i>Aster sericeus</i>	Silky Aster
<i>Aster shortii</i>	Short's Aster
<i>Aster simplex</i>	Panicked Aster
<i>Aster umbellatus</i>	Flat Top Aster
<i>Baptisia australis</i>	Wild Blue Indigo, Blue False Indigo
<i>Baptisia bracteata</i>	Cream Wild Indigo
<i>Baptisia lacteal</i>	Wild White Indigo
<i>Baptisia leucantha</i>	White False Indigo
<i>Bidens cernua</i>	Nodding Bur Marigold
<i>Blephilia hirsute</i>	Hairy Wood Mint
<i>Boltonia latisquama</i>	False Aster
<i>Caltha palustris</i>	Marsh Marigold
<i>Cassia hebecarpa</i>	Wild Senna
<i>Chelone glabra</i>	White Turtlehead
<i>Chelone oblique</i>	Pink Turtlehead
<i>Coreopsis lanceolata</i>	Lance –Leaved Coreopsis
<i>Coreopsis palmate</i>	Stiff Coreopsis, Plains Coreopsis
<i>Coreopsis tripteris</i>	Tall Coreopsis
<i>Decodon verticillatus</i>	Swamp Loosestrife
<i>Desmodium illinoensis</i>	Illinois Sensitive Plant, IL Tick Trefoil
<i>Dodecatheon meadia</i>	Shooting Star
<i>Echinacea pallida</i>	Purple Coneflower
<i>Echinacea purpurea</i>	Broad-Leaved Purple Coneflower
<i>Eryngium yuccifolium</i>	Rattlesnake Master
<i>Eupatorium coelestinum</i>	Blue Mist Flower
<i>Eupatorium fistulosum</i>	Hollow Joe

**Table 30-14: Recommended Perennials for Bioretention Areas**

<b>Botanic Name</b>	<b>Common Name</b>
<i>Eupatorium maculatum</i>	Spotted Joe-pye weed
<i>Eupatorium maculatum</i>	Spotted Joe
<i>Eupatorium perfoliatum</i>	Boneset
<i>Eupatorium purpureum</i>	Sweet Joe
<i>Eupatorium rugosum</i>	White Snakeroot
<i>Filipendula rubra</i>	Queen of the Prairie
<i>Gentiana andrewsii</i>	Bottle Gentian
<i>Geranium maculatum</i>	Wild Geranium
<i>Helenium autumnale</i>	Common Sneezeweed
<i>Helianthus grosseserratus</i>	Sawtooth Sunflower
<i>Helianthus mollis</i>	Downy Sunflower
<i>Helianthus occidentalis</i>	Western Sunflower
<i>Helianthus rigidus</i>	Showy Sunflower
<i>Heliopsis helianthoides</i>	False Sunflower
<i>Hibiscus moscheutos</i>	Swamp Rose Mallow
<i>Hibiscus palustris</i>	Swamp Rose Mallow.
<i>Hydrophyllum virginianum</i>	Virginia Waterleaf
<i>Hypericum pyramidatum</i>	Great St.John's Wort
<i>Iris versicolor</i>	Wild Iris*
<i>Iris virginica</i>	Blue Flag
<i>Iris virginica shrevei</i>	Blue Flag Iris OBL
<i>Justicia Americana</i>	Water Willow
<i>Lespedeza captiata</i>	Round
<i>Liatris aspera</i>	Rough Blazing Star
<i>Liatris pycnostachya</i>	Prairie Blazing Star
<i>Liatris scariosa nieuwlandii</i>	Savanna Blazing Star
<i>Liatris spicata</i>	Marsh Blazing Star, Dense Blazing Star
<i>Lobelia siphilitica</i>	Great Blue Lobelia
<i>Lobelis cardinalis</i>	Cardinal Flower
<i>Lobelis siphilitica</i>	Great Blue Lobelia
<i>Lycopus americanus</i>	Common Water Horehound.
<i>Mimulus ringens</i>	Monkeyflower
<i>Parthenium integrifolium</i>	Wild Quince
<i>Parthenium integrifolium</i>	Wild Quinine
<i>Peltandra virginica</i>	Arrow Arum*
<i>Penstemon calycosus</i>	Smooth Penstemon
<i>Penstemon digitalis</i>	Foxglove Penstemon
<i>Penstemon hirsutus</i>	Hairy Penstemon
<i>Petalostemum candidum</i>	White Prairie Clover
<i>Petalostemum purpureum</i>	Purple Prairie Clover
<i>Physostegia virginiana</i>	Obedient Plant
<i>Pontederia cordata</i>	Pickerel Weed*
<i>Potentilla arguta</i>	Prairie Cinquefoil



**Table 30-14: Recommended Perennials for Bioretention Areas**

<b>Botanic Name</b>	<b>Common Name</b>
<i>Pycnanthemum tenuifolium</i>	Narrow leaf mountain mint
<i>Pycnanthemum virginianum</i>	Common Mountain Mint
<i>Ratibida pinnata</i>	Yellow Coneflower
<i>Rudbeckia fulgida speciosa</i>	Showy Black Eyed Susan
<i>Rudbeckia hirta</i>	Black Eyed Susan
<i>Rudbeckia laciniata</i>	Green headed coneflower
<i>Rudbeckia subtomentosa</i>	Sweet Bland-Eyed Susan
<i>Rudbeckia triloba</i>	Brown-Eyed Susan
<i>Sagittaria latifolia</i>	Common Arrowhead*
<i>Saururus cernuus</i>	Lizard's Tail*
<i>Sedum ternatum</i>	Wild Stonecrop
<i>Senecio aureas</i>	Golden Ragwort
<i>Senecio obovatus</i>	Roundleaf ragwort
<i>Silene regia</i>	Royal Catchfly
<i>Silphium integrifolium</i>	Rosinweed
<i>Silphium laciniatum</i>	Compass Plant
<i>Silphium perfoliatum</i>	Cup Plant
<i>Silphium terebinthinaceum</i>	Prairie Dock
<i>Solidago caesia</i>	Bluestem golden aka Wreath Goldenrod
<i>Solidago flexicaulis</i>	Zig Zag Goldenrod
<i>Solidago gigantean</i>	Late Goldenrod
<i>Solidago graminifolia</i>	Grass leaved goldenrod
<i>Solidago juncea</i>	Early Goldenrod.
<i>Solidago nemoralis</i>	Grey Goldenrod
<i>Solidago ohioensis</i>	Ohio Goldenrod
<i>Solidago patula</i>	Swamp Goldenrod
<i>Solidago riddellii</i>	Riddell's Goldenrod
<i>Solidago rigida</i>	Stiff Goldenrod
<i>Solidago rugosa</i>	Wrinkled Goldenrod
<i>Solidago speciosa</i>	Showy Goldenrod
<i>Sparganium androcladum</i>	Branched Burreed*
<i>Sparganium eurycarpum</i>	Giant Burreed*
<i>Stylophorum diphyllum</i>	Celandine Poppy
<i>Tradescantia ohiensis</i>	Ohio Spiderwort
<i>Verbena hastate</i>	Blue Vervain
<i>Vernonia altissima</i>	Tall Ironweed
<i>Vernonia fasciculata</i>	Smooth Ironweed
<i>Veronicastrum virginicum</i>	Culver's Root
<i>Zizia aurea</i>	Golden Alexander

**Table 30-15****Recommended Grasses & Sedges for Bioretention Areas**

(\*Species with asterisks are shallow water emergent)

<b>Table 30-15: Recommended Grasses &amp; Sedges for Bioretention Areas</b>	
<b>Botanic Name</b>	<b>Common Name</b>
<i>Andropogon gerardii</i>	Big Blue Stem
<i>Bouteloua curtipendula</i>	Sideoats Grama
<i>Bromus latiglumis</i>	Tall Brome
<i>Bromus pubescens</i>	Woodland Brome
<i>Calamagrostis Canadensis</i>	Bluejoint
<i>Calamovilfa longifolia var magna</i>	Sand Reed
<i>Carex annectans var xanthocarpa</i>	Yellow Fox Sedge
<i>Carex aquatilis</i>	Water sedge
<i>Carex bicknellii</i>	Prairie Oval Sedge
<i>Carex brevior Plains</i>	Oval Sedge.
<i>Carex bromoides</i>	Brome Hummock Sedge
<i>Carex cephalophora</i>	Short headed bracted sedge
<i>Carex comosa</i>	Bristly Sedge*
<i>Carex crinita</i>	Fringed Sedge
<i>Carex cristatella</i>	Crested Sedge
<i>Carex davisii</i>	Davis Wood Sedge
<i>Carex emoryi</i>	Riverbank Tussock Sedge
<i>Carex frankii</i>	Bristly Cattail Sedge, Frank's Sedge
<i>Carex gracillima</i>	Graceful Wood Sedge
<i>Carex granularis</i>	Meadow Sedge
<i>Carex grayi</i>	Burr Sedge
<i>Carex hirtifolia</i>	Hairy Wood Sedge
<i>Carex hystericina</i>	Porcupine Sedge
<i>Carex jamesii</i>	Grass Sedge
<i>Carex lacustris</i>	Lake Sedge*
<i>Carex laxiflora</i>	Beech Wood Sedge
<i>Carex lupulina</i>	Hop Sedge
<i>Carex lurida</i>	Bottlebrush Sedge, Lurid Sedge
<i>Carex molesta</i>	Field Oval Sedge
<i>Carex muhlenbergii</i>	Sand Bracted Sedge
<i>Carex muskingumensis</i>	Palm Sedge
<i>Carex normalis</i>	Spreading Oval Sedge
<i>Carex pellita</i>	Wooly Sedge
<i>Carex pensylvanica</i>	Grass Sedge
<i>Carex plantaginea</i>	Plantain-Leaved Sedge
<i>Carex radiate</i>	Straight styled wood sedge
<i>Carex scoparia</i>	Lance fruited oval sedge
<i>Carex shortiana</i>	Short's Sedge
<i>Carex sparganioides</i>	Burreed Sedge

**Table 30-15: Recommended Grasses & Sedges for Bioretention Areas**

<b>Botanic Name</b>	<b>Common Name</b>
<i>Carex squarrosa</i>	Narrow leaved cattail sedge
<i>Carex Stipata</i>	Awl-Fruited Sedge
<i>Carex stricta</i>	Tussock Sedge
<i>Carex tribuloides</i>	Pointed Oval Sedge
<i>Carex trichocarpa</i>	Hairy fruited sedge
<i>Carex vulpinoidea</i>	Fox Sedge
<i>Chasmanthium latifolium</i>	Northern Sea Oats
<i>Cinna arundinacea</i>	Common Wood Reed
<i>Deschampsia caespitosa</i>	Tufted Hair Grass
<i>Diarrhena Americana</i>	Beak Grass.
<i>Eleocharis erythropoda</i>	Creeping Spike
<i>Elymus Canadensis</i>	Canada Wild Rye
<i>Elymus hystrix</i>	Bottlebrush Grass
<i>Elymus riparius</i>	Riverbank Wild Rye
<i>Elymus villosus</i>	Silky Wild Rye
<i>Elymus virginicus</i>	Virginia Wild Rye
<i>Eragrostis spectabilis</i>	Purple Love Grass
<i>Glyceria striata</i>	Fowl Manna Grass
<i>Glyceria stricta</i>	American mannagrass
<i>Hystrix patula</i>	Bottlebrush Grass
<i>Juncus Canadensis</i>	Canada Rush
<i>Juncus effuses</i>	Soft Rush*
<i>Juncus interior</i>	Inland Rush
<i>Juncus torreyi</i>	Torrey's Rush
<i>Koeleria cristata</i>	June Grass
<i>Koeleria pyramidata</i>	June Grass
<i>Leersia oryzoides</i>	Rice cutgrass
<i>Panicum virgatum</i>	Switch Grass
<i>Schizachyrium scoparium</i>	Little Blue Stem
<i>Scirpus acutus</i>	Hardstem Bulrush*
<i>Scirpus atrovirens</i>	Dark Green Bulrush
<i>Scirpus Cyperinus</i>	Wool Grass
<i>Scirpus fluviatilis</i>	River Bulrush*
<i>Scirpus pendulus</i>	Reddish Bulrush
<i>Scirpus pungens</i>	Three square bulrush aka chair makers rush
<i>Scirpus validus</i>	Great Bulrush
<i>Sorghastrum nutans</i>	Indian Grass
<i>Spartina pectinata</i>	Prairie Cordgrass
<i>Sporobolus heterolepis</i>	Prairie Dropseed

[end of chapter]

## CHAPTER 831

### ZONING ORDINANCE: AMENDMENTS TO THE ZONING MAP AND TEXT

#### 831-1. Authority and Procedures

This Zoning Ordinance and the Zoning Map may be amended from time to time by ordinance duly enacted by the Board of County Commissioners in accordance with the procedures set out in Indiana Code Chapter 36-7-4-600 Series, Zoning Ordinance.

#### 831-2. Application Procedures

Any person seeking a petition for a zoning amendment shall submit to the Planning Department the following information:

- (A) A letter to the Plan Commission stating the petition request;
- (B) A copy of the most recent recorded deed or land contract for the parcel(s) in question;
- (C) If the property owner is not the petitioner, a letter of consent from the owner must be submitted;
- (D) A copy of the Plat Book page showing the parcel(s) in question;
- (E) Two (2) copies of a property survey or site plan, drawn to scale, and one reduction of the site plan on standard letter size paper, which shall show the following:
  - (1) The full lot including all property lines, required setback lines and all easements, including all distances;
  - (2) Locations of all existing structures and improvements on the property, including parking lots, driveways and septic fields, if applicable;
  - (3) All roads bordering the property or that provide access to the property;
  - (4) The location, owner, zoning and use of all adjacent properties, including all neighboring structures that sit within fifty (50) feet of the property lines;
  - (5) Location, right-of-way and pavement width of all streets adjacent to the lot;
  - (6) Proposed connections to public utilities, if applicable; and
- (F) An area map, indicating the location of the subject property relative to related public facilities such as schools, water, sewer, etc., and include the orientation of the property to the Thoroughfare Plan;

#### 831-3. Standards for Amendments

In preparing and considering proposals to amend the text or maps of this Zoning Ordinance, the Plan Commission and the Board of County Commissioners shall pay reasonable regard to:

- (A) The Comprehensive Plan;
- (B) Current conditions and the character of current structures and uses in each district;
- (C) The most desirable use for which the land in each district is adapted;
- (D) The conservation of property values throughout the jurisdiction; and
- (E) Responsible development and growth.

**831-4. Comprehensive Land Use Plan Amendment**

Prior to submission of a rezoning request that is not consistent with the Comprehensive Land Use Plan, the applicant shall submit a Comprehensive Land Use Plan amendment to the Plan Commission. The applicant shall submit a statement describing how the proposed project is supported by the growth management policies of the Comprehensive Land Use Plan. The statement shall generally describe the development and its relationship to neighboring properties and shall include planning objectives for the development and the rationale governing their choices and approaches.

**831-5. Effect of Approval of Amendment**

- (A) When an amendment to the zoning map is approved, such amendment shall be incorporated into the official map maintained by Monroe County.
- (B) When an amendment to the zoning text is approved, such change shall be incorporated into the official document according to the numbering system established with this Ordinance.

**[end of chapter]**

## CHAPTER 832

### ZONING ORDINANCE: APPEALS

#### **832-1. Authority**

The Board of Zoning Appeals shall hear and determine appeals from and review any order, requirement, decision or determination made by an administrative official, Hearing Officer, or staff member under this Zoning Ordinance.

The Board shall also hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of this Zoning Ordinance or to the enforcement of any other titles of the Monroe County Code requiring procurement of a building permit or occupancy permit.

#### **832-2. Initiation**

An appeal may be filed with the Board of Zoning Appeals by any person aggrieved by the order, requirement, decision or determination described in Section 832-1. An appeal filed with the Board must specify the grounds of the appeal and must be filed in the form and within the time limit established by rule of the Board, except that a decision of a Hearing Officer must be appealed within fourteen (14) days after the decision is made.

#### **832-3. Processing**

An appeal shall be filed with the planning staff, who shall forward such appeal to the Board of Zoning Appeals for processing in accordance with this Zoning Ordinance and applicable statutes of the State of Indiana.

#### **832-4. Public Hearing**

A public hearing shall be conducted by the Board of Zoning Appeals in conformance with IC 5-3-1-2 and IC 5-3-1-4 and the Monroe County Board of Zoning Appeals Rules of Procedure. The party making the appeal shall be required to assume the cost of public notice and due notice to interested parties.

#### **832-5. Decisions**

The Board of Zoning Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and shall render a final decision on all appeals. A written copy of such decision, as described in the Rules of Procedure, shall be available in the Planning Department within five (5) days after making such decision.

#### **832-6. Additional Considerations**

- (A)** The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the Board, transmit to the Board certified copies of all documents, plans, and papers constituting the record of the action from which an appeal was taken.
- (B)** When an appeal from the decision of an official or board has been filed with the

Board, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the Board that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by court order.

**[end of chapter]**

## CHAPTER 833

### ZONING ORDINANCE: ADMINISTRATIVE ADDITIONS FOR FORMER CITY OF BLOOMINGTON JURISDICTIONAL AREAS

#### 833-1. Purpose and Scope

The purpose of this chapter is to incorporate those sections of the City of Bloomington Zoning Ordinance which would apply to the zoning effective for those areas of the County formerly under the City of Bloomington's planning and zoning jurisdictional control, as amended. These sections are incorporated by reference into those sections of this Zoning Ordinance which would govern the administration of the affected zoning area.

Unless superseded by an Interlocal Agreement, the regulations set forth in this Chapter apply to the area outside the corporate limits of the City of Bloomington but inside the former "Two-Mile Fringe" boundary, which boundary shall include the following townships and sections:

<u>Township</u>	<u>Township Sections</u>
Richland	25, 35, 36
Bloomington	8, 9, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 31, 32, 35, 36
Benton South	30, 31
Van Buren	1, 2, 3, 10, 11, 12, 13
Perry	1, 2, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22
Salt Creek	6

Chapters 800-832 and 834 of this Zoning Ordinance should be referenced for procedures and development standards not found in this chapter.

#### 833-2. Regulations for Former City Zoning Jurisdictional Area

##### (A) **Zoning Districts**

For purposes of this chapter, the following sixteen (16) zoning districts are defined.

**Estate Residential 2.5 (RE2.5) District.** The intent of this district is to required minimum lot sizes of 2.5 acres where sensitive environmental resources exist. Such environmental resources may include karst formations, wetlands, hillsides, heavily wooded land, and the lake's watersheds. The dual purposes of this district are:

- A. To protect such sensitive environmental resources.
- B. To permit a rural level of development which will not endanger and can be used to protect these sensitive resources.

**Estate Residential 1 (RE1) District.** The intent of this district is to accommodate large lot, estate type residential uses in a rural environment along with limited compatible agricultural uses. It is meant specifically to:

- A. Accommodate those persons who desire estate type living.
- B. Maintain a pattern of growth that is consistent with the cost-efficient provision of urban services to promoted compactness in the city structure.
- C. Provide for development in a rural setting not necessarily requiring urban utilities.
- D. Provide for limited compatible agricultural uses.



**Single Dwelling Residential (RS2, RS3.5, RS4.5) Districts.** These three districts are intended to serve the traditional single family dwelling needs of the City. They are maintained in a single section of the ordinance for easy interpretation; the primary difference among these three district is density. By providing three districts zoning is established which is appropriate to the existing development in each district. These districts provide a flexible density structure whereby developments of varying densities are permitted subject to appropriate review. The intent of these districts is specifically to:

- A. Provide for the development of single family neighborhoods.
- B. Assure the protection of existing residential environments.
- C. Promote compatibility with the existing pattern of development.

**Townhouse Residential (RT7) District.** The Townhouse Residential (RT7) district provides a higher density single family residential district within appropriate areas of the city. Such development permits a higher level of land utilization, optimizes the utility of available infrastructure, and permits greater design flexibility while retaining a single family residential “neighborhood” atmosphere. This district accommodates attached single family residential development on properties designated low density by the Comprehensive Plan. The specific intent of this district is to:

- A. Provide for the development of well planned residential neighborhoods.
- B. Optimize the relationship between public infrastructure capacity and development densities.
- C. Provide pedestrian scale residential neighborhoods.
- D. Minimize land consumption and natural resource disturbance.
- E. Facilitate development flexibility to respond to market, design, and lifestyle trends.

**Multi Dwelling Residential (RM7, RM15) Districts.** Two multi family residential districts are provided. These districts include an RM7 zoning district intended for low density apartment development and an RM15 zoning district for higher density apartment development. These districts are located so as to be compatible with nearby existing multifamily development. The specific intent of these districts is to:

- A. Provide for the development of well planned multifamily residential neighborhoods.
- B. Optimize the relationship between public infrastructure capacity and development densities.
- C. Minimize land consumption and natural resource disturbance.
- D. Facilitate development flexibility to respond to market, design and lifestyle trends.

**Limited Commercial (CL) District.** This district will provide for small scale commercial uses within appropriate areas designated by the Comprehensive Plan. It is primarily intended to provide services to the immediate neighborhood, to encourage a pedestrian oriented community, and to disperse commercial uses throughout the community. This district provides locations for a variety of business and commercial uses of a moderate intensity. The specific intent of this district is to:

- A. Provide retail goods and services required for the regular or daily convenience of the residents of the surrounding neighborhood.
- B. Improve the visual quality of commercial areas.

- C. Create an environment of well-planned and coordinated commercial development.
- D. Assure buffered transition between commercial uses and adjacent residential environments.

**General Commercial (CG) District.** The purpose of this district is to provide areas within the city where shopping centers can be located in such a way that they will be accessible to the larger community without creating detrimental impacts on surrounding land uses. This district provides a location for commercial uses of a significant scale that attract customers from throughout the area. The specific intent of this district is to:

- A. Establish areas of compatible commercial uses.
- B. Improve the visual quality of commercial areas.
- C. Create an environment of well planned and coordinated commercial development.

**Arterial Commercial (CA) District.** The purpose of this district is to provide well-planned major commercial centers along major thoroughfares, access to which is primarily automotive. These centers require significant transportation and parking facilities which are not appropriate in more congested or less auto-oriented parts of the city. The intent of this district is to provide a planning mechanism that ensures efficient use of space, minimal congestion, and attractive development which creates a pleasant and healthy environment for the residents of the Bloomington area.

**Limited Industrial (IL) District.** This district provides for industrial uses of limited intensity. The purpose of the district is to encourage a high quality of design including buffering, landscaping, signage, entry features and architecture. This district accommodates those light industrial uses which are less offensive to nearby commercial or residential areas. The specific intent of this district is to:

- A. Accommodate industrial development which does not create substantial environmental impacts to surrounding properties. Such impacts include noise, vibration, unregulated outdoor storage and traffic.
- B. Create industrial environments which accommodate light industrial uses.
- C. Create environments for industrial uses which are attractive and well-designed.
- D. Provide for limited commercial opportunities which serve the surrounding industrial area.

**General Industrial (IG) District.** This district accommodates those uses with one or more of the following characteristics: intensive use of property, open uses and/or storage, industrial processes which may involve significant amounts of heat, mechanical and chemical processing, and other heavy industrial processes. It is the specific intent of this district to:

- A. Accommodate heavy industrial development.
- B. Create industrial environments which accommodate heavy industrial uses.
- C. Provide for limited commercial opportunities which serve the surrounding industrial area.

**Business Park (BP) District.** This district permits industrial parks for uses such as technology businesses and related office uses, including research and development. This district provides locations for commerce, service and employment activities having locations and site improvements that project a desirable appearance and that maintain compatibility with adjacent land uses. Aesthetic goals of the district include a park-like appearance, good architecture, clean uses, and avoiding large areas of parked trucks and equipment. It is the intent of this district to:

- A. Provide a planned business park environment.
- B. Assure control over the physical and visual design of the county's employment areas.
- C. Provide flexibility to respond to the needs of local business without adversely impacting adjacent development or neighborhoods.
- D. Provide for major development opportunity for economic development prospects.

**Institutional Uses (I) Special District.** The Institutional district is established to provide regulations for institutionally owned lands, including state, county, and city facilities; social service oriented uses, and similar non-profit, quasi-public institutions.

**Airport (AP) Special District.** The Airport district is intended to protect the airport from encroaching land uses which would hamper its operation and to protect those land uses from negative impacts associated with safety and noise. Additionally, the Airport district allows for uses appropriately associated with an airport.

**Quarries (Q) Special District.** The Quarries district will protect limestone quarries from encroaching land uses that would hamper their operations, while providing appropriate standards to protect the surrounding land uses from quarrying activities.

Standards for permitted uses within these zoning districts are listed in Tables 33 1. Table 33-2 contains a summary of development regulations for these zoning districts. Tables 33-4 and 33-5 lists special conditions or limitations which may apply to certain principal or accessory uses or structures.

**(B) Planned Residential Overlays**

**(1) Purpose.** The Planned Residential Overlay is a series of three "performance" overlay districts intended to permit maximum residential densities recommended by the Comprehensive Plan on large sites which may be near properties previously developed to lower density standards or where such densities are appropriate with adequate buffering and mitigation of impacts. The intent is to allow mixed residential uses at an average overall density.

**(2) Application of the Planned Residential Overlays.** Planned Residential Overlays may be designated and mapped on the Official Zoning Map in conjunction with the following residential zoning districts:

- (a)** The PRO6 overlay may be overlaid only upon the RS3.5 Single Dwelling Residential District.
- (b)** The PRO12 overlay may be overlaid only upon the RT7 Townhouse Residential and RM7 Multi Dwelling Residential Districts.
- (c)** The PRO20 overlay may be overlaid only upon the RM15 Multi Dwelling Residential District.

**(3) Uses Permitted Within the Planned Residential Overlays.** The uses permitted within planned residential overlays shall include the same uses allowed as permitted uses, as conditional uses and as accessory uses in the underlying district, and in all PRO overlay districts the following uses shall be permitted: detached single family homes, two family dwellings, townhouses, and apartments.

**(4) Approval.** Within the PRO, development shall be subject to the following approval

process:

- (a) Any development conforming to the permitted uses and development standards of the underlying district shall be subject to the normal procedures of this zoning ordinance and, where applicable, to the normal procedures for subdivision approval as specified in Chapter 854 of the Monroe County Subdivision Control Ordinance, and the Plan Commission Rules of Procedure.
- (b) Any development which included uses other than those permitted in the underlying district or lot sizes smaller than those permitted in the underlying district, or densities greater than those permitted in the underlying district shall be subject to site plan review by the Plan Commission.
  - (1) The Plan Commission shall consider the spatial arrangement of the uses on the site, and the relationship of the uses to site features and surrounding land uses, in addition to the scope of review and standards specified in Section 815-4.
  - (2) If requested by the applicant, the Plan Commission shall consider a conceptual site plan drawn to a sufficient level of detail to enable determination of compliance with the requirements of the PRO District, and verification of the density bonuses. Upon approval of such a conceptual site plan, a full site plan conforming to all of the requirements of Section 815-4, shall be approved by the Plan Commission or planning staff, as provided in Section 815-3, before any permits are issued.
  - (3) The full site plan specified in (c) above may encompass a portion of the conceptual plan initially approved by the Plan Commission, but only where the implementation of the amenities for which density bonus has been granted is assured to the satisfaction of the approving authority by a financial guarantee and/or by inclusion in a final phase of sufficient size to warrant such assurance. The approving authority is not required to approve the site plan in phases unless it determines that adequate assurance is possible and has been provided.
  - (4) Subdivision approval, where specified under Chapter 854 of the Monroe County Subdivision Control Ordinance, shall be required in addition to the site plan approval specified herein; however, such approvals may be scheduled for simultaneous consideration.
- (5) **Mandatory Site Development Standards.** Mandatory site development standards apply to any development described in 833-2 (B)(4)(b) and shall include the following:
  - (a) In the PRO6 overlay, any area within 150 feet of a residential development existing on the date of adoption of this Zoning Ordinance shall not exceed a gross density of 25% in excess of that of the adjacent existing development; any area within the next 150 feet of such adjacent development shall not exceed a density of 50% in excess of that of the adjacent existing development; any portion of the site over 300 feet from such adjacent existing development may be developed at a gross density which results in the permitted gross density for the entire site.

For the purpose of this requirement, the density of the adjacent development shall be the gross density of the nearest tier of lots calculated to the centerline of the street serving said lots, or the gross density of the area within 400 feet of the common boundary, whichever is greater.

This requirement shall not apply to the frontage of an arterial street as designated

on the Thoroughfare Plan; to adjacent areas which consist of residences on unplatted parcels having lot size of at least two times the required minimum lot size in the underlying district, or to undeveloped land.

- (b) Landscaping: Wherever the boundary of a proposed use other than platted lots for single family detached residences abuts a platted single family area, such interface shall have a landscape D Value of 1.5 times that required by Chapter 830. The remainder of the area within the Planned Residential overlay shall be subject to the requirements of Chapter 830.
  - (c) Mature tree crown coverage shall be retained to the maximum extent possible.
  - (d) Development within the PRO overlay shall be subject to the development regulations and standards found in Chapters 806, 830, and 816.
- (6) **Achieving Density Bonuses.** The standards in Section 833-2 (B)(7) establish certain actions or development standards a petitioner may take or provide to warrant added density. These standards, if met, shall result in incremental additional density up to but not exceeding the following maximum average gross density for the entire development site; density of portions of a site may exceed these density limits:
  - (a) PRO6: Six units per acre
  - (b) PRO12: Twelve units per acre
  - (c) PRO20: Twenty units per acre
- (7) **Density Bonus Standards.** When the following standards are met, average gross density limits for the entire site shall be increased by the amount indicated herein, over the base gross density of 3.5 units per acre in the PRO6 overlay, 7.0 units per acre in the PRO12 overlay, and 15 units per acre in the PRO20 overlay. However, in no case shall aggregate gross density exceed the maximum provided for in (6) above. Provided further, no density shall be awarded for meeting standards otherwise required by this Zoning Ordinance.
  - (a) Landscaping: Landscaping exceeding the requirements of Chapter 830 and 833-2 (B)(5) shall warrant additional density as provided below:
    - (1) Shade trees, selected from the list in Chapter 830, shall warrant a density bonus of one dwelling unit for every four (4) additional shade trees, up to a maximum bonus of 0.75 unit per acre in the PRO6 overlay, or a maximum bonus of 1.5 units per acre, in the PRO12 and PRO20 overlays.
    - (2) Preservation of an existing woodlot of a minimum size of 0.5 acre, containing a significant proportion of trees with a minimum trunk caliper of 5 inches in an undisturbed state shall warrant a density bonus of 20 dwelling units for each acre preserved up to a maximum bonus of 1.0 unit per acre. The density bonus for fractional acres over the 0.5 acre minimum size shall be prorated.
    - (3) Provision of a planted evergreen screen or a combination of screen and earth berm at the interface with existing development or along existing abutting street frontage shall warrant a density bonus of one dwelling unit for every 150D of D Value pursuant to Chapter 830, up to a maximum density bonus of 1 unit per acre in the PRO6 overlay, or 2 units per acre in the PRO12 and PRO20 overlays.
  - (b) Amenities: The amenities listed below shall warrant density bonus as set forth

below:

- (1)** Provision of a bike/pedestrian trail developed to County standards shall warrant one additional dwelling unit for every twenty-five (25) lineal feet of such trail provided the trail is linked to an existing or proposed trail or otherwise provides linkage between local streets and destinations such as parks, schools, shopping areas, or other streets. If no such link is provided or if such a link is not possible but a bike/pedestrian trail is provided for recreational use by the residents, additional density warranted shall be one dwelling unit per 50 lineal feet of trail. The maximum bonus for the provision of a trail shall be 1.25 units per acre in the PRO6 or 2.5 units per acre in the PRO12 and PRO20 overlays.
- (2)** When community facilities such as a swimming pool, tennis courts, park, or club/meeting facilities are provided within the development, a density bonus shall be warranted as follows:

  - (a)** A fully enclosed, all-season community building for recreation or other gatherings of the residents of the development shall warrant a density bonus of 1 unit for every 15 square feet of gross floor area of such building up to a maximum density bonus of 0.75 units per acre in the PRO6 overlay or 1.5 units per acre in the PRO12 and PRO20 overlays.
  - (b)** A paved tennis court or full basketball court shall warrant a density bonus of 25 units per court.
  - (c)** Other recreation facilities, such as pools or playgrounds, shall warrant a density bonus based on the construction costs adjusted annually from the 1995 base year per the construction cost index as reported in the *Engineering News Record*. The density bonus shall be one dwelling unit per \$1,000 of construction cost.
  - (d)** The maximum aggregate density bonus for all outdoor recreation facilities shall be 1.0 units per acre in the PRO6 overlay or 2.0 units per acre in the PRO 12 and PRO20 overlays.
- (3)** When land is dedicated for public facilities such as schools, fire or police stations, public recreation centers or libraries, a density bonus of 25 units for each acre dedicated shall be warranted in the PRO6 district, or 50 units per acre in the PRO12 or PRO20 overlays. When such land is reserved for future purchase, a density bonus of ½ of that specified above shall be warranted. Bonus for such dedication or reservation shall be subject to the agreement to the reservation or dedication by the city, county, or other public agency responsible for the facility. Such dedicated or reserved land shall be included in the calculation of gross density.
- (c)** Affordability: When affordable units are provided, a density bonus of 2 dwelling units shall be warranted for each affordable unit which is provided for a period of no less than 17 years. The applicant must be participating in a local, state, or federal program with monitoring capability in order to qualify for this density bonus.
- (d)** Handicapped Accessibility: A density bonus of 1 dwelling unit shall be warranted by the provision of 2 handicapped accessible units but only to the extent that such handicapped accessibility is not required by state or federal law. The maximum density bonus for provision of handicapped accessibility shall be 0.75 units per acre

in the PRO6 overlay or 1.5 units per acre in the PRO12 and PRO20 overlay.

- (e) Mitigating Off-Site Impacts: Where the applicant proposed to mitigate an off-site impact expected to be generated by the proposed development (or an impact imposed on the proposed development by off-site conditions) a density bonus of 1 dwelling unit per \$1,000 of construction cost of the mitigation measure adjusted annually from a 1995 base year per the construction cost index as reported in the *Engineering News Record*, shall be granted provided that such mitigation measures are determined to be needed, feasible, and of acceptable design, by the appropriate public agency up to a maximum density bonus of 1.25 units per acre in the PRO6 overlay or 2.5 units per acre in the PRO12 and PRO20 overlays.
- (f) Aesthetic Features: Where aesthetic features are provided, such as entryways, special street lighting, ponds, or other such features, a density bonus of 1 dwelling unit per \$1,000 of construction cost of the aesthetic feature adjusted annually from a 1995 base year per the construction cost index as reported in the *Engineering News Record*, shall be granted by the Plan Commission up to a maximum density bonus of 0.75 units per acre in the PRO6 overlay or 1.5 units per acre in the PRO12 and PRO20 overlays.

**(C) Lakes Watershed Area Overlay**

The purpose of this overlay is to protect the Griffey and Monroe lake watersheds from nearby development which could have adverse effects upon the lakes. The following standards shall supplement the use and development standards of the underlying districts within the Lakes Watershed Area Overlay District.

- (1) Single family detached dwellings on lots of record shall not be subject to the requirements of this overlay district.
- (2) Site plans, subdivision plats, and planned unit development plans shall be designed by a Professional Engineer, registered in the State of Indiana, and shall include reports by a geotechnical consultant regarding stormwater detention, soil stabilization, erosion and siltation control, and stormwater runoff quality mitigation. The reviewing authority shall determine whether such plans are adequate and shall not approve such plans unless the applicant has demonstrated that the proposed design and mitigation measures will adequately protect the public health, safety and welfare.
- (3) Such plans shall located structures and earth disturbance so as to avoid tree concentrations.
- (4) Streets, parking areas and building pads shall be designed so as to conform closely to existing contours and minimize grading.
- (5) Such plans shall incorporate redundant stormwater runoff quality mitigation measures. Plans shall also incorporate a binding, recordable commitment for ongoing maintenance of those facilities, including:
  - (a) Periodic third party inspection and report;
  - (b) Owner's association with financing capability;
  - (c) County authorization to order maintenance;
  - (d) County authorization to seek injunctive relief; and,
  - (e) County authorization to perform necessary maintenance and charge the owner's a

association for the work.

- (6) Within the Lakes Watershed Overlay District, the maximum slope on which buildings may be constructed shall be eighteen (18) percent.

**(D) Special Flood Hazard Areas**

The regulations found in Chapter 808 shall apply to areas designated as Urban Floodway, Rural Floodway, Floodplain, and Floodway Fringe Districts within the jurisdictional area, subject to the following change.

In areas designated as Floodways, no residence will be permitted to make any additions which increase the building footprint of the residence. This restriction shall apply to all properties subject to the regulations of this chapter, and classified as Urban Floodway or Rural Floodway, as found on FEMA maps for the City of Bloomington jurisdictional area.



**Table 33-1 Permitted Land Uses**

Uses	RE2.5	RE1	RS2	RS3.5	RS4.5	RT7	RM7	RM15	CL	CG	CA	IL	IG	BP	I	AP	Q	Cond.
Accessory gasoline uses									C									
Adult Oriented Business											P		P					19
Aircraft maintenance and storage facilities																P		
Aircraft servicing and fueling facilities																P		
Airports and heliports																P		
Amusement arcade										P	P							
Animal hospitals and veterinarian's offices										P	P							
Appliance and furniture repair										P								
Auditoriums									C	P	P	C		C	P			
Automobile rental																P		
Automobile storage yards													C					
Automotive repair										P	P	C	C					9
Bars and taverns										P	P							
Bed and breakfast	C	C	C	C	C	P	P	P	P	P	P							7;14
Beverage bottling												P	P					
Building trade shops											P	P	P					
Bus terminals																		
Business or Industrial Center										P	P	P	P					20
Business or trade schools											P	P			P			
Business service											P		P					
Business service in enclosed buildings										P								
Car washes										P	P							
Cemeteries	P	P	C	C	C	C	C	C							P			
Churches	C	C	C	C	C	C	C	C	C	P	P	C		C	P			
Colleges/universities															P			
Commercial / Industrial Adaptive Reuse										P	P	P	P					21
Commercial print shop														P				
Commercial use as principal use																C		
Community centers			C	C	C	C	C	C		P	P			C	P			
Conference center														P				
Convalescent, nursing or rest home									C	P	P	C		P	P			
Correctional facilities											C		C		C			
Crematoriums											P							
Crops and pasturage	P	P															P	1
Cultural facilities									C	P	P	P			P	P	C	
Day care centers	C	C	C	C	C	C	C	C	P	P	P	P		P	P			
Drive through facilities											P							10
Drive through facilities serving a permitted use									C	P								10
Drive-in theaters											C							
Dwelling units located on the second floor or above									P									
Emergency shelter facilities															P			
Financial institutions										P	P							
Fire stations	C	C	C	C	C	C	C	C	C	P	P	P	P		P	P		
Gasoline service stations										P	P							11
Golf courses		C																
Government institutions														P	P	P		
Heavy manufacturing													P					

**Table 33-1 Permitted Land Uses**

Uses	RE2.5	RE1	RS2	RS3.5	RS4.5	RT7	RM7	RM15	CL	CG	CA	IL	IG	BP	I	AP	Q	Cond.
Historic adaptive reuse	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Home occupations	C	C	C	C	C	C	C	C	P	P	P							16
Hotels/motels										P	P			C		P		
Hospitals														P				
Industrial uses with potentially adverse effects													C					
Intensive commercial recreational activities										P	P							17
Kennels											P	C						
Light manufacturing												P	P	C				
Lodge halls										P	P							
Machinery and equipment repair												P	P					
Mini-warehouses											P	P						
Mortuaries										P	P							
Multi-family dwellings							P	P		P	P							
Newspaper printing											P							
Nurseries/greenhouses											P							
Off-site parking									C	C	C	C	C	C	C	C		
Offices									P	P	P	P	P	P	P	P		
Outdoor retail and wholesale uses																		
Outdoor storage as an accessory use												C				C		
Parking lots and garages										P	P							15
Parks and playgrounds	P	P	C	C	C	P	P	P	P						P	P	C	
Personal services									P	P	P							
Police stations	C	C	C	C	C	C	C	C	C	P	P	P	P		P	P		
Print shops												P	P					
Public libraries/museums	C	C	C	C	C	C	C	C	C									
Quarries and other excavation activities																	P	
Radio/TV stations											P							
Recreation centers			C	C	C	C	C	C		P	P			C	P			
Rehabilitative facilities	C	C	C	C	C	C	C	C	C	C	C	C			C			
Relocation of off-premise signs										C	C	C	C					
Research laboratories												P	P	P				
Residential care homes for developmentally disabled individuals	P	P	P	P	P	P	P	P	P	P	P							2
Residential care homes for mentally ill	P	P	P	P	P	P	P	P	P	P	P							3
Residential care homes for up to five individuals, other than the developmentally disabled	P	P	P	P	P	P	P	P	P	P	P							4
Restaurants										P	P							
Retail sales in enclosed buildings									P	P	P							
Retail, outdoor											P							
Rooming/lodging houses							P	P	P	P	P							
Schools	C	C	C	C	C	C	C	C	C	P	P	P			P			
Shared parking									C	C	C	C	C	C	C	C		
Shopping Center										P	P							20
Single family detached dwellings	P	P	P	P	P	P	P	P		P	P							8
Social service uses									P	P	P				P			
Solid waste/recycling centers													P					12
Sororities and fraternities															P			

**Table 33-1 Permitted Land Uses**

Uses	RE2.5	RE1	RS2	RS3.5	RS4.5	RT7	RM7	RM15	CL	CG	CA	IL	IG	BP	I	AP	Q	Cond.
Stone processing activities																	P	
Swim clubs	C	C																
Tennis clubs	C	C																
Theaters, indoor										P	P							
Townhouses						P	P	P										
Warehousing and storage													P					13
Utility substations and transmission facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	5
Warehousing and storage in enclosed buildings												P						
Wholesale in enclosed buildings										P								
Wholesale trade									P	P	P							
Wireless Communication Facility	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	18

**TABLE 33-2  
TABLE OF SPECIAL CONDITIONS FOR PERMITTED USES**

- (1) Livestock shall be permitted only in a pasturage context subject to the following:
- (a) Pasture use shall be limited to one unit per acre of land actually used as pasture and accessible to the livestock. Land with slope in excess of fifteen (15) percent shall not be considered in establishing the livestock limit for a pasture. Animal units per animal shall be determined as follows:
 

All larger animals, including cattle, horses, swine (excluding miniature pigs kept as pets), ponies, etc.,	1.0 animal unit
Goats, sheep, miniature horses, etc.,	0.5 animal unit
All smaller animals including fowl,	0.2 animal unit
All animals less than 4 months of age shall be calculated at ½ the unit value of their respective category above	
  - (b) All other agricultural business involving livestock are prohibited, including but not limited to concentration point, confined feeding, feedlot, feeder pig operation, livestock auction, livestock dealer, sale barn, stockyard, or transfer station.
  - (c) Livestock shall not be kept on any parcel of less than five (5) acres in area and 300 feet in width, except that chickens and ducks may be kept within the density limits on parcels of two (2) acres or more.
  - (d) Structures containing livestock or livestock waste shall meet the following minimum setbacks:
 

Front	75 feet
Side	50 feet
Rear	75 feet
- (2) As described in Indiana Code Section 12-28-4-8 and licensed by the State under a program authorized by Indiana Code Section 12-11-1.
- (3) As described in Indiana Code Section 12-28-4-7 and licensed by the State pursuant to Indiana Code Section 12-22-2-3(2)-(6), provided that no such home may be located within 3,000 feet of any other residential care home, measured between lot lines.
- (4) Provided all state licensing provisions are complied with, and provided that no such home shall be located within 3,000 feet of any other residential care home, measured between lot lines.
- (5) Shall provide vegetative buffer which shall completely screen fenced area around the facility.
- (6) Shall be located on a street classified as collector or arterial, and shall be adequately screened from adjacent residential uses.
- (7) (a) The operator or manager of the facility shall reside on the premises.
  - (b) Maximum of five (5) guest rooms.
- (8) Permitted only on lots of record established before the effective date of this zoning ordinance.
- (9) All major overhaul, body and fender work, upholstery and welding shall be conducted within an approved spray booth and, provided further, that no outdoor storage of automobile parts, discarded tires, or similar materials, or outdoor storage of more than three (3) wrecked or temporarily inoperable vehicles awaiting repairs shall be permitted.
- (10) (a) Shall not be provided with additional driveways except as authorized by the County Engineer.
  - (b) Design of maneuvering and stacking aisles shall not interfere with circulation or visibility for traffic either on or off site and shall be designed to minimize headlight glare to adjacent properties.
  - (c) The radius and width of maneuvering areas shall be as required by the County Engineer.
- (11) (a) Outdoor storage of auto parts or supplies is prohibited.
  - (b) A maximum of three (3) car awaiting repairs may be stored outside.

- (12) Recycling conditions. Recyclable materials stored on site must be sorted and enclosed in buildings, appropriate containers, or bales no smaller than 400 pounds. All unprocessed materials must be stored in buildings or enclosed containers and may remain on site no longer than seven (7) working days. Processed materials are defined as baled materials, or materials in shippable containers. Unrecyclable materials must be stored in enclosed buildings.
- (13) Outdoor storage yards shall be screened so as to mitigate the appearance and impact of the proposed storage use, and its level of activity, in a manner consistent with the purposes of the IG district.
- (14) Resident manager not required; number of guest rooms limited only by parking and bulk constraints.
- (15) If intended to be used to provide required off-street parking for a use on another lot, parking lots and garages are required to obtain conditional use approval.
- (16) Must meet standards for home occupations as set forth in Section 813-4(W). Commercial activity above and beyond those limits shall be subject to the requirements of the zoning district, including site plan review.
- (17) Hours of operation shall be limited to 10 a.m. to 10 p.m. Sunday through Thursday and 10 a.m. to 11 p.m. Friday and Saturday.
- (18) Subject to the requirements of Chapter 834 - Wireless Communications Facilities.
- (19) Subject to the requirements and definitions of Chapter 837 – Adult Oriented Businesses. Note: Not all Adult Oriented Business uses are permitted in the zone districts designated in Table 2-1. See Table 837-4 for clarification.
- (20) Use definition is set forth in Chapter 802 of the Monroe County Zoning Ordinance for the Shopping Center and Business or Industrial Center.
- (21) Commercial / Industrial Adaptive Reuse sites may be further developed and used as follows and subject to the following conditions:
  - a) Additional buildings and structures may be constructed or placed on the site;
  - b) Multiple uses may be established in the existing and new buildings and structures;
  - c) All uses established must be permitted uses in the zone district;
  - d) Sewer service must be present and available to serve the site;
  - e) Building Department review and approval for change of use and occupancy;
  - f) Sidewalks shall be included within the dedicated, unpaved portions of the rights-of-way; Additionally, the Plan Commission may approve an alternate circulation plan, outside of the right-of-way, if sidewalk and/or access easement (for sidewalks, bike paths, public access, private access, etc.) locations are available;
  - g) At least two of the following design upgrades are required. No more than two existing features may be counted to fulfill these design upgrade requirements:
    - 1. Installation of parking lot landscape islands including trees and/or stormwater best management practice treatments;
    - 2. Landscape enhancement and/or expansion along the street edge and/or site perimeter.
    - 3. Implementation of stormwater best management practice treatments, under direction of the county stormwater utility;

4. Installation of a low masonry street wall or decorative fence treatment along the street edge;
  5. Conversion of pole signs to monument signs;
  6. Façade enhancements such as roofline variations, decorative wall signs, canopy treatments, additional window transparency, exterior materials, additional or enhanced entrances;
  7. Provision of outdoor public use areas, such as plazas, patios, benches, etc.;
  8. Creation of a designated pedestrian way through a front parking lot from the public sidewalk to the main entrance;
  9. Aesthetic upgrades to parking lot or exterior building light fixtures (new fixtures must be hooded, shielded, downcast design);
  10. Surface upgrades to deteriorated parking areas where at least 25% of parking surface requires upgrade; or, installation of permeable paver systems, porous asphalt, or porous concrete on newly developed areas or as replacement of existing pavement.
- h) Use definition is set forth in Chapter 802 of the Monroe County Zoning Ordinance for the Commercial / Industrial Adaptive Reuse.

TABLE 33-3 Height, Bulk and Density Standards

	RE2.5	RE1	RS2	RS3.5	RS4.5	RT7	RM7	RM15
<b>Lot Area Requirements</b>								
Minimum Lot Area (square feet)	108,900	43,560	18,000	9,600	7,200	7,200	7,000	5,000
First Dwelling Unit	108,900	43,560	18,000	9,600	7,200	7,200	7,000	5,000
Additional Dwelling Unit	---	---	---	---	---	6,000	6,000	2,750
Minimum Lot Width (feet)	200	100	80	70	60	80	50	50
Maximum Height (feet)	50	45	40	40	40	30	35	80
<b>Yard and Open Space Requirements</b>								
Minimum Side Yard (Structures)	30	20	8	8	8	8	8	8
Minimum Rear Yard (Structures)	60	50	25	25	25	25 (10)	25 (10)	25 (10)
Additional Side Yard for each additional story	4	4	4	4	4	4	4	4
Maximum Building Coverage (percent)	10	20	30	35	40	40	40	FAR
Usable Open Space per Dwelling Unit	---	---	---	---	---	1,650	1,350	1,000
Floor Area Ratio	---	---	---	---	---	---	---	0.6
Minimum Side Yard (Parking)	---	---	---	---	5	5	(15)	(15)
Minimum Rear Yard (Parking)	---	---	---	---	---	(15)	(15)	(15)
<b>Setbacks from Centerline (25)</b>								
Principal Arterial (11)(12) - Building	80	80	75	75	75	75	75	75
Principal Arterial - Parking	(26)	(26)	(26)	(26)	(26)	(26)	75	75
Secondary Arterial (11)(12) - Building	70	70	65	65	65	65	65	65
Secondary Arterial - Parking	(26)	(26)	(26)	(26)	(26)	(26)	65	65
Principal Collector (11)(12) - Building	65	65	60	60	60	60	60	60
Principal Collector - Parking	(26)	(26)	(26)	(26)	(26)	(26)	60	60
Secondary Collector (11)(12) - Building	55	55	55	55	55	55	55	55
Secondary Collector - Parking	(26)	(26)	(26)	(26)	(26)	(26)	55	55
from ROW - Local (11)(12) - Building	30	30	25	25	25	25	25	25
from ROW - Local - Parking	(26)	(26)	(26)	(26)	(26)	(26)	25	25
Additional Front Setback (14)	---	---	---	---	---	---	---	---

TABLE 33-3 Height, Bulk and Density Standards

	CL	CA	IL	IG	BP	I	AP	Q
<b>Lot Area Requirements</b>								
Minimum Lot Area (square feet)	---	---	---	20,000	12,000	5,000	---	40,000
First Dwelling Unit	7,000	5,000	---	---	---	---	---	---
Additional Dwelling Unit	6,000	2,750	---	---	---	---	---	---
Minimum Lot Width (feet)	---	---	60	100	100	---	---	200
Maximum Height (feet)	35	80	50 (21)	60 (23)	45	80	45	45
<b>Yard and Open Space Requirements</b>								
Minimum Side Yard (Structures)	(1)	(1)	12 (3)(22)	12 (5)	15 (2)	5 (7)	25 (8)	50 (9)
Minimum Rear Yard (Structures)	10 (2)(17)	10 (2)(17)	12 (3)(16)	20 (6)(5)	30	10 (3)	25 (8)	50 (9)
Additional Side Yard for each additional story	4	4	---	---	---	---	---	---
Maximum Building Coverage (percent)	50	50	50	70	60	60	50	50
Usable Open Space per Dwelling Unit	1,350	1,000	---	---	---	---	---	---
Floor Area Ratio	---	1.5	1.5	2	1.5	2	---	---
Minimum Side Yard (Parking)	(16)	(19)	6 (1)	6 (2)	8 (24)	5 (1)	---	---
Minimum Rear Yard (Parking)	(18)	6 (1)	6 (1)	10 (3)	15	5 (1)	---	---
<b>Setbacks from Centerline (25)</b>								
Principal Arterial (11)(12) - Building	60	60	75	75	75	65	80	80
Principal Arterial - Parking (27)	70	70	85	85	85	75	90	90
Secondary Arterial (11)(12) - Building	50	50	65	65	65	55	70	70
Secondary Arterial - Parking (27)	60	60	75	75	75	65	80	80
Principal Collector (11)(12) - Building	45	45	60	60	60	50	65	65
Principal Collector - Parking (27)	55	55	70	70	70	60	75	75
Secondary Collector (11)(12) - Building	40	40	55	55	55	45	55	55
Secondary Collector - Parking (27)	50	50	65	65	65	55	65	65
from ROW - Local (11)(12) - Building	10	10	25	25	25	15	30	30
from ROW - Local - Parking	20	20	35	35	35	25	40	40
Additional Front Setback (14)	4	4	4	4	4	4	---	---



**TABLE 33-4  
SPECIAL CONDITIONS FOR HEIGHT, BULK AREA AND DENSITY TABLE**

- (1) Landscaped ten (10) foot yard required if adjacent to a residential district.
- (2) Landscaped twenty-five (25) foot yard required if adjacent to a residential district.
- (3) Landscaped twenty (20) foot yard required if adjacent to a residential district.
- (4) No side yard required for commercial development. Residential portions of new buildings must have minimum side yard setbacks of six (6) feet from the property line or twenty (20) feet from the nearest building, whichever is greater.
- (5) One hundred (100) foot side yard required when adjacent to a residential district, within twenty-five (25) foot landscaped buffer. No side yard required if adjacent to a rail siding, regardless of adjacent zoning.
- (6) No rear yard required if adjacent to a rail siding.
- (7) Landscaped fifteen (15) foot side yard required if adjacent to a residential district.
- (8) Landscaped fifty (50) foot yard required if adjacent to a residential district.
- (9) No quarry pit or mechanical operation shall be permitted within 200 feet of a residential district.
- (10) Or the same dimension as the height of the building, whichever is greater.
- (11) In any residential district, the minimum required street setback shall be the greater of the street setbacks of the buildings on the adjacent lots on the same block face.
- (12) Setbacks from streets functioning as a one-way pair may be reduced from the stated setbacks shown in Table 31-6 by the following amounts, however no setback shall be less than ten (10) feet from the property line:

<u>Street Classification</u>	<u>Parking Setback</u>	<u>Building Setback</u>	
Principal Arterial	10'		10'
Minor Arterial	5'	10'	
Major Collector	5'	5'	
Minor Collector	0	5'	

- (13) The rear yard shall be a minimum of twenty-five (25) feet when adjacent to a residential district.
- (14) Additional front setback required for each additional story, or for each ten (10) feet or increment thereof of building height over twelve (12) feet, measured at the eave of the building.
- (15) In the RT7 district, minimum rear parking setback is one-half (½) the building setback requirement or five (5) feet, whichever is greater. In the RM7 and RM15 district, minimum side and rear parking setbacks shall be one-half (½) the building setback or five (5) feet, whichever is greater.
- (16) If adjacent to a nonresidential district, side parking setback shall be 0.05 times the lot width (rounded to the next highest integral number of feet) or three (3) feet, whichever is greater, up to a maximum of ten (10) feet. If adjacent to a residential district, side parking setback shall be ten (10) feet.
- (17) Yard shall be measured to the centerline of any abutting alley.
- (18) Rear parking setback shall be one-half (½) the building setback requirement, except that no parking rear yard adjacent to a residential district shall be less than ten (10) feet from the property line.
- (19) If adjacent to a nonresidential district, side parking setback shall be 0.05 times the lot width (rounded to the next highest integral number of feet) or three (3) feet, whichever is greater, up to a maximum of twenty-five (25) feet. If adjacent to a residential district, side parking setback shall be ten (10) feet.
- (20) Except those blockfaces facing the courthouse square, extending from the street to the alley, where the maximum height shall be forty (40) feet.
- (21) Up to twenty (20) percent of the footprint of the building may extend to a maximum height of eighty (80) feet.
- (22) No side yard required if adjacent to a rail siding.
- (23) Up to twenty (20) percent of the footprint of the building may extend to a maximum height of one hundred (100) feet.
- (24) Minimum of twelve (12) required when adjacent to a residential district.
- (25) In no case shall any setback be less than ten (10) feet from the property line.
- (26) Parking for single family residential uses shall be prohibited within the setback between the street and the building except on a single driveway not exceeding the width of an attached garage facing the street or twenty-two (22) feet in width where there is no attached garage facing the street. Parking on any other portion of the setback between the street and the building or on a lawn shall be prohibited. Parking shall not be permitted in driveways serving parking lots.
- (27) Not applicable for properties abutting or adjoining overpasses or bridges.

**TABLE 33-5  
HEIGHT, BULK, AREA, DENSITY AND AESTHETIC REQUIREMENTS**

- (1) No yard, open space, or lot area required for a building or structure shall be occupied by, or counted as open space for, any other building or structure.
- (2) The following structures or parts of structures are exempt from the height limitations set forth in Table 4-1 and Table 33-5: silos, windmills, chimneys, rooftops mechanicals, derricks, radio and television antennae and towers, wireless communications facilities and support structures, observation towers, power transmission towers, and water towers. Height restrictions in the area of the Monroe County Airport are regulated by the Federal Aviation Administration.
- (3) Fences may be constructed in any yard if they are a maximum of eight (8) feet in height. Fences constructed at the building setback line or within the buildable area of the lot are subject to the height limitations of the zoning district.
- (4) The following structures or facilities may be constructed in any yard: sidewalks, arbors and trellises, retaining walls, landscape features and planting boxes.
- (5) Any substandard lot of record which was recorded prior to the effective date of this zoning ordinance shall be permitted to exist in its present dimensions. Such lots may have reduced side yard requirements as shown below:
  - In any RE district: 15 feet minimum each side
  - In any RS district: 6 feet minimum each side
- (6) The following table shows dimensional and locational requirements which are exceptions to the general bulk controls applicable to each zoning district.  
Where the symbol "NP" is seen, such object or structure is not permitted within the required setback.  
Where the symbol "P" is seen, such object or structure is permitted subject to any other requirements in this zoning ordinance.

<u>Type of Structure or Use Encroachment</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
Air conditioners which are window units may extend from the structure:	30"	30"	30"
Air conditioners which are ground units may project into the required setback, providing they are properly screened, by:	5'	5'	5'
Awnings and canopies may extend into the required setback by:	3'	3'	3'
Balconies, steps, decks, patios, and uncovered open porches may extend into the required setback by:	6'	6'	6'
Bay windows which are one story high and occupy no more than 35% of the front building face may extend into the required setback by:	3'	3'	3'
Belt courses, window sills, and other architectural features may extend into the required setback:	3'	3'	3'
Chimneys which shall not occupy more than 35% of the front building face may project into the required setback:	3'	3'	3'
Clothes lines and poles shall be located no closer to a property line than:	35'	5'	5'
Cornices may extend from the structure no more than:	18"	18"	18"
Detached garages, carports, and storage sheds may be no higher than 15 feet and shall be located no closer to a property line than:	35'	5'	5'
Eaves may extend from the structure no more than:	3'	3'	3'
Entrance canopies no larger in horizontal area than	P	P	P

1 square foot per each 2 feet of lot frontage are permitted in nonresidential districts subject to site distance regulations.			
Fallout shelters (completely underground)	35'	5'	5'
Fire escapes may project from the structure no more than:	NP	6'	6'
Flagpoles may be no more than the permitted building height and shall be located no closer to an adjacent property line than:	12'	5'	5'
Handicap ramps may project into the required setback:	20'	8'	8'
Marquees, at least 10 feet above the level of the sidewalk or right-of-way over which it projects, not beyond a line parallel to and 1 foot back of the back line of the curb fronting the property, no wider than the building to which it is attached, and any signage or device attached to such marquee may not extend below or above the vertical face of the marquee except that a sign or device not more than 48" in length and 13" high may be hung from the underside of the marquee if installed perpendicular to the adjacent property line and containing only the name of and nature of the business conducted in the adjacent property. Such sign must be in compliance with Chapter 807 of this zoning ordinance.			
d filtering equipment shall be located proximate to the pool and no closer to an adjacent property line than:	35'	5'	5'
Public art	15'	5'	5'
Recreational equipment, satellite dish, pethouses, and playhouses may be located no closer to a property line than:	35'	5'	5'

[end of chapter]

## CHAPTER 834

### WIRELESS COMMUNICATIONS FACILITIES

#### 834-1. Purpose and Legislative Intent.

The wireless communications Act of 1996 preserved, with certain limitations, local government land use and zoning authority concerning the placement, construction, and modification of wireless communications facilities. Likewise, amendments to the Indiana Code, effective beginning in 2016, preserved, with limitations, local government authority to regulate the land use aspects of wireless communication structures and facilities. The purpose of this Wireless communications Facilities Chapter is to ensure that residents, public safety operations, and businesses in Monroe County have reliable access to wireless communications networks and state of the art wireless communications services while also ensuring that this objective is achieved in a fashion that preserves the intrinsic aesthetic character of the community and is accomplished according to Monroe County zoning, planning, and design standards.

To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless communications structures and facilities complies with all applicable Federal and Indiana laws and is consistent with Monroe County land use policies, Monroe County adopts the following comprehensive, wireless communications regulations. No provisions of this Chapter shall apply to the siting of Distributed Antenna Systems (DAS) or wireless facilities located within and intended to provide wireless coverage exclusively within a structure.

This Chapter establishes parameters for the siting of wireless communications structures and facilities. By enacting this Ordinance it is Monroe County's intent to:

- (A) Ensure Monroe County has sufficient wireless infrastructure to support public safety wireless communications throughout Monroe County;
- (B) Ensure access to reliable wireless communications services throughout all areas of Monroe County;
- (C) Encourage the use of existing structures for the collocation of wireless communications facilities;
- (D) Encourage the location of wireless support structures, to the extent possible, in areas where any potential adverse impacts on the community will be minimized;
- (E) Facilitate the deployment of wireless communications structures and facilities in residential areas, as necessary to establish comprehensive wireless services across Monroe County, in a manner that preserves the character of the residential areas;
- (F) Minimize the potential adverse effects associated with the construction of monopoles and replacement of towers through the implementation of reasonable design, landscaping, and construction practices;
- (G) Ensure public health, safety, welfare, and convenience; and,
- (H) To help ensure compliance with federal legislative changes to zoning authority under the 1996 Wireless communications Act and Indiana Code Sections 8-1-32.3-19 through 8-1-32.3-21.

Revised 03/18/2016

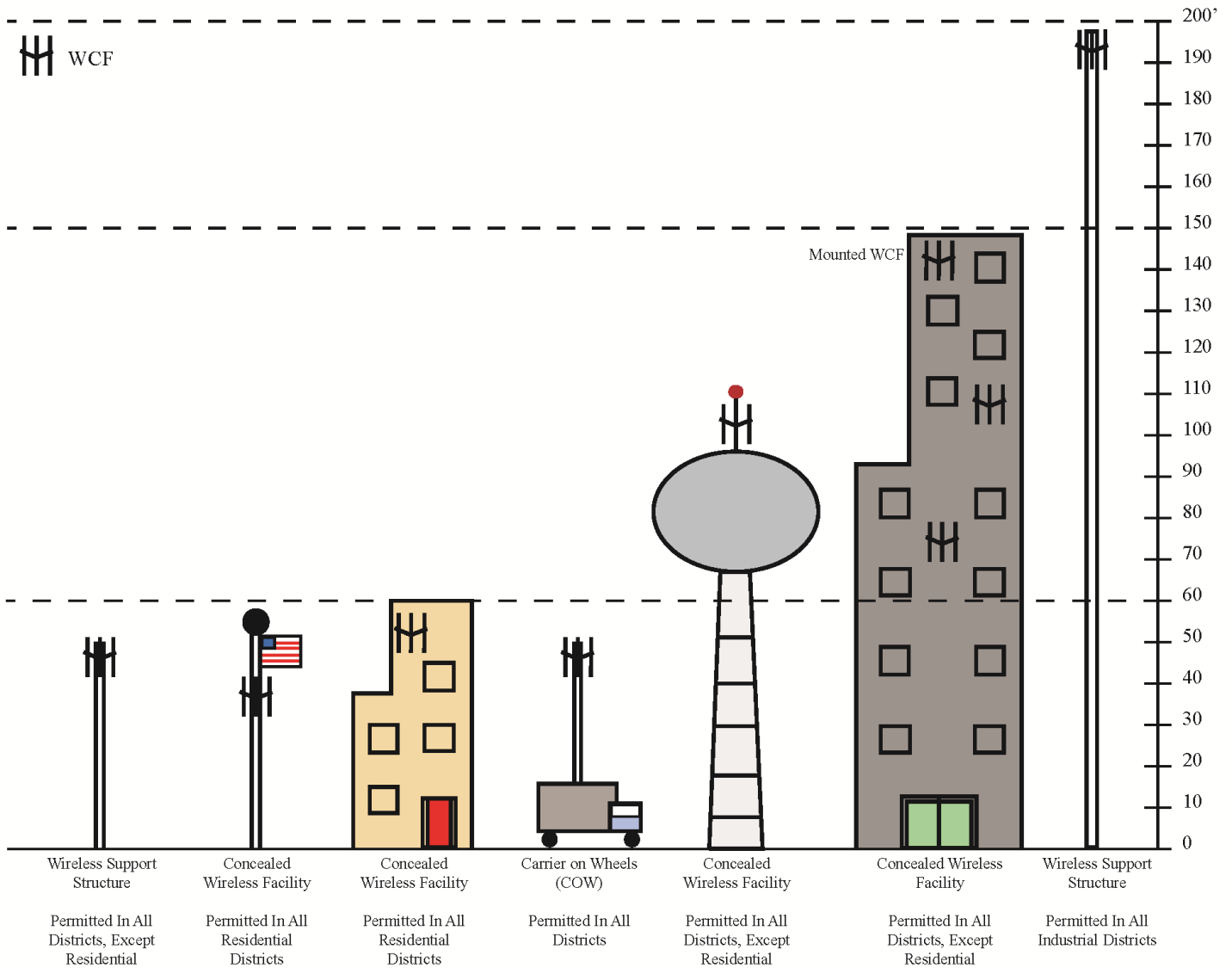
834-2.

**Approvals Required for Wireless communications Facilities and Wireless support structures.**

- (A) For the purposes of this ordinance:
- (1) The term Residential Zoning Districts refers to:  
RE2.5, RE1, RS2, RS3.5, RS4.5, RT7, RM7, RM15  
AG, FR, CR, ER, LR, SR, MR, HR, UR
  - (2) The term Industrial Zoning Districts refers to:  
IL, IG, LI, HI
- (B) Administrative Review.
- (1) Collocations and minor modifications shall be permitted in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this Ordinance.
  - (2) New wireless support structures that are less than sixty (60) feet in height shall be permitted in any zoning district except residential after administrative review and administrative approval in accordance with the standards set forth in this ordinance.
  - (3) Concealed wireless communications facilities that are less than sixty (60) feet in height shall be permitted in any residential zoning district after administrative review and administrative approval in accordance with the standards set forth in this ordinance.
  - (4) Concealed wireless communications facilities up to one hundred and fifty (150) feet shall be permitted in any zoning district other than residential after administrative review and administrative approval in accordance with the standards set forth in this Ordinance except as noted above.
  - (5) New wireless support structures up to one hundred ninety-nine (199) feet in height shall be permitted in any industrial zoning district after administrative review and administrative approval in accordance with the standards set forth in this Ordinance.
  - (6) Wireless communication facilities placed on utility poles shall be permitted in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this ordinance.
  - (7) The use of COWs shall be permitted in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this ordinance if the use is not otherwise exempt.

(C) Administrative Review Eligible Facilities Exhibit Figure 834-1:

WCF Administrative Approval Requirements



Note: Any Proposed WCF not meeting Administrative Approval Requirements needs Conditional Use Approval

**(D)** Conditional Use Permit.

Wireless communications facilities and wireless support structures not permitted by administrative approval shall be permitted in any district upon the granting of a conditional use permit from the Board of Zoning Appeals in accordance with the standards set forth in this ordinance.

**(E)** Exemptions.

Ordinary maintenance of existing wireless communications facilities and support structures, as defined herein, shall be exempt from additional zoning and permitting requirements. In addition, the following facilities are not subject to the provisions of this ordinance:

- (1)** antennas used by residential households solely for broadcast radio and television reception;
- (2)** satellite antennas used solely for residential or household purposes;
- (3)** COWs placed for a period of not more than one hundred twenty (120) days at any location within Monroe County after a declaration of an emergency or a disaster; or,
- (4)** television and AM/FM radio broadcast towers and associated facilities.

**834-3.**

**Wireless communications facilities and wireless support structures permitted by administrative approval.**

**(A)** Wireless communications facilities located on existing structures.

- (1)** Wireless communications facilities are permitted in all zoning districts when located on any existing structure subject to administrative approval in accordance with the requirements of this Part.
- (2)** Antennas may exceed the maximum building height limitations within a zoning district, provided they do not constitute a substantial modification.
- (3)** Minor modifications are permitted in all zoning districts subject to administrative approval in accordance with the requirements of this part.
- (4)** Minor modifications shall not increase the fall zone to an extent that would result in a violation of the setback requirement of 834-5 (B) (1).

**(B)** New wireless support structures.

- (1)** New wireless support structure less than sixty (60) feet in height shall be permitted in all zoning districts except residential districts in accordance with the requirements of this part.

- (2)** Concealed wireless communications facilities that are less than sixty (60) feet in height shall be permitted in any residential district after administrative review and administrative approval provided that it meets the applicable concealed wireless communications facility standards in accordance with this ordinance
- (3)** New wireless support structures up to one hundred ninety-nine (199) feet in height shall be permitted in all industrial districts in accordance with the requirements of this part. The height of any proposed wireless support structure shall not exceed the minimum height necessary to meet the coverage or capacity objectives of the facility. The setback of the structure shall be governed by the setback requirements of the underlying zoning district.
- (4)** A monopole or replacement pole under the regulatory control of the Indiana Utility Regulatory Commission that will support utility lines as well as a wireless communications facility shall be permitted within utility easements or rights-of-way, in accordance with requirements of this part.

  - (a)** The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.
  - (b)** The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.
  - (c)** The height of the monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility wireless support structures.
  - (d)** Monopoles and the accessory equipment shall be set back a minimum of fifteen (15) feet from all boundaries of an easement or right-of-way.
  - (e)** Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by Subsection (c) above.
  - (f)** Poles that use the structure of a utility tower for support are permitted under this part. Such poles may extend up to twenty (20) feet above the height of the utility tower.
- (5)** Monopoles or replacement poles located on public property or within public rights-of-way that will support public facilities or equipment in addition to wireless communications facilities shall be permitted in accordance with requirements of this part. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, street lights, and other types of utility poles in the public right-of-way.



**(C)** Concealed wireless communications facilities.

- (1)** Concealed wireless communications facilities shall be permitted in all zoning districts after administrative review and administrative approval in accordance with the requirements below. Concealed facilities in residential areas must not exceed sixty (60) feet and comply with the requirements below in order to qualify for administrative review.
- (2)** Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.
- (3)** Existing Structures utilized to support the Antennas must be allowed within the underlying zone district. Such structures may include, but are not limited to, flagpoles, bell towers, clock towers, crosses, monuments, smoke stacks, parapets, and steeples.
- (4)** Setbacks for Concealed Wireless Facilities that utilize a new structure shall be governed by the setback requirements of the underlying zoning district.

**(D)** COW facilities and minor modifications.

The use of COWs shall be permitted in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this ordinance if the use of the COW is either not in response to an officially declared emergency or will last in excess of one hundred-twenty (120) days.

**(E)** General standards, design requirements, and miscellaneous provisions.

- (1)** Unless otherwise specified herein, all wireless communications facilities and wireless support structures permitted by administrative approval are subject to the applicable general standards and design requirements of Section 834-5 and the provisions of Section 834-6.
- (2)** Unless otherwise specified herein, all new wireless support structures shall be monopole construction.

**(F)** Administrative review process.

- (1)** All administrative review applications must contain the following:
  - (a)** Administrative review application form signed by applicant.
  - (b)** Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms.

- (c) Site plans detailing proposed improvements which complies with Chapters 814 and 815 of this ordinance. Drawings must depict improvements related to the requirements listed in this part, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.
- (d) In the case of a new wireless support structure:
  - (1) Statement documenting why collocation cannot meet the applicant's requirements. Such statement may include justifications, including why collocation is either not reasonably available or technologically feasible as necessary to document the reasons why collocation is not a viable option; and,
  - (2) The applicant shall provide a list of all the existing structures considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either unavailable, or technologically or reasonably infeasible.
  - (3) Applications for new Wireless support structures with proposed Wireless communications Facilities shall be considered together as one application requiring only a single application fee.
- (e) Administrative review application fee as listed in the Monroe County Plan Commission and Board of Zoning Appeals published fee schedule.
- (f) A fall zone calculation for the wireless support structure certified by a registered engineer.
- (g) Applicant is responsible for identifying any confidential or proprietary information included in the application and for providing that information only on green colored paper.

**(2) Procedure.**

- (a) Within ten (10) days of the receipt of an application for administrative review, the Administrator shall either:
  - (1) Inform the applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements. If the applicant is not so informed, the application shall be deemed complete; or
  - (2) Deem the application complete.

- (b) An applicant that receives a written notice under subsection (a) above may cure the defects set forth in the notice and resubmit the corrected application to the permit authority within fifteen (15) days of receiving the notice. If an applicant is unable to cure the defects within the fifteen (15) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.
- (c) The Administrator must issue a written decision granting or denying the request within forty-five (45) days of the initial determination of completeness. Failure to issue a written decision within forty-five (45) days shall constitute an approval of the application, unless:
  - (1) the applicant requested additional time under subsection (b) to cure defects in the application, the forty-five (45) day period set forth in subsection (e) is extended for a corresponding amount of time; or,
  - (2) extension of time is agreed to by the applicant in writing.
- (d) Should the Administrator deny the application, the Administrator shall provide written justification for the denial. The denial must be based on substantial evidence of inconsistencies between the application and this Ordinance.

**834-4. Wireless communications facilities and wireless support structures permitted by conditional use permit.**

- (A) Any wireless communications facility or wireless support structures not meeting the requirements of Section 834-3 shall be permitted by conditional use permit in all zoning districts subject to:
  - (1) The submission requirements of Section 834-4 (B) below; and,
  - (2) The applicable standards of Sections 834-5 and 834-6 below; and,
  - (3) The requirements of the conditional use permit general conditions in Chapter 813 of this Ordinance.
- (B) Submission requirements for conditional use permit applications.

All conditional use permit applications for wireless communications facility and wireless support structures must contain the following:

- (1) Conditional use permit application submittal materials to be submitted by applicant.
- (2) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms.

- (3)** Written description and scaled drawings of the proposed support structure, including structure height, ground and structure design, and proposed materials.
- (4)** Number of proposed antennas and their height above ground level, including the proposed placement of antennas on the support structure.
- (5)** When locating within a residential area, a written technical and operational analysis of why a monopole or similar structure at a height of less than one hundred (100) feet cannot be used.
- (6)** Line-of-sight diagram or photo simulation, showing the proposed wireless support structure set against the skyline and viewed from at least four (4) directions within the surrounding areas.
- (7)** A statement justifying why collocation is not feasible. Such statement shall include:
  - (a)** Such technical information and other justifications as are necessary to document the reasons why collocation is not a viable option; and
  - (b)** A list of the existing structures considered as possible alternatives to the proposed location and a written explanation why the alternatives considered were either unavailable or technologically infeasible.
- (8)** A statement that the proposed wireless support structure will be made available for collocation to other service providers at commercially reasonable rates.
- (9)** Notification of surrounding property owners as required by the notification rules set forth by the rules of procedure of the Monroe County Plan Commission or Board of Zoning Appeals, dependent upon applicability.
- (10)** Conditional use permit application fee as listed in the Monroe County Plan Commission and Board of Zoning Appeals published fee schedule.
- (11)** A fall zone calculation for the wireless support structure certified by a registered engineer.
- (12)** Applicant is responsible for identifying any confidential or proprietary information included in the application and for providing that information only on green colored paper.

**(C)** Procedure.

- (1)** Within ten (10) days of the receipt of an application for conditional use approval, the Administrator shall either:



**834-5.**

**General Standards and Design Requirements.**

**(A) Design.**

**(1)** Applicants are encouraged to include the following elements in their Wireless support structures designs:

**(a)** In order to promote collocation:

**(1)** Wireless support structures sixty (60) to one hundred (100) feet should be designed to support at least two (2) wireless communications providers;

**(2)** Wireless support structures from one hundred (100) to one hundred-fifty feet (150) should be designed to support at least three (3) wireless communications providers;

**(3)** Wireless support structures greater than one hundred-fifty (150) feet in height should be designed to support at least four (4) wireless communications carriers.

**(b)** The compound area surrounding the monopole should be of sufficient size to accommodate accessory equipment for the appropriate number of wireless communications providers in accordance with Section 834-5 (A)(1)(a).

**(2)** Concealed wireless communications facilities should be designed to accommodate the collocation of other antennas whenever economically and technically feasible.

**(3)** Unless otherwise specified herein, all new wireless support structures shall be monopole construction.

**(B) Setbacks.**

**(1)** Unless otherwise stated herein, wireless support structures shall be set back from all property lines a distance equal to the sum of the fall zone and the applicable setback for the zoning district.

**(2)** Unless otherwise stated herein, all accessory equipment shall be set back fifteen (15) feet from all property lines in accordance with the minimum setback requirements in the underlying zoning district. Accessory equipment associated with an existing or Replacement utility pole shall not be subject to a setback requirement.

**(C) Height.**

**(1)** Wireless support structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure at ground level to the top of the highest point, including appurtenances.

- (2) COWs shall not exceed 60' in height, however, if erected in response to an officially declared emergency no specific height limit shall apply.
- (D) Aesthetics.
- (1) Wireless communications facilities or wireless support structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
  - (2) Ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation shall be posted on site.
  - (3) In all non-industrial zoning districts a Type B Bufferyard standard shall be installed in the areas surrounding the equipment compound and wireless support structure as set forth in Chapter 830. Landscaping shall not be required in industrial zoning districts.
- (E) Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the wireless communication facility or wireless support structure. Any equipment not used in direct support of such operation shall not be stored on the site. The accessory equipment must conform to the development standards of the applicable zone.

**834-6.**

**Miscellaneous Provisions.**

- (A) Ground mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the Board of Zoning Appeals or Administrator. The Board of Zoning Appeals or Administrator may waive the requirement above if it is deemed that a fence is not appropriate or needed at the proposed location.
- (B) If a Wireless support structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, Monroe County may require that such wireless support structure be removed only after first providing written notice to the owner of the wireless support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the wireless support structure within thirty (30) days of receipt of said written notice. In the event the owner of the wireless support structure fails to remove the wireless support structure within the thirty (30) day period, the owner of the wireless support structure shall be required to remove the same within six (6) months thereafter. Monroe County shall ensure and enforce removal by means of its existing regulatory authority.
- (C) Wireless communications facilities and wireless support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

- (D) Unless otherwise stated herein, any modification or addition to a wireless support structure which would result in a height in excess of one-hundred and ninety-nine (199) feet shall be subject to the requirements set forth in section 834-4 requiring a Conditional Use approval.

**834-7. Wireless communications facilities and wireless support structures in existence on the date of adoption of this ordinance.**

Wireless communications facilities and wireless support structures that were legally permitted on or before the date this ordinance was enacted shall be considered pre-existing lawful uses or structures subject to Chapter 803. The above notwithstanding:

- (A) ordinary maintenance may be performed on a non-conforming support structure or wireless communications facility; and,
- (B) collocation and/or minor modifications of wireless communications facilities on an existing non-conforming wireless support structure may be permitted through the administrative approval process defined in Section 834-3.

Major modifications may be made to non-conforming wireless support structures utilizing the regulatory approval process defined in Section 834-4.

**-END CHAPTER-**



## CHAPTER 835

### RURAL COMMUNITY ZONING OVERLAY

#### **835-1**      **Purpose**

The purpose of the Rural Community Zoning Overlay (RCZO) is to encourage development and redevelopment of areas designated as rural communities consistent with the adopted rural community plans. Further, the RCZO: encourages flexibility in the development and redevelopment of areas to promote its most appropriate use; improves the design, character, and quality of developments and defines a compatible mixture of uses. In comparison to other zoning codes, this overlay represents a shift from objective to subjective decision-making. The RCZO also provides a mechanism for arranging land uses, buildings, utilities, landscaping, streets, and other features in a manner that is consistent with and promotes the principles of traditional neighborhood development as described in the adopted rural community plans.

Use of the RCZO is optional for development activity in the rural communities, though the applicant shall state, at the time of filing permits or petitions, the intent to use the prevailing “standard” county or RCZO regulations.

#### **835-2**      **Utilization of the RCZO Regulations**

The RCZO regulations seek to minimize obstacles to development and redevelopment in the rural community areas. These guidelines encourage greater attention to the continuation of the traditional neighborhood patterns found in the rural communities and lesser attention to a site’s particular use. The guidelines follow the format of a “form-based code,” whose main purpose is to regulate a community’s physical form, namely through the relationship of buildings and public spaces or public ways. The use of a building under a form-based code is less important than in traditional zoning methods, where separation of use is most important. A petitioner or applicant’s primary concern, therefore, should be with the appearance of built structures and aesthetics of the lot containing the structures.

#### **835-3**      **Applicability**

The RCZO, as a specific zoning and land use instrument, may fall silent in certain areas of regulation. In such instances, the underlying regulations of all chapters of the Monroe County Zoning Ordinance shall apply.

The provisions of this overlay, when in conflict, shall take precedence over those of other codes, ordinances, regulations, and standards except those promulgated by the Monroe County Health and Building Departments, the State of Indiana, and the federal government.

Terms used throughout this overlay shall take their commonly accepted meanings or as defined in the Definitions of Terms. In the event conflicts between these definitions and those of the Zoning Ordinance or Subdivision Control Ordinance, those of this overlay shall take precedence in the applications of the RCZO.

## **835-4**      **Intent**

The intent of the overlay is to enable, encourage, and qualify the implementation of:

### County Scope

- a. The county should retain its natural infrastructure and visual character derived from topography, woodlands, farmlands, riparian corridors, and reservoirs.
- b. Growth strategies should encourage infill and redevelopment within the rural communities.
- c. Development within the county's rural community areas should be structured in a neighborhood development pattern, integrated into the existing neighborhood pattern, and with sufficient contiguity to allow two streets to interface so as to provide two points of interconnectivity with an existing subdivision.
- d. Affordable housing should be distributed throughout the county to avoid concentrations of poverty.
- e. Transportation corridors should be planned and reserved in coordination with land use so as to maintain the existing level of road service
- f. Green corridors should be used to define and connect urbanized areas.
- g. A framework of transit, pedestrian, and bicycle systems that provide alternatives to the automobile should be included.
- h. New development should not be permitted if it will cause overcrowding of schools.

### Rural Communities Scope

- a. Neighborhoods should be compact, contiguous, pedestrian-oriented and encourage mixed-uses.
- b. Neighborhoods should be the preferred pattern of development and districts specializing in a single use should be the exception.
- c. Ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not use automobiles.
- d. Interconnected networks of streets should be designed to disperse and reduce the length of automobile trips.
- e. Within neighborhoods, a range of housing types and price levels should be provided to accommodate various ages and incomes.
- f. Civic, institutional, and commercial activity should be embedded in town and village centers, not isolated in remote single-use complexes.
- g. Schools should be sized and located to enable children to walk or bicycle to them.
- h. A range of open spaces including parks, squares, and playgrounds should be distributed within neighborhoods and town centers.

### Block and the Building Scope

- a. Buildings and landscaping should contribute to the physical definition of streets as civic places, where the public is invited and feels safe and welcome to circulate.
- b. Development should adequately accommodate automobiles while respecting public space, pedestrian use, and alternative modes of transportation.
- c. The design of streets and buildings should reinforce safe environments, but not at the expense of accessibility.
- d. Architecture and landscape design should grow from local climate, topography, history, and building practice.
- e. Buildings should provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
- f. Civic buildings and public gathering places should provide locations that reinforce community identity and support self-governance.
- g. Civic buildings should be distinctive and appropriate to a role more prominent than the other buildings that constitute the fabric of the community.

- h. The preservation and renewal of historic buildings should be facilitated to affirm the continuity and advancement of society.
- i. The harmonious and orderly progression of community areas should be secured through graphic codes of tables, sketches, and other illustrations that serve as guides for change.

### **835-5 Definitions of Terms**

The Definitions of Terms contain regulatory language that is integral to this overlay. Terms not appearing in Chapter 801 (Definitions) or that have a different meaning than that used elsewhere in the Zoning Ordinance are listed below:

**Building Location:** The placement of a building on its lot, as well as the form of the building, based on its massing, private frontage, and height.

**Character Zone:** Similar to the zoning districts in the zoning ordinance, such as those found in Chapter 802. These zones are the overlay's most specific classification of land use and development, including not only common planning regulations such as setbacks and height limitations but also density, landscaping, building location on the lot, building frontage as it relates to nearby streets, and parking requirements.

**Density:** The number of dwelling units within a standard measure of land area, usually given as units per acre.

**Exception:** A specific type of variance ruling to permit a practice that is not consistent with a provision of or the intent of this chapter, and involves a more significant deviation than a warrant. An exception is granted by the Board of Zoning Appeals.

**Frontage:** The orientation of a lot or building toward a street or property line and ordinarily regarded as the front of the lot. The side of a lot or building serving as the principal entrance is considered to be the primary frontage, though buildings or lots on a street corner may have more than one frontage.

**Hearing Officer:** Staff member designated by the Plan Commission to review requests for minor deviation from the height, bulk, and density requirements of the RCZO. The Hearing Officer's decision is binding, and may be appealed to the BZA. See 835-17 for more information on the Hearing Officer rules of procedure.

**Intent:** Provisions of this overlay are described by "shall" when required; "should" when expected; and "may" when permitted.

**Level of Service (LOS):** A quantitative stratification of the effectiveness of a road's capacity to carry a given amount of traffic. A continuum of letter grades, with "A" being the best, most free-flowing travel and "F" being a standstill, is used to quantify travel for a roadway segment.

**Mixed-use:** Multiple functions within the same building through superimposition or adjacency, or in multiple buildings within the same area by adjacency. This technique is a tenet of form-based zoning to encourage, compact urban areas, pedestrian activity, reduction of dependence on automobiles and parking facilities, among other benefits.

**Rural Community Area:** Aggregation of adjoining parcels within Monroe County, generally centered by a town, in which a special district has been established for the purposes of both current and long-range planning and zoning. The four Rural Community Areas are Ellettsville, Harrodsburg, Smithville-Sanders, and Stinesville. The towns of Stinesville and Ellettsville have their own planning jurisdictions; as a consequence the plans for these areas are for the land use beyond the corporate boundaries.

Smithville, Sanders, and Harrodsburg do not have municipal zoning bodies, and the plans for these areas include the unincorporated towns.

**Sector:** A specific geographic area that regulates and organizes the rural community plans' intended development patterns. Sectors are adapted from the rural communities' recommended land use maps.

**Special District (SD):** Designation assigned to areas that, by their function, disposition, or configuration, cannot conform to one of the Character Zones or Sectors. Examples of areas in Monroe County's rural community areas include quarries or other mineral extraction and processing activities, public utilities such as a water or sewage treatment plant, or large parks and recreation facilities.

**Variance:** A deviation from any term or standard contained in the Zoning Ordinance, Subdivision Control Ordinance, or RCZO which is authorized by the Board or the Commission, as appropriate. A variance is the parent term for two categories: a warrant, and an exception, which are different kinds of variances. A variance is granted at a public hearing by the Board of Zoning Appeals. An important distinction is made when considering a variance determined to be allowed as a practical difficulty or hardship and denied as a privilege.

**Warrant:** A type of variance decision permitting a practice that is not consistent with a specific provision of this overlay, but is justified by hardship. This is generally a minor deviation from the standards, and is granted by the Hearing Officer or BZA.

### **835-6 Process**

The geographic determination of sectors and the standards for each character zone were determined through the development and adoption of each of the rural community plans. As a result of this public consultation process, projects that require warrants and exceptions shall be processed by the BZA (or Hearing Officer, where applicable) without further recourse to public consultation. Commercial or industrial applications, including confined feeding operations shall require site plan approval through administrative approval or Plan Commission action.

### **835-7 Sector and Character Zone Categories**

#### **(A) Sectors (Geography)**

The RCZO sectors order and organize the rural community plans' intended development pattern into five categories, which are as follows:

- O1 sector (Rural Conservation).  
Both present and future development is discouraged in this area. In some cases adjacent floodplains, floodprone soils, karst features, or other land types deemed in need of significant protection may be included.
- O2 sector.  
These areas include significant karst or steep slope constraints, which may be adjacent to quarry lands, and are for the most part still large parcels. These areas are generally designated as rural conservation in the rural community plans.
- G1 sector.  
These areas are identified in the Rural Community Plans for limited development activity (e.g. rural reserve) and where lot sizes are recommended by the Rural Community Plans to remain at 2.5 acres. Clustering is permitted and allows lot sizes of 1 acre minimum, though density

does not increase above that permitted with the 2.5 acre lot size. No clustering may take place without sewer and water infrastructure.

- G2 sector.  
These areas are identified in the Rural Community Plans for development activities. Some of these areas should maintain lower densities (1-4 dwelling units/acre) and offer limited non-residential activities (designated in the plans as secondary growth areas).

These areas are generally designated in the Rural Community Plans as community core or neighborhood growth areas. Development in this sector shall be contiguous to an existing neighborhood, and allow for a minimum of two streets to provide connectivity between the developments. Development shall not negatively impact the local road network so as to cause a drop in a road's level of service below the existing LOS, nor shall the development be permitted if it will reduce the response time or effectiveness for delivery of emergency services, including (but not limited to): ambulance, police, and fire protection services. This sector is the primary area for mixed-use development, and seeks to blend uses found in the ER, SR, and LR zones of the current County Zoning Ordinance.

- SD sector.  
These areas are unique compared to the rest of the rural community (either currently or as planned) and often contain public facilities or land. These areas retain their current zoning and shall only be revised following a public hearing to establish use and development standards or will require a public hearing for use with development standards already contained in an applicable section of this chapter.

### Sectors

Rural Community Plans	RCZO Equivalent
(No development recommended)	O1 Rural Conservation
Rural Conservation	O2 Significantly Constrained
Rural Reserve	G1 Rural-Town/Village Transition
Neighborhood Growth/Community Core	G2 Primary Growth Area
Institutional/Public Area	SD Special District

### (B) Character zones (Uses)

Character zones are similar to zones in the county under the standard zoning ordinance. They are the overlay's most specific classifications of land use and development, including not only common planning regulations such as setbacks and height limitations but also density, landscaping, building location on the lot, building frontage as it relates to nearby streets, and parking requirements. This chapter contains five character zones, as follows:

- Character Zone 1 (Z1)—Preserved  
This zone is the least permissive for development. It conserves and preserves existing open space and natural features. This zone is applicable to all sectors.
- Character Zone 2 (Z2)—Rural Reserved  
This zone allows limited development. It is intended to preserve existing open space and the pre-existing low density residential pattern on large tracts of land (generally five acres or more). This is only allowed with adequate sewer and water infrastructure. Development shall not negatively impact the local road network so as to cause a drop in a road's level of service below the existing LOS, nor shall the development be permitted if it will reduce the response time or effectiveness for delivery of emergency services, including (but not limited to): ambulance, police, and fire protection services.

## Character Zones

Zoning Ordinance, Ch. 802	RCZO Equivalent	Side/Rear Setbacks	Minimum Open Space per lot
(No development recommended) AG/RR, FR, CR ER, SR ER, SR, LR, (some LB, GB, LI) SR, LR, MR, HR, UR, LB, GB, LI	Z1 Preserved Z2 Rural Reserved Z3 Town/Village-Rural Transition Z4 Town/Village Border Z5 Town/Village Center	----- 15'/35' 5'/10' 5'/10' 5'/10'	65% 40% 30% residential; 20% non-res. 15%

- Character Zone 3 (Z3)—Town/Village-Rural Transition**  
This zone is the least dense of the urban zones. It is suitable for the areas immediately adjacent to the rural towns and villages and provides a transition between rural areas and more urban areas. Development shall not negatively impact the local road network so as to cause a drop in a road's level of service below the existing LOS, nor shall the development be permitted if it will reduce the response time or effectiveness for delivery of emergency services, including (but not limited to): ambulance, police, and fire protection services.
- Character Zone 4 (Z4)—Town/Village Border**  
Allows many mixed uses and more commercial applications. More than one principal use may be allowed on lots in this designation. Development shall not negatively impact the local road network so as to cause a drop in a road's level of service below the existing LOS, nor shall the development be permitted if it will reduce the response time or effectiveness for delivery of emergency services, including (but not limited to): ambulance, police, and fire protection services.
- Character Zone 5 (Z5)—Town/Village Center**  
The traditional town "main street" area. The broadest variety of uses is permitted and in the highest densities. More than one principal use may be allowed on lots in this designation.

<b>Sector/Character Zone Interface</b>					
	<b>Z1</b> Preserved	<b>Z2</b> Rural Reserved	<b>Z3</b> Town/Village-Rural Transition	<b>Z4</b> Town/Village Border	<b>Z5</b> Town/Village Center
<b>O1</b>	<b>P</b>				
<b>O2</b>	<b>P</b>				
<b>G1</b>		<b>P</b>	<b>P</b>	<b>P</b>	
<b>G2</b>			<b>P</b>	<b>P</b>	<b>P</b>
<b>SD</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>

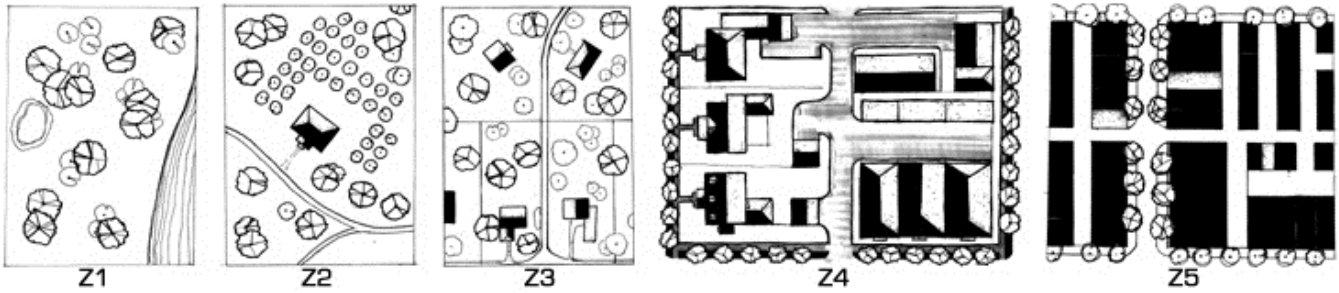


Illustration of progression from Preserved to Town/Village Center Character Zones (M. Yates, Monroe County Planning)

**835-8 Permitted Land Uses**

All land use definitions as defined by Chapter 802-5 are applicable to this chapter. All permitted and conditional uses shall retain its status unless otherwise designated by the Plan Commission and County Commissioners. Land uses described in the land use/zoning table of Chapter 802 shall correspond to the sectors in the following manner. Allowed uses are subject to their impact on the local infrastructure, schools, and other public facilities.

- O1 sector.  
Agricultural uses, as listed in the land use/zoning table of Chapter 802, except the following: Confined Feeding Operations, Stockyard, and Adult Oriented Businesses. No other permitted uses without variance approval.
- O2 sector.  
Uses permitted in the AG/RR zone district, except the following: Confined Feeding Operations, Stockyard, Remote Garbage/Rubbish Removal and Adult Oriented Businesses.
- G1 sector.  
Uses permitted in the AG/RR, CR, ER, and LB zone districts, except the following: Confined Feeding Operations, Stockyard, Remote Garbage/Rubbish Removal and Adult Oriented Businesses. These and any LB uses may be permitted by exception from the BZA.
- G2 sector.  
Uses permitted in the ER, SR, LR, MR, HR, and UR residential zones, LB and GB commercial zones, and LI industrial zone district, except the following: Remote Garbage/Rubbish Removal, Manufactured Home Park, Stockyard, Boarding House, Air Cargo and Package Service, Aircraft Charter Service, Airport Transportation Service, Boat Storage, Kennel, Veterinary Service (Outdoor), Manufactured Home Sales, Used Merchandise (Flea Market), Gasoline Services Station, Paper Products, Warehousing and Distribution, and Wood Products and Adult Oriented Businesses. These may be permitted by exception from the BZA.
- SD sector.  
Uses permitted only by public hearing of the Plan Commission. Examples may include (but are not limited to): all Mineral Extraction uses, Rock Crushing, Sawmill, School (K-12), Equipment Rental, Building Materials, Heavy Machinery Sales, Adult Oriented Businesses and Rodeo.

## Percentages of Zones by Sector

	Z1 Preserved	Z2 Rural Reserved	Z3 Town/Village- Rural Transition	Z4 Town/Village Border	Z5 Town/Village Center
<b>O1</b>	<b>No Min.</b>	<b>No Min.</b>			
<b>O2</b>	<b>No Min.</b>	<b>No Min.</b>	<b>10-30%</b>		
<b>G1</b>		<b>50-75%</b>	<b>20-40%</b>	<b>30-50%</b>	<b>10-30%</b>
<b>G2</b>			<b>10-30%</b>	<b>30-50%</b>	<b>50-70%</b>
<b>SD</b>	<b>(varies)</b>	<b>(varies)</b>	<b>(varies)</b>	<b>(varies)</b>	<b>(varies)</b>

A reevaluation component to reclassify zones (much like a Comprehensive Plan/Zoning Ordinance update) will be utilized to review sectors and the types of growth (which character zones) that are occurring within them. If necessary, an area may be recategorized for more appropriate sector/character zone(s) designations.

### **835-9**      **Landscaping**

The county zoning ordinance has fairly rigid standards for the installation of landscaping, with little differentiation between small- and large-scale developments. This chapter seeks to simplify landscaping in the rural communities by suggesting simple formulas and featuring native Indiana species. For all lots fronting on a publicly or privately maintained street, a standard of one shade tree, as defined in Chapter 830, per 30 feet apply, unless this requirement is waived via a variance request. Improvement shall be made to the lot of record outside of the road right-of-way, and on all lot frontages facing a street, unless permitted by variance.

### **835-10**      **Building Location and Frontage**

This chapter strongly encourages the placement of buildings near the sidewalk in more urban areas to facilitate easy access for pedestrians traveling without vehicles. As this is a form-based model for zoning, buildings and their appearance should be the primary focus; therefore, a structure's main entrance should face the primary road by which it is served. One building should not dominate another. Standards for setbacks are intended to reduce this risk, as do bufferyards and screening or fencing. Sidewalks are required for all improvements, whether remodeling or new construction.

### **835-11**      **Parking**

This chapter adopts the parking standards found in Chapter 806 and reduces the required total for commercial and industrial uses by 1/3 of the current minimum requirement. No reduction is made for residential uses or those uses in special districts, unless approved by administrative warrant. Parking facilities are strongly encouraged in the rear portions of lots, thereby drawing attention to buildings rather than their parking areas. This further encourages buildings to be closer to streets, concurrently improving pedestrian safety and access and reinforcing walkable, compact communities. For this reason, the use of common alleys is encouraged to facilitate rear yard parking areas.

Conditions for parking area requirements:

1. A change in use will require the minimum number of parking spaces to be met for the new use



(unless the new use requires fewer spaces than the previous use).

2. For a mixed use site with more than one principal use, the site's required parking shall be the sum of the required parking for the individual principal uses. (For example, if a commercial use requires nine spaces in Chapter 806, you would add the six spaces—the 1/3 reduction makes this six total spaces—to the four required for the residential use on the property, yielding a total of ten spaces.) The number of spaces shall be rounded to the nearest whole number.

3. No more than double the minimum requirement for parking spaces shall be allowed to serve a project, including on-street parking where applicable.

### **835-12      Signage**

Signage shall be permitted as authorized by Chapter 807 of the Zoning Ordinance.

### **835-13      Height/Bulk/Density**

As an alternative to traditional zoning, the RCZO offers slightly different regulations in regard to height, bulk, and density requirements. These are established below:

#### (A)      Height

For buildings in the O1, and O2 sectors, and Z1, Z2, and Z3 zone designations, a two-story maximum from average building grade on the structure's main frontage shall apply. (This permits residences with walk-out basements.)

*Chapter 801 of the ordinance reads thusly in defining building height:*

**Building Height.** *The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest elevation of the roof in the case of a slant or flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade and the front of the building.*

For buildings in the G1, G2, Z4, and Z5 designations, a two-story minimum and three-story maximum from average building grade on the structure's main frontage shall apply.

A variance may be requested for deviation from these regulations.

#### (B)      Bulk

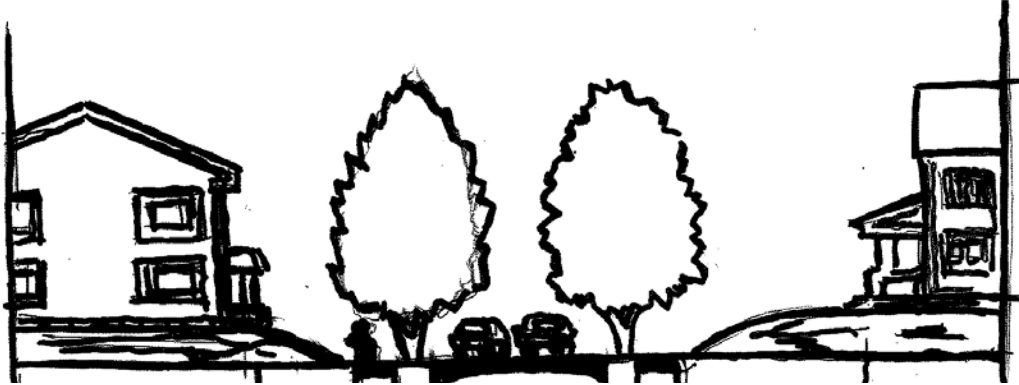
The RCZO encourages traditional development in the rural communities. A wide variety of structures is present in the communities and care should be taken to appropriately match a structure with its lot and surroundings. Lot coverage bonuses (allowing the structure's main floor to cover as much as 80 percent of the lot) should be encouraged for those structures in the Z4 and Z5 zones, which offer a mix of uses.

#### (C)      Density

Values for net density of dwelling units per acre or finished floor area for commercial or industrial uses are linked to sectors in the RCZO.

O1, O2 sectors:	one dwelling unit/10 acres minimum
G1 sector:	1 d.u./2.5 acres minimum (may be reduced to 1 d.u./1 acre if clustered; net density stays same as 2.5 acre standard and sewer is

G2 sector: required  
1-4 d.u./acre in lower density areas; sufficient sewer, water, and roadway infrastructure must be in place sufficient to maintain the existing level of road service, schools may not become overcrowded, nor emergency services impaired  
4-8 d.u./acre in higher density areas; sufficient sewer, water, and roadway infrastructure must be in place sufficient to maintain the existing level of road service, schools may not become overcrowded, nor emergency services impaired



Building disposition, frontages, and streetscape elevation (M. Yates, Monroe County Planning)

#### **835-14      Variances**

There shall be two types of variances: Warranted variances (Warrants) and Exceptional Variances (Exceptions). Both of these may be granted by the BZA, but warrants may alternatively be accepted for ruling by the Hearing Officer if meeting specific criteria (see Appendix A for further details).

- (A) Warrants permit a practice that is different than and in conflict with a specific provision of this overlay, but is justified by its intent or by hardship (that is, deprives the owner of all economic use).
- (B) Exceptions permit a practice that is in conflict with an included provision and the intent of this overlay (see 835-5).

The request for a warrant or an exception shall not subject the entire application to public hearing, but only that portion necessary to rule on the issue under consideration.

Warrants and exceptions shall be considered unique and shall not set precedent for others.

#### **835-15      Hearing Officer**

The Hearing Officer, an alternate procedure for reviewing and ruling on certain petitions, is outlined in Chapter 822-18 of the Zoning Ordinance.

**835-16**      **Incentives**

To encourage use of this overlay, the Board of County Commissioners approves the following incentives, to the extent authorized by Indiana Code:

- a.      A minor subdivision shall be processed administratively rather than through a public meeting, provided it is at least 20 percent contiguous to the existing neighborhood and an adequate level of service on adjacent road(s) is maintained post-development. Two road interfaces should be planned to allow connectivity.
- b.      The application shall be placed first on the appropriate meeting agendas. If more than one project using these rules is on an agenda, they will be heard in the order received at application.
- c.      Filing/review planning fees may be reduced to fifty percent (50%) of the ordinary fee.

**835-17**      **Authority**

The action of Monroe County, Indiana in the adoption of this overlay is authorized under Indiana Code § 36-1-3-4 and Indiana Code § 36-7-4-1, et seq., as amended.

This overlay is adopted as one of the instruments of implementation of the public purposes and objectives of the adopted Monroe County Comprehensive Land Use Plan and the Harrodsburg Area Rural Community Plan, the Ellettsville Area Rural Community Plan, the Smithville-Sanders Area Rural Community Plan, and the Stinesville Area Rural Community Plan. This overlay is declared to be in accord with these plans, to the extent required by Indiana Code § 36-1-3-4 and Indiana Code § 36-7-4-1, et seq., as amended.

This overlay was adopted and amended by vote of the Monroe County Board of County Commissioners.

**(end of chapter)**








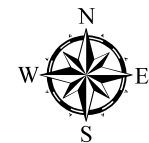
# Harrodsburg Rural Community Area

## Rural Community Zoning Overlay Districts

### Harrodsburg Area

#### Sector

-  01
-  02
-  G1
-  G2
-  SD

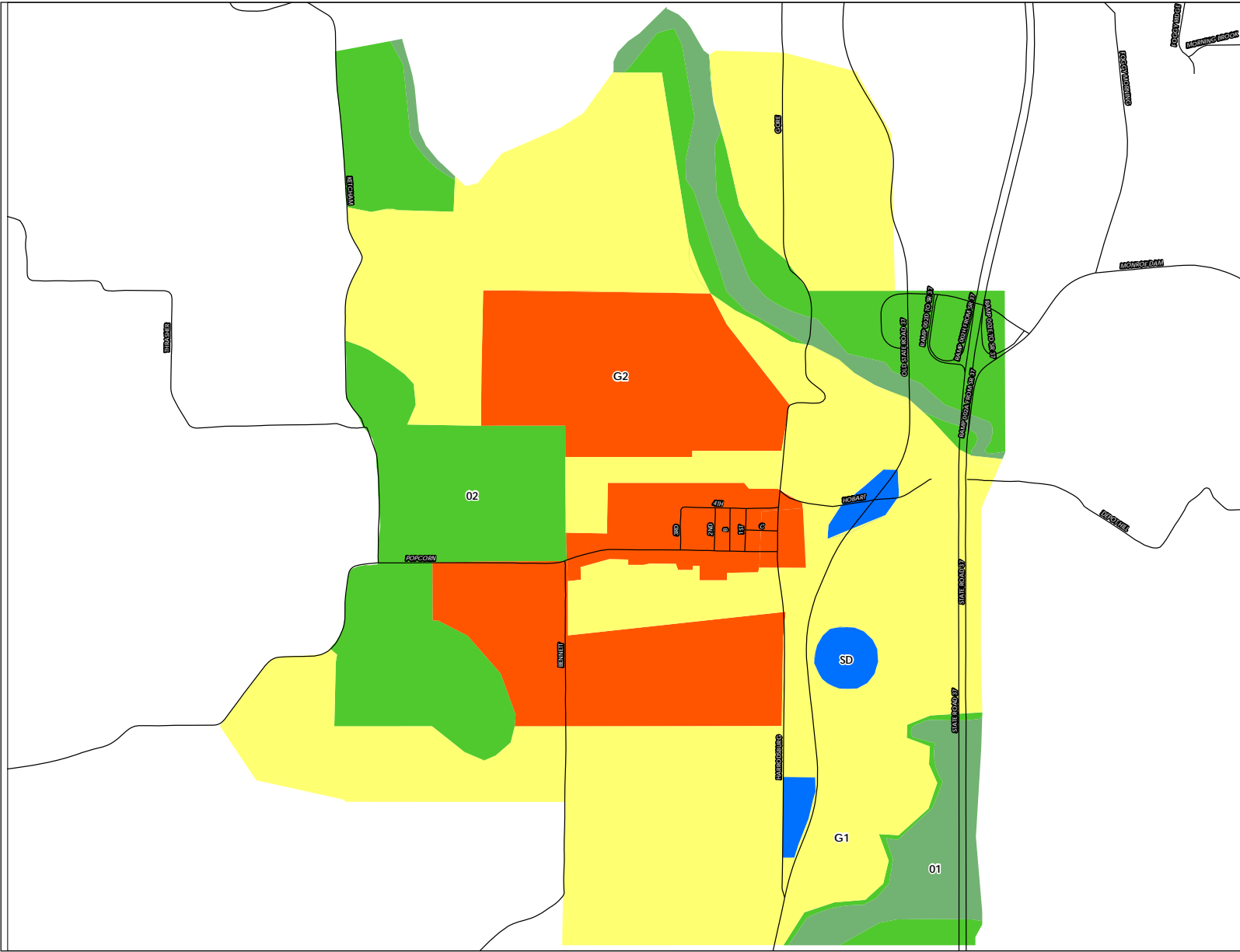


0.000250 0.05 Miles




All GIS and electronic database materials, and any services which may be provided related thereto, are provided "as-is" without any warranty of any kind, and all warranties of merchantability and fitness for a particular purpose are hereby disclaimed. In no event shall Monroe County be liable to the recipient or any other party for damages arising out of the use or inability to use these materials. This agreement shall be governed by the law of Indiana, where any litigation arising hereunder shall take place. The agreement is the complete and exclusive statement of the agreement between the parties and may be modified only by a written agreement.

Map created June, 2008



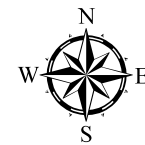
# Smithville-Sanders Rural Community Area

## Rural Community Zoning Overlay Districts

### Smithville-Sanders Area

#### Sector

- 01
- 02
- G1
- G2
- SD

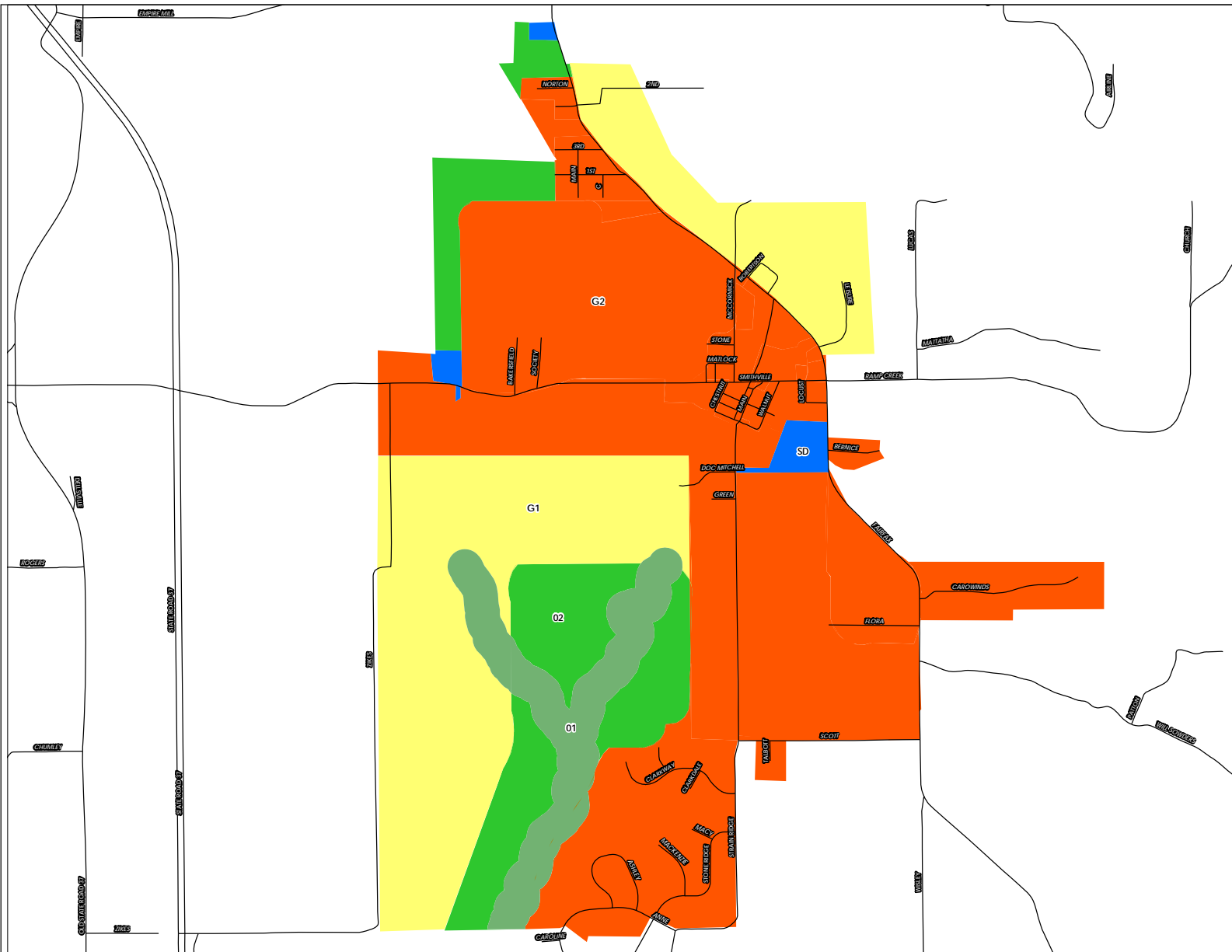


0.00 0.03 0 0.06 Miles



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Map created June, 2008







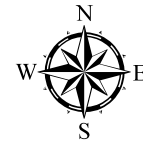
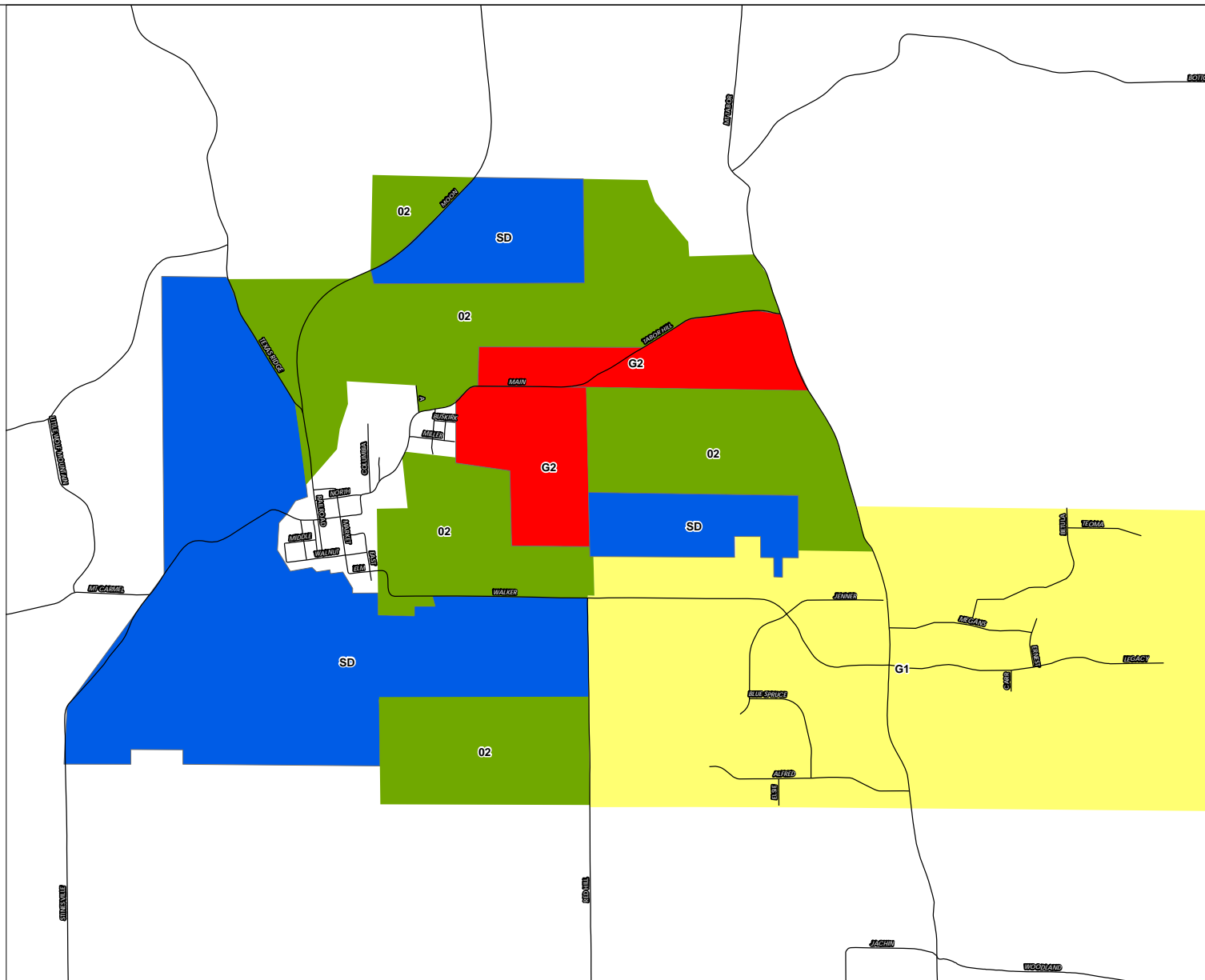
# Stinesville Rural Community Area

## Rural Community Zoning Overlay Districts

### Stinesville Area

#### Sector

-  O2
-  G1
-  G2
-  SD



0.00 0.03 0 0.06 Miles



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Map created June, 2008

## **Chapter 837 Adult Oriented Businesses**

### **837- 1. Purpose.**

The regulations set forth in this Ordinance pertaining to Adult Oriented Businesses are based on evidence concerning the adverse secondary effects of adult oriented business uses on the communities presented in findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986) and in studies conducted by the following communities: Detroit, Michigan; Amarillo, Texas; Los Angeles, California; Indianapolis, Indiana; Phoenix, Arizona; St. Paul, Minnesota; Beaumont, Texas; Seattle, Washington; and, Austin, Texas. Further, findings presented in *Wichita County v. LLEH, Inc.*, 289 F.3d 358, 366 (5<sup>th</sup> Cir. 2002) have been duly considered by reviewing the experiences of other communities and how the measures used to combat secondary effects were employed. Additionally, findings and studies presented or cited in the *Survey of Texas Appraisers; Secondary Effects of Sexually-Oriented Businesses on Market Values* (Cooper, Damian Kelly, Keuhl, Wilson, June 2008) and *Crime-Related Secondary Effects; Secondary Effects of “Off-Site” Sexually-Oriented Businesses* (McCleary, Alexander, Bush Vasquez, June 2008) were identified to support the determination of proximity impacts, sign regulations, and type classifications. The foregoing findings and studies establish that Adult Oriented Businesses, due to their nature, can have negative impacts on nearby properties, particularly when these uses are concentrated together or located near residential uses, child care centers, churches, cemeteries, schools, libraries, playgrounds, or parks. Special regulations for Adult Oriented Businesses are necessary to minimize associated adverse secondary effects on surrounding areas. Thus, the primary goal of the Adult Oriented Business regulations of this Ordinance is to prevent the concentration or location of these uses in a manner that would exacerbate their demonstrated adverse effects.

These regulations have neither the intent nor the effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is neither the intent nor the effect of these provisions to restrict or deny access to adult oriented materials protected by the First Amendment to the United States Constitution or the Indiana State Constitution, or to deny access by the distributors and exhibitors of lawful adult oriented media and entertainment to the local market.



## **837-2. General Definitions for the Purposes of Adult Oriented Business Activities**

**arcade booth:** Any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat five or fewer patrons and that is used to show, view, play, or display media for patrons therein. A video-viewing booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than 600 square feet in floor area.

**adult media:** Media that are distinguished or characterized by their emphasis on specified sexual activities or specified anatomical areas.

**adult oriented business, off-site:** Any adult oriented business establishment that sells adult media or adult merchandise, exclusively for off-site use. Off-site adult oriented businesses offer no on-site entertainment of any sort.

**adult oriented business, on-site:** Any adult oriented business establishment that offers on-site entertainment of any sort, including but not limited to the following: adult theater, adult cabaret, adult arcade, adult motel, adult motion picture theater, or sexual encounter establishment.

**adult oriented goods, toys, or novelties (merchandise):** Instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs, or for use in specified sexual activities or sadomasochistic practices.

**display publicly:** The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and material other than adult media are on display to the public.

**escort:** A person who, for any form of consideration, agrees or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**establishment:** Any business regulated by Chapter 802 of the Monroe County Zoning Ordinance and/or Chapter 837 of the Monroe County Code.

**gross public floor area:** The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled public), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways, lobbies, and entryways serving such areas.

**historic district:** Any area in any political subdivision of the State of Indiana designated as a historic district pursuant to the zoning or historic preservation ordinances applicable within the subdivision.

**media:** Anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not be limited to books, newspapers, magazines, movies, videos, sound recordings, cd-roms, other magnetic media, and undeveloped pictures.

**nude:** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

**public building or land:** Any building or land owned, leased or held by the United States, the State of Indiana, the County of Monroe, any city, town, special district, school district, or any other agency or political subdivision of the State or of the United States, which building or land is used for governmental or public purposes.

**public park or recreation area:** Public land which has been designated for park or recreational activities including, but not limited to parks, playgrounds, nature trails, swimming pools, reservoirs, athletic fields, basketball or tennis courts, pedestrian/bicycle paths, open spaces, wilderness areas, or similar public land uses.

**religious institution:** Any church camp, church, synagogue, mosque, temple, or other building which is used primarily for religious worship and related religious activities.

**residential district:** Any area designated as one of the residential districts defined in Chapter 802 of the Monroe County Zoning Ordinance.

**residential use:** Any of the uses identified as residential uses in Chapter 802 of the Monroe County Zoning Ordinance, including without limitation, single-family, duplex, townhouse, multiple-family, retirement home, mobile home park, and campground.

**sadomasochistic practices:** Flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one clothed or naked.

**school:** Any public or private educational facility serving students under the age of 18, including, but not limited to, child daycare facilities, nursery schools, preschools, kindergartens, elementary schools, preschools, primary schools, intermediate schools, junior high schools, middle schools, high schools and special education schools.

**semi-nude:** The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**specified anatomical areas:** (1) less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**specified sexual activities:** Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**stock in trade:** Stock in trade shall be the number of items in stock in the sales and display area at the time of a site inspection. The number of adult oriented items shall be calculated as a percentage of total items.

### **837-3. Use Definitions for the Purposes of Adult Oriented Business Activities.**

**adult arcade** An establishment where, for any form of consideration, arcade booths are provided and are regularly used to show, view, play, or display adult media.

**adult cabaret:** A nightclub, bar, restaurant, or similar commercial establishment, whether or not alcohol beverages are served, which regularly features persons who appear in a state of semi-nudity.

**adult media store:** An establishment that rents and/or sells adult media, and that meets any of the following three tests: (1) 10% or more of the gross public floor area is devoted to adult media; or, (2) 10% or more of the stock-in-trade consists of adult media; or, (3) it advertises or holds itself out in any forum as XXX, adult, sex, or otherwise as a purveyor of adult media.

**adult motel:** A motel, hotel, or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction of specified sexual activities or specified anatomical areas and which advertises the availability of this adult oriented type of material by means of any off-premises advertising including, but not limited to, signs, newspaper, magazines, pamphlets, leaflets, radio, television, or the internet; (b) offers a sleeping room for rent for a period of time less than 10 hours; or (c) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than 10 hours.

**adult motion picture theater:** A commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

**adult retail store:** An establishment offering goods for sale or rent and that meets any of the following tests: (1) more than 10% of its stock in trade or more than 10% of its gross public floor area are devoted to the display or storage of leather goods that are marketed or presented in a context to suggest their use for sadomasochistic practices; (2) more than 5% of its stock in or, more than 5% of its gross public floor area is devoted to the display of other adult oriented goods, toys, or novelties.

**adult theater:** A theater, concert hall, auditorium, or similar commercial establishment, which, for any form of consideration, regularly features persons who appear in a state of semi-nudity or live performances which are characterized by the exhibition or exposure of specified sexual activities or specified anatomical areas.

**escort agency:** An establishment who furnishes, offers to furnish or advertises to furnish escorts as one of its business purposes for a fee, tip, or other consideration.

**lingerie modeling studio:** An establishment or business that provides the services of live models modeling lingerie to individuals, couples, or small groups in a room smaller than 600 square feet.

**massage parlor:** Any establishment where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation, or service related thereto exposes his or her specified anatomical areas.

**nude or semi-nude model studio:** Any establishment where a person, who regularly appears in a state of semi-nudity, is provided for money or any form of consideration, to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons, excluding those facilities created for educational or artistic purposes.

**sexual encounter establishment:** A business or commercial establishment that, as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purposes of specified sexual activities when one or more of the persons is semi-nude. The definition of Adult Oriented Business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

**837- 4. Table of Permitted Uses / Permitted Zoning / Intensity of Use / On or Off-Site Designations**

Permitted Adult Oriented Uses	Permitted Zoning Districts	Use Intensity	On-Site Adult Oriented Business	Off-Site Adult Oriented Business
Adult Arcade	CA, GB, HI, IG	Medium	X	
Adult Cabaret	CA, GB, HI, IG	Medium	X	
Adult Media Store	CA, GB, LB, HI, IG	Low		X
Adult Retail Store	CA, GB, LB, HI, IG	Low		X
Adult Motion Picture Theater	CA, GB, HI, IG	Medium	X	
Adult Theater	CA, GB, HI, IG	Medium	X	
Escort Agency	CA, GB, LB, HI, IG	Low		X
Lingerie Model Studio	CA, GB, HI, IG	Medium	X	
Nude or Semi-Nude Model Studio	CA, GB, HI, IG	Medium	X	

The following Adult Oriented Business uses are prohibited: Adult Motel, Massage Parlor, and Sexual Encounter Establishment.

**837-5. Separation Requirements for Adult Oriented Businesses**

(A) Separation Buffer Matrix:

Protection Class	Uses	Adult Oriented Business, On-Site ( i.e. adult arcade, adult cabaret)	Adult Oriented Business, Off-Site ( i.e. adult bookstore, adult novelty store)
1	Other Adult Oriented Business On-Site	1,500 feet	1,000 feet
	Other Adult Oriented Business Off-Site	1,000 feet	1,000 feet
2	residential district	500 feet	500 feet
	private or public pre-school, K-12 school,	1,500 feet	750 feet
	public park, religious institution, public library, or historic district, Daycare Home or Daycare Center	750 feet	500 feet

- (B). Distance Measurements. Compliance with the separation requirements set forth in 837-2 (a) above shall be determined by measuring the distance from the nearest property line of the property from which spacing is required to the nearest property line on which the Adult Oriented Business use will be located, using a straight line, without regard to intervening structures or public rights-of-way.
- (C). Single Use Within Premises or Building. Not more than one Adult Oriented Business may be located in one building, parcel, or zoning lot.
- (D). Pre-Existing Use Establishment. Once approved and established, an Adult Oriented Business will not be made non-conforming as a result of the subsequent establishment of any type 2 Protection Class use within the proscribed buffer distances set forth in the part (A) Separation Buffer Matrix.

**837- 6. Adult Media Store and Adult Retail Store Uses– Specific Requirements**

All Adult Media Store and Adult Retail Store establishments shall be subject to the following requirements. However, if less than 40% of the gross public floor area or 40% of the stock in trade is dedicated to adult media or adult retail sales the use is not subject to the Separation provisions of Section 837-5 of this chapter.

Adult media shall be kept in a separate room or section of the store, which room or section shall:

- (A). Not be open to any person under the age of eighteen (18) years;
- (B). Be physically and visually separated from the rest of the store by an opaque wall of durable material, reaching at least eight (8) feet high, or to the ceiling, whichever is less;
- (C). Be located so that the entrance to it is as far as reasonably practicable from media or other inventory in the store likely to be of particular interest to children;
- (D). Have access controlled by electronic or other means to provide assurance that persons under the age of eighteen (18) years will not easily gain admission.
- (E). Provide signage at the entrance stipulating that persons under the age of eighteen (18) years are not permitted inside.

**837- 7. Exterior Display.**

No Adult Oriented Business shall be conducted in any manner that permits the public display of material depicting specified sexual activities or specified anatomical areas.

**837- 8. Accessory Use Limitations.**

No On-Site Adult Oriented Business use shall be permitted to operate as an accessory to an Off-Site Adult Oriented Business use. Furthermore, no Adult Oriented Business shall be permitted as an accessory use to any non-Adult Oriented Business use.

**837-9. Signage.**

In addition to the applicable sign requirements and limitations of Chapter 807, signage for Adult Oriented Businesses shall not display sadomasochistic practices, adult oriented toys or novelties, specified anatomical areas, or specified sexual activities.

**837- 10. Parking.**

In addition to the applicable parking requirements of Chapter 806, overnight parking is prohibited at Adult Oriented Business establishments.

*End of Chapter 837*



## CHAPTER 890

### AIRPORT ZONING ORDINANCE

#### 890-1. Short Title

This chapter shall be known and may be cited as the "Monroe County Airport Zoning."

#### 890-2. Definitions

As used in this chapter, unless the context otherwise requires:

**"Airport"** means Monroe County Airport.

**"Airport Elevation"** means the established elevation of the highest point on the usable landing area.

**"Airport Hazard"** means any structure, tree or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking-off at the airport.

**"Airport Reference Point"** means the point established as the approximate geographic center of the airport landing area and so designated.

**"Board of Aviation Commissioners"** means the Monroe County Board of Aviation Commissioners.

**"Height"** for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**"Instrument Runway"** means a runway equipped, or to be equipped, with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.

**"Landing Area"** means the area of the airport used for the landing, take-off or taxiing of aircraft.

**"Non-Conforming Use"** means any structure, tree or use of land that is lawfully in existence at the time the regulation prescribed in this chapter, or an amendment thereto, becomes effective and does not then meet the requirements of the regulation.

**"Non-Instrument Runway"** means a runway other than an instrument runway.

**"Person"** means an individual, firm, partnership, corporation, company, association, joint stock association or body politic and includes a trustee, receiver, assignee, administrator, executor, guardian or other representative.

**"Runway"** means the paved or unpaved surface of an airport landing strip.

**"Structure"** means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks and overhead transmission lines.

**"Tree"** means any object of natural growth.

### 890-3. Zones

- (A) In order to carry out the provisions of this chapter, there are hereby created and established certain zones that include all of the land lying within the instrument approach zones, non-instrument approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on the Monroe County Airport Zoning Map. The various zones are hereby established and defined as follows:

**INSTRUMENT APPROACH ZONE:** An instrument approach zone is established at each end of the instrument runway for instrument landings and take-offs. The instrument approach zone shall have a width of one thousand feet (1,000') at a distant of two hundred feet (200') beyond each end of the runway, widening thereafter uniformly to a width of sixteen thousand feet (16,000') at a distant of fifty thousand two hundred feet (50,200') beyond each end of the runway, and its centerline is the continuation of the centerline of the runway.

**NON-INSTRUMENT APPROACH ZONE:** A non-instrument approach zone is established at each end of all non-instrument runways on the Monroe County Airport for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of four hundred feet (400') at a distance of two hundred feet (200') beyond each end of the runway, widening thereafter uniformly to a width of two thousand four hundred feet (2,400') at a distance of ten thousand two hundred feet

(10,200') beyond each end of the runway, and its centerline is the continuation of the centerline of the runway.

**TRANSITION ZONES:** Transition zones are hereby established adjacent to each instrument and non-instrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of runways have variable widths as shown on the zoning map. Transition zones extend outward from a line four hundred feet (400') on either side of the centerline of the non-instrument runway for the length of such runway plus two hundred feet (200') on each end and five hundred feet (500') on either side of the centerline of the instrument runway for the length of such runway plus two hundred feet (200') on each end and are parallel and level with such runway centerlines. The transition zones along such runways slope upward and outward one foot (1') vertically for each seven feet (7') horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to both instrument and non-instrument approach zones for the entire length of the approach zones. These transition zones have variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one foot (1') vertically for each seven feet (7') horizontally to the points where they intersect the surfaces of the horizontal and conical zones. Additionally, transition zones are established adjacent to the instrument approach zone where it projects through and beyond the limits of the conical zone, extending a distant of five thousand feet (5,000') measured horizontally from the edge of the instrument approach zones at right angles to the continuation of the center line of the runway.

**HORIZONTAL ZONE:** A horizontal zone is hereby established as the area within a circle with its center at the airport reference point and having a radius of seven thousand feet (7,000'). The horizontal zone does not include the instrument and non-instrument approach zones and transition zones.

**CONICAL ZONE:** A conical zone is hereby established as the area that commences at the periphery of the

horizontal zone and extends outward therefrom a distance of five thousand feet (5,000'). The conical zone does not include the instrument approach zones and transition zones.

- (B) The Monroe County Airport Zoning Map is incorporated by reference and shall be considered to be a part of this chapter. Two (2) copies of the Monroe County Airport Zoning Map shall be on file in the office of the Monroe County Auditor for public inspection.

#### 890-4. Height Limitations

- (A) Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow or maintained in any zone created by this chapter to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

**INSTRUMENT APPROACH ZONE:** One foot (1') in height for each fifty feet (50') in horizontal distance beginning at a point two hundred feet (200') from, and at the elevation of, the end of the instrument runway and extending to a distance of ten thousand two hundred feet (10,200') from the end of the runway, thence one foot (1') in height for each fourth feet (40') in horizontal distance to a point fifty thousand two hundred feet (50,200) from the end of the runway.

**NON-INSTRUMENT APPROACH ZONES:** One foot (1') in height for each forty feet (40') in horizontal distant beginning at a point two hundred feet (200') from and at the elevation of the end of the non-instrument runway and extending to a point ten thousand two hundred feet (10,200') from the end of the runway.

**TRANSITION ZONES:** One foot (1') in height for each seven feet (7') in horizontal distant beginning at a point four hundred feet (400') normal to, and at the elevation of, the centerline of the non-instrument runway and extending two hundred feet (200') beyond each end thereof, and five hundred feet (500') normal to, and at the elevation of, the centerline of the instrument runway, extending two hundred feet (200') beyond each end thereof, and extending to a height of one hundred fifty feet (150') above the airport elevation, which

eight hundred forty-six feet (846') above mean sea level. In addition to the foregoing, there are established height limits of one foot (1') vertical height for each seven feet (7') horizontal distant measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces. Further, where the instrument approach zone projects through and beyond the conical zone, a height limit of one foot (1') for each seven feet (7') of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of five thousand feet (5,000') from the edge of the instrument approach zone measured normal to the centerline of the runway extended.

- (B) Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.
- (C) Nothing in this chapter shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to forty-five feet (45') above the surface of the land.

#### **890-5. Use Restrictions**

Notwithstanding any other provisions of this chapter, no use may be made of land within any zone established by this chapter in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking-off or maneuvering of aircraft.

#### **890-6. Non-Conforming Uses**

- (A) **Regulations Not Retroactive:** The regulations prescribed by this chapter shall not be construed to require the removal, lowering or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of this chapter or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of

any structure, the construction or alteration of which was begun prior to the effective date of this chapter and is diligently prosecuted.

- (B) **Marking and Lighting:** Notwithstanding the preceding provision of this section, the owner of any non-conforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Board of Aviation Commissioners or its duly authorized agent or representative to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of Monroe County.

#### 890-7. Permits

(A) Future uses:

- (1) Except as specifically provided in subsections (2), (3) and (4) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
- (2) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than forty-five feet (45') of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zone.
- (3) In the areas lying within the limits of the instrument and non-instrument approach zones but at a horizontal distance of not less than four thousand two hundred feet (4,200') from each end of the runways, no permit shall be

required for any tree or structure less than forty-five feet (45') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument approach zone.

- (4) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than forty-five feet (45') of vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.
  - (5) Nothing contained in any of the foregoing exceptions shall be construed as permitting, or intending to permit, any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this chapter, except as set forth in Section 890-4.
- (B) **Existing Uses:** No permit shall be granted that would allow the establishment or creation of any airport hazard or permit a non-conforming use, structure or tree to be made or become higher or become a greater hazard to air navigation than it was on the effective date of this chapter or any application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- (C) **Non-Conforming Uses Abandoned or Destroyed:** Whenever the Board of Aviation Commissioners or its duly authorized agent or representative determines that a non-conforming structure or tree has been abandoned or more than sixty percent (60%) torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- (D) **Variances:** Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this chapter shall petition to the Monroe County Plan Commission for variance from such regulations.

Written notice shall be given to the Monroe County Board of Aviation Commissioners by the Monroe County Plan Commission when any person petitions for a variance to this chapter. Such variances shall be allowed where it is duly found that a literal application or practical difficulty or unnecessary hardship and the relief granted would no be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this chapter.

- (E) **Hazard Marking and Lighting:** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and to be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Monroe County Airport at its own expense to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the present of an airport hazard.

#### **890-8. Enforcement**

- (A) It shall be the duty of the Monroe County Plan Commission to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Monroe County Plan Commission. Petitions required by this chapter to be submitted to the Monroe County Plan Commission shall be promptly considered and granted or denied by it. Petitions for action by the Monroe County Board of Zoning Appeals shall be forthwith transmitted by the Monroe County Plan Commission.
- (B) The Board of Aviation Commissioners may, by condemnation and upon payment of due compensation, prevent the erection of and require removal of hazards that are a hazard to airport travel.
- (C) The Board of Aviation Commissioners, by majority vote of its members, may from time to time, on its own motion or on the written application of any affected taxpayer or political subdivision located within the airport hazard area, petition to amend, change, or supplement these regulations. No such amendment or change shall be made except after public hearing at which parties in interest and citizens shall have an opportunity to be heard and after proper notice has been published. Notice shall be published once a week for two (2) weeks



in a paper of daily circulation in Monroe County.  
A public hearing shall be held anytime after ten  
(10) days from the date of the last published  
notice.

**890-9. Board of Zoning Appeals--Powers and Duties**

- (A) The Monroe County Board of Zoning Appeals shall have and exercise the following powers:
  - (1) to hear and decide appeals from any order, requirement, decision or determination made by the Monroe County Plan Commission in the enforcement of this chapter;
  - (2) to hear and decide special exceptions to the terms of this chapter upon which such Board of Zoning Appeals under such regulations may be required to pass; and
  - (3) to hear and decide specific variances.
- (B) The Monroe County Board of Zoning Appeals shall adopt rules for its governance and procedure in harmony with the provisions of this chapter. Meetings of the Monroe County Board of Zoning Appeals shall be held at the call of the chairman and at such other times as the Monroe County Board of Zoning Appeals may determine. The chairman, in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Monroe County Board of Zoning Appeals shall be public. The Monroe County Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Planning Coordinator and shall be a public record.
- (C) The Monroe County Board of Zoning Appeals shall make written findings of fact and conclusions of law, giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination that comes before it under the provisions of this chapter.

**890-10. Appeals**

- (A) Any person aggrieved or any taxpayer affected by any decision of the Monroe County Plan Commission made in its administration of this chapter, if of the opinion that a decision of the Monroe County Plan Commission is an improper application of these regulations, may appeal to the Monroe County Board of Zoning Appeals.
- (B) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Monroe County Board of Zoning Appeals by filing with the Monroe County Plan Commission a notice of appeals specifying the grounds thereof. The Monroe County Plan Commission shall forthwith transmit to the Monroe County Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.
- (C) An appeal shall stay all proceedings in furtherance of the action appealed.
- (D) The Monroe County Board of Zoning Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, by agent or by attorney.
- (E) The Monroe County Board of Zoning Appeals may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from any may make such order, requirement, decision or determination as may be appropriate under the circumstances.

**890-11. Judicial Review**

Any person aggrieved or any taxpayer affected by any decision of the Monroe County Board of Zoning Appeals may appeal within thirty (30) days to the circuit court of the county in which the affected real estate lies.

**890-12. Violations and Penalties**

- (A) A person who violates this chapter or any regulation, order or ruling promulgated hereunder commits a Class C Ordinance Violation, and a judgment of not more than Three Hundred Dollars (\$300.00) may be entered against the violator.
- (B) Each day a violation continues to exist constitutes a separate violation.

**890-13. Conflicting Regulations**

Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent limitation or requirement shall govern and prevail.

**[end of chapter]**