

Kosciusko County Zoning Ordinance Ord. #: 75-1

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Effective July 20, 2021**

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Recodified August 29, 2000 effective January 1, 2001**

**Pierceton Joined 1/6/76
Claypool joined 1/21/75
Milford joined 6/1/75
Silver Lake joined in 6/1/03
North Webster Joined in 7/20/83
Town of Syracuse & TC Joined 8/77
Town of Etna Green Joined 7/11/07
Town of Burket Joined 11/13/14
Town of Leesburg Joined 2/8/21**

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AN ORDINANCE TO ESTABLISH LAND USE REGULATIONS FOR DEVELOPMENT IN THE JURISDICTIONAL AREA OF KOSCIUSKO COUNTY, INDIANA, AND TO PROVIDE FOR THE ADMINISTRATION, AND AMENDMENT OF THIS ORDINANCE AND THE REGULATIONS THEREIN.

ARTICLE 1 - Basic Provisions

1.1 Title: This Code section may be known, cited, and referred to as the County Zoning Ordinance.

1.2 Authority: This Ordinance is adopted pursuant to Indiana Code 36-7-4, and all acts supplemental and amendatory to it.

1.3 Compliance: No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Ordinance and after the lawful issuance of the permits required by this Ordinance

1.4 Severability: If any provision of this Ordinance or the application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected and shall be interpreted in conformity with section 1-1-1-8 of this Code.

1.5 Jurisdiction: The jurisdiction of this Ordinance shall include all lands and waters within the territorial jurisdiction of the County and the incorporated Town Limits of those municipalities participating in the County Area Plan Commission and/or Zoning Ordinance. All buildings erected, all uses of land or buildings established, all structural alterations or relocation of buildings, and all enlargements of or additions to uses, occurring after March 1, 1975 shall be subject to all provisions of this Ordinance which are applicable to the zoning districts in which those buildings, uses, land or waters shall be located.

1.5 Application: This Ordinance is not intended to interfere with, abrogate or amend any easements, covenants, or other agreements existing on March 1, 1975. This Ordinance is not intended to repeal, abrogate, annul or in any way interfere with any provisions of laws or ordinances existing on March 1, 1975 or any rules, regulations or permits adopted or issued pursuant to law before that date relating to the use of buildings or premises. If this Ordinance imposes a greater restriction upon the use of the buildings or premises than is imposed or required by any such provisions of law, rules, regulations, agreements, covenants, or permits, the provisions of this Ordinance shall control; but where those private covenants, agreements, permits, rules and regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.

ARTICLE 2 - District Regulations

2.1 **Zone Maps:** "Zone Maps" of the incorporated Cities or Towns and each Township in the County are hereby incorporated by reference into this Ordinance. Two (2) copies of the "Zone Maps" shall be filed and available for public inspection in the Area Plan Commission Office.

2.2 **Zoning Districts:** The County is divided into the districts stated in this Ordinance as shown by the District boundaries on the Zone Map. The Districts are:

"E"	Environmental
"PU"	Public Use
"A"	Agriculture
"AII"	Agriculture II
"R"	Residential
"C"	Commercial
"I-1"	Industrial 1
"I-2"	Industrial 2
"I-3"	Industrial 3

2.3 **District Boundaries:** District boundaries shown within the lines of streets, streams and transportation rights-of-way shall be deemed to follow their centerlines. The vacation of streets shall not affect the location of District boundaries. When the Ordinance Administrator cannot determine the location of a District boundary by such centerlines, by scale or dimensions stated on the Zone Map, or by coincidence with a property line, he or she shall refuse action. The Board of Zoning Appeals, upon appeal, shall interpret the location of the District boundary with reference to the scale of the Zone Map and the purposes set forth in all relevant provisions of this Ordinance.

2.4 **Environmental District:** The Environmental District is limited to agriculture, recreation, and certain other open land uses. The purpose of this District is to prevent intensive development of land that is unsuitable for development due to topography, soil conditions, periodic flooding, or other natural features.

2.5 **Public Use District:** The Public Use District is designated for and limited to uses, which serve as a benefit to the public. These uses may or may not be taxed, and may be uses, which are owned and operated either privately or publicly.

2.6 **Agricultural District:** The purpose of this district is to protect prime agricultural land and related uses from undesirable urban growth, and establish a quarter (1/4) mile (1,320 feet) protective zone for livestock operations, to protect such operations from urban development that is not compatible. A single-family residence is permitted in this district on separate tracts of land, if there is no conflict with the Subdivision Control Ordinance, and if the tract provides adequate area for water and sewage systems.

2.7 **Agricultural II District:** The purpose of this district is to allow the development of some tracts of marginal agricultural ground into low density, rural atmosphere residential subdivisions ("mini-farms"), allowing a mixing of the Residential and Agricultural uses. The tracts in this district are developed with the understanding that they are located in a rural area, and as such are exposed to the elements of agricultural practice (noise, smell, etc...)

2.8 Residential District: The residential district is limited to dwellings, public and semi-public uses which are normally associated with residential neighborhoods. The purpose of this District is to create an attractive, stable and orderly residential environment.

2.9 Commercial District: The commercial district is primarily for retail or service uses.

2.9.1 Open storage shall be permitted in commercial districts if it occupies not more than twenty (20) percent of the gross lot area and is screened. Half of this area may be unscreened if utilized for display area for saleable goods. No portion of said display or storage area shall interfere with the required parking areas as presented in section 3.16 of this ordinance.

2.9.2 All sites must comply with the Kosciusko County Stormwater and Erosion Control Ordinance.

2.10 I-1 Limited Industrial District: This zoning district is intended to provide areas for the development of industrial uses having high standards of performance and limited impact upon adjacent areas. It can be located in close proximity to residential and any other zoning areas except environmental. The district is for operation of fabricating, manufacturing, processing, wholesaling, warehousing and ancillary related offices where standards are met.

2.10.1 MINIMUM STANDARDS:

2.10.1.1 All industrial operations must be within an enclosed building or buildings.

2.10.1.2 No storage outside the building of any raw materials or manufactured products for loading or unloading.

2.10.1.3 Any outside storage of refuse shall be in metal dumpsters or similar closed units, with regular, periodic removal.

2.10.1.4 No emission or transmission beyond the confines of the building or noxious or offensive fumes, smoke, dust, gas, odors, noise, vibration, heat or glare, nor utilization of explosive materials.

2.10.1.5 The operation of fabricating, manufacturing and processing shall not utilize any chemical or material requiring a discharge permit from the EPA or Indiana EPA.

2.10.1.6 No discharge of water which would produce erosion of adjacent property shall be permitted. All sites must comply with the Kosciusko County Stormwater and Erosion Control Ordinance.

2.10.1.7 No fences shall be permitted in an I-1 district, except:

- a. A chain link fence in limited areas where such may be required for security.
- b. Decorative open fencing such as split rail fencing as a part of landscaping; but in no event shall be any fence other than a decorative, landscaping type fence be placed in the buffer zone.

2.10.2 Additional Criteria:

These additional criteria shall be minimum standards of I-1 use, but may be individually waived or modified by application to the approval by the Kosciusko County Board of Zoning Appeals under the standards and procedure for variances.

2.10.2.1 Minimum lot size shall be 20,000 square feet.

2.10.2.2 Parking facilities sufficient for visitors shall be provided.

2.10.2.3 Employee parking areas shall be located in the back yard. Visitor parking areas may be located in the front or side yard.

2.10.2.4 All parking, loading, and unloading facilities shall be arranged so that parking maneuvers may be accomplished without entering a public right-of-way.

2.10.2.5 Where the I-1 use is adjacent to a residential area, the employee parking area and the loading and unloading areas shall be screened from the residential area.

2.10.2.6 Loading and unloading facilities including truck parking for the purpose of loading and unloading, shall be provided on the tract and not on public right-of-way.

2.10.2.7 Loading and unloading facilities shall be located in a back yard, and not in a front yard or side yard, nor the street side of a corner lot.

2.10.2.8 A minimum perimeter buffer zone of 20 feet shall be maintained; within the buffer zone, there shall be no buildings, no parking or drives, and the buffer zone area shall be reserved for a buffer as to adjacent properties, and may be utilized only for grass areas, landscaped areas or screening.

2.10.2.9 Parking facilities shall be a minimum of 180 square feet per space, and one space for each full-time employee per shift.

2.10.2.10 Buildings in I-1 zones shall have a maximum building height of 15 feet.

2.10.2.11 Setbacks for the building at the front yard or street side of a corner lot shall be at least 35 feet, inclusive of the 20-foot buffer zone.

2.10.2.12 All buffer zone areas shall be suitably planted or landscaped, and periodically mowed or maintained in a presentable condition.

2.11 I-2 Light Industrial District: This zoning district is intended to provide areas for the development of industrial uses for the operation of fabricating, manufacturing, processing, wholesaling, warehousing, and ancillary related offices which shall conform to the following requirements and standards:

2.11.1 MINIMUM STANDARDS:

2.11.1.1 All operations are conducted and all materials and products are stored within enclosed buildings or within screened areas.

2.11.1.2 No smoke is emitted of a density greater than number 1 according to the

Ringlemann's Scale, except that smoke of a density not in excess of 2 of the Ringlemann's Scale shall be permitted for a period not in excess of six minutes and hour.

2.11.1.3 No particles from any flue or smokestack exceeds 0.2 grains per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit.

2.11.1.4 All walks, driveways and parking areas as dust proofed.

2.11.1.5 No dust of any kind produced by the industrial operations is permitted to escape beyond the confines of the building in which it is produced.

2.11.1.6 No noxious odor of any kind is permitted to extend beyond the lot lines. Tanneries, abattoirs, glue factories, oil refineries, soap factories, artificial gas manufacture, rubber manufacturer, fertilizer manufacturer and similar industries shall present detailed plans for elimination of noxious odors before a permit will be granted.

2.11.1.7 No gases or fumes toxic to persons or injurious to property are permitted to escape beyond the building in which it occurs.

2.11.1.8 No glare may be seen from any street or any residential, commercial or environmental district.

2.11.1.9 Any outside storage of refuse shall be in metal dumpsters or similar closed units, with regular, periodic removal.

2.11.1.10 The industrial process shall not utilize any explosive materials.

2.11.1.11 All parking facilities shall be arranged so that parking maneuvers may be accomplished without entering a public right-of-way.

2.11.1.12 Loading and unloading facilities, including truck parking during the process of loading or unloading, shall be provided on the tract and not on public right-of-way.

2.11.1.13 Parking facilities shall be a minimum of 180 square feet per space, and one space for each full time employee per shift.

2.11.1.14 All buffer zone areas shall be suitably planted or landscaped, and periodically mowed or maintained in a presentable condition.

2.11.1.15 Fences shall be permitted, but no fence shall be permitted in front of the building line; decorative open fencing such as split rail fencing as a part of landscaping will be permitted in front of the building line.

2.11.1.16 All sites must comply with the Kosciusko County Stormwater and Erosion Control Ordinance.

2.11.2 ADDITIONAL CRITERIA:

These additional criteria shall be minimum standards of I-2 use, but may be individually waived or modified by application to and approval by the Kosciusko County Board of Zoning Appeals under the standards and procedure for variances.

2.11.2.1 Minimum lot size shall be 30,000 square feet.

2.11.2.2 Parking facilities sufficient for visitors shall be provided.

2.11.2.3 Employee parking areas shall be located in the back yard. Visitor parking areas may be located in the front or side yard.

2.11.2.4 Loading and unloading facilities shall be located in a back yard, and not in a front yard or side yard, nor the street side of a corner lot.

2.11.2.5 A minimum perimeter buffer zone of 20 feet shall be maintained; within the buffer zone, there shall be no buildings, nor parking or drives, and the buffer zone area shall be reserved for a buffer as to adjacent properties, and may be utilized only for grass areas, landscaped areas or screening. A variance from this criteria shall be available only where the property is adjacent to another industrial zoning, I-1, I-2 or I-3, and not along a right-of-way.

2.11.2.6 Setbacks for the building at the front yard or street side of a corner lot shall be at least 35 feet, inclusive of the 20-foot buffer zone.

2.12 I-3 HEAVY INDUSTRIAL DISTRICT: This zoning district is intended to provide areas for the development of heavy industrial uses, including but not limited to heavy fabricating, manufacturing, processing, extraction, heavy repair and dismantling industries, including open land operations. This use includes ancillary related offices. Within this classification are included the following:

- All uses permitted in an I-2 district.
- Fabricating, manufacturing, processing, extraction, heavy repair and dismantling industries, including open land operations.
- Ready mix concrete plants or asphalt plants.
- It would be preferable but not mandatory that larger tracts be zoned and used for this classification, I-3. In other words a suggested minimum of 10 acres per tract should be rezoned to I-3, where possible, so as to confine and concentrate I-3 uses to those areas rather than more randomly distributing them and thereby causing a greater impact upon the community and county.

2.12.1 MINIMUM STANDARDS:

2.12.1.1 No smoke is emitted of a density greater than number 2 according to the Ringlemann's Scale, except smoke of a greater density shall be permitted for a period not in excess of six minutes in any one hour.

2.12.1.2 No particles from any flue or smokestack exceeds 0.3 grains per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit.

2.12.1.3 No gases or fumes toxic to persons or injurious to property are permitted to escape beyond the confines of the building in which it occurs.

2.12.1.4 Minimum lot size shall be 80,000 square feet.

2.12.1.5 All parking facilities shall be arranged so that parking maneuvers shall be accomplished without entering a public right-of-way.

2.12.1.6 Loading and unloading facilities, including truck parking for the purpose of loading and unloading, shall be provided on the tract and not on public right-of-way.

2.12.1.7 Parking facilities shall be a minimum of 180 square feet per space, and one space for each full time employee per shift.

2.12.1.8 All buffer zone areas shall be suitably planted or landscaped and periodically mowed or maintained in a presentable condition.

2.12.1.9 All sites must comply with the Kosciusko County Stormwater and Erosion Control Ordinance.

2.12.2 ADDITIONAL CRITERIA:

These additional criteria shall be minimum standards of I-3 use, but may be individually waived or modified by application to and approval by the Kosciusko County Board of Zoning Appeals under the standards and procedure for variances.

2.12.2.1 Parking facilities sufficient for visitors shall be provided.

2.12.2.2 Employee parking areas shall be located in the back yard. Visitor parking areas may be located in the front or side yard.

2.12.2.3 A minimum perimeter buffer zone of 50 feet shall be maintained; within the buffer zone, there shall be no buildings, no parking or drives, and the buffer zone area shall be reserved for a buffer as to adjacent properties, and may be utilized only for grass areas, landscaped areas or screening. This shall constitute a criteria available for variance only where the property is adjacent to another industrial zoning, I-1, I-2 or I-3, and not along a right-of-way.

2.12.2.4 Setbacks for the building at the front yard or street side of a corner lot shall be at least 75 feet, inclusive of the 50-foot buffer zone.

2.13 OVERLAY DISTRICT:

The purpose of the Overlay District is to promote and protect the public health, safety, comfort, convenience and general welfare by providing for consistent and coordinated treatment of the properties within the defined district. The Area Plan Commission (A PC), in establishing this District, are relying on IC 36-7-4-600 *et seq.* and IC 36-7-4-1400 *et seq.* This zoning district is, likewise, intended to serve as a tool for implementing the development policies and guidelines set forth in the Comprehensive Plan. The targeted area is designated due to the important business and connectivity corridor to Kosciusko County. The major arterials identified under this section are quickly developing

and have the potential to become premier office and industrial business location and employment centers whose viability, quality, and character are important to the community as a whole, adjacent residents, employees, business owners, and taxing districts. Therefore, it is the further purpose of the Overlay District to preserve the aesthetic qualities of those bordering properties through: (1) the promotion of coordinated development in the Overlay District; (2) the establishment of high standards for buildings, landscaping, and other improvements constructed on the properties within the Overlay District which permit innovative site designs and at the same time encourage efficient land usage; and (3) the establishment of development requirements which will encourage substantial capital investments for the development of those properties and promote the quality, scale, and character of development consistent with the Overlay District's existing and planned uses. This Ordinance further seeks to foster development that will provide this district with a special sense of place that will increase property values, protect real estate investment, spur commercial activity, and promote the goals and objectives of the Comprehensive Plan.

Description:

Map – Appendix A

SOUTHERN OVERLAY PORTION

Beginning in the SE of Section 17 Twp. 30N R6E in the center of 1300 S. thence, proceeding West on and along the centerline of 1300 S. approximately 7900 feet to the to the SW corner of the SE quarter of Sec. 18 Twp. 30N R6E, then proceeding North on and along the West line of the SE quarter section of Sec. 18 Twp. 30N R6E approximately 37, 000 feet to the center line of 600 S. also being the NW corner of the NE quarter of Sec. 18, Twps. 30 R6E, then proceed East on an and along the center line of CR 600 S. approximately 2600 feet to the SW corner of the SW quarter of Sec. 8 Twps. 31N R6E, thence North on and along the West line of Sec. 8 Twps. 31N R6E approximately 8000 feet to NW corner of the SW quarter of Sec. 5 Twps. 31N, R6E, thence East on and along the North line of the SW quarter of Sec. 5 Twps. 31N, R6E, approximately 2630 feet to the SW corner of the NE quarter of Sec. 5 Twps. 31N 6E, thence North 3240 feet on and along the West line of the NE quarter of Sec. 5 Twps. 31N 6E, to the NW corner of the NE quarter of Sec. 5, Twps 31N, 6E, thence East on and along the North line of Sec. 5, Twps 31N, 6E approximately 1300 feet to the SW corner of the SW quarter of Sec. 31 Twps. 32N. R6E, thence North on and along the West line of Sec. 31 Twps. 32N. R6E approximately 8000 feet to the NW corner of the SW quarter of Sec. 30 Twps. 32N R6E, thence North approximately 2600 feet to the NW corner of the NW quarter of Sec. 30 Twps 32N R6E, thence East approximately 2550 feet on and along the North line of the NW quarter of Sec 30, Twps 32N R6E to the SW corner of the SE quarter of Section 19 Twps. 32N, R6E, thence North along the West line of SE quarter of Section 19 Twps. 32N, R6E approximately 5270 feet to the NW corner of the NE quarter of Section 19 Twps. 32N, R6E, also being a point within the Rozella Rd., thence proceeding East on and along the center line of Rozella Rd. approximately 1950 feet to the intersection of Rozella Rd. and State Road 15, thence South on and along the center line of State Road 15, 2766 feet to a point of intersection of State Road 15 and the North line of the SE quarter of Sec 19, Twps. 32N, R6E, thence East approximately 1450 feet to the NE corner of the SE quarter of Section 19, Twps. 32N, 6E, thence South on and along the East line of the SE quarter of Sec 19, Twps 32, R6E approximately 10,720 feet to the SE corner of the NE quarter of Section 31 Twps. 32N, R6E, thence West approximately 2600 feet to the NW corner of the SE quarter of Section 31, Twps 32N R6E, thence South approximately 2650 feet on and along the West line of the SE quarter of Section 31, Twps 32N R6E to the SW corner of the SE quarter of Section 31, Twps 32N R6E also being a point within CR 400 S., thence West on and along the center line of 400 S approximately 530 to the intersection of CR 400 S. and Kinsey Rd., thence South on and along the center line of Kinsey Rd. approximately 9000 feet to the intersection of Kinsey Rd, 550 S. and 200 W., thence proceeding South on and along the center line of 200 W. approximately, 7900 feet to the NW corner of the NW quarter of Section 21 Twps. 31N, R6E and the

center line of 700 S., thence East on and along the center line of 700 S. to the center line of the Cauffman Ditch, thence South on and along the center line of the Cauffman Ditch approximately 6300 feet to a point within the center of CR 800 S., thence West approximately 1900 feet on and along the centerline of CR 800 S. to the SW corner of the SW quarter of Section 21 Twps. 31N, R6E also being the center of CR 200 W., thence South on and along the centerline of CR 200 W. approximately 26,500 feet to a point of intersection of 200 W. and 1300 S. also being the POB.

NORTHERN OVERLAY PORTION

Beginning in the SW corner of the SE quarter of Section 30 Twps. 33N R6E also the intersection of CR 150 W. and CR 300 N., thence North on and along the center line of CR 150 W. approximately 15,780 feet to the SW corner of the SE quarter of Section 7 Twps. 33N, R6E, thence North on and along the West line of the SE quarter of Section 7 Twps. 33N, R6E approximately 42,000 feet to the NW corner of the NE quarter of Sec. 6 Twps. 34N, R6E and the center line of 1400 N., thence East on and along the center line of 1400 N. approximately 13,060 feet to the NE corner of the NE quarter of Sec. 4, Twps. 34N, R6E and the intersection of CR 1400 N. and CR 100 E., thence south on and along the centerline of 100 E. approximately 7700 feet to the intersection of CR 100 E. and CR 1250 N. and the SE corner of the NE quarter of Sec. 9, Twp. 34N, R6E, thence West on and along the center line of CR 1250 N. approximately 2680 feet to the NW corner of the SE quarter of Sec. 9, Twps. 34N, R6E, thence South on and along the West line the SE quarter of Sec. 9, Twps. 34N, R6E approximately 5300 feet to the SE corner of the NW quarter of Sec. 16, Twps.34N, R6E and a point in the center of CR 1150 N., thence West on and along the center line of 1150 N. approximately 2600 feet to the East line of Norfolk Southern Railroad Right-of-way, thence South parallel to the East right-of-way line of the Norfolk Southern Railroad approximately 6700 feet to a point of intersection of Mock Rd. and the East right-of-way line of the Norfolk Southern Railroad, thence East on and along the center line of Mock Rd. approximately 2620 feet to the East line of SW quarter of Sec. 21, Twps.34N, R6E., thence South on and along the East line of SW quarter of Sec. 21, Twps.34N, R6E approximately 13,700 feet to the SE corner of the NW quarter of Sec 4, Twps. 33N, R6E and the center line of Harper Rd., thence South on and along the center line of Harper Rd. approximately 5000 feet to the East right-of-way line of the Norfolk Southern Railroad, thence south parallel to the East right-of-way line of the Norfolk Southern Railroad approximately 20,300 feet to the centerline of CR 300 N. and the SE corner of the SE quarter Sec 29, Twps. 33N, R6E, thence West on and along the south line of the SE quarter Sec 29, Twps. 33N, R6E, approximately 6030 feet to the SW corner of the SE quarter of Section 30 Twps. 33N R6E also being the POB.

Less and Excepting any and all property within the legal Corporate and Jurisdictional boundaries of the City of Warsaw.

2.14 Uses:

2.14.1 Permitted Uses: The permitted uses for each District are shown in Table A. The uses that are listed for the various districts shall be according to the common meaning of the term or according to the definitions given in Article 8 of this Ordinance. Uses under this section shall not occur or be permitted within any right-of-way, thoroughfare and/or access easement, excluding public utilities.

2.13.2 Exceptions: The exceptions for each District that may be permitted by the Board of Zoning Appeals are shown on Table A. The Board of Zoning Appeals shall follow the provisions of the Exceptions sections when considering any application for an Exception. Uses under this section shall not occur or be permitted within any right-of-way, thoroughfare and/or access easement, excluding public utilities.

TABLE A:

Environmental

Permitted Uses	Exception Uses
<ol style="list-style-type: none"> 1. Agriculture 2. Game Preserves 3. Public Parks & Playgrounds 4. Recreation 5. Accessory Uses 6. Essential Services 7. Micro Solar Energy System 8. Small Solar Energy System 9. Public Improvement 	<ol style="list-style-type: none"> 1. Cemeteries 2. Churches, temples, or other similar places of worship 3. Commercial Recreation 4. Golf Courses 5. Mineral Extraction 6. Riding Stables 7. Single Family Residence 8. Greenhouses & Nurseries (wholesale & retail) 9. Water & Sewage Treatment Plants 10. Campgrounds 11. Home Office

Public Use

Permitted Uses	Exception Uses
<ol style="list-style-type: none"> 1. Churches & Temples 2. Schools 3. Libraries 4. Municipal or Government Buildings 5. Cemeteries 6. Public Parks & Playgrounds 7. Accessory Uses 8. Essential Services 9. Micro Wind System 10. Micro Solar Energy System 11. Small Solar Energy System 12. Medium Solar Energy System 13. Public Improvement 14. Child Day Care Services (non occupied home) 	<ol style="list-style-type: none"> 1. Crop Farming 2. Golf Courses 3. Mineral Extraction 4. Airport 5. Public Institutions 6. Hospitals 7. Church Camps 8. Not for profit Camps

Agricultural II

Permitted Uses	Exception Uses
<ol style="list-style-type: none"> 1. Agriculture 2. Public Parks & Playgrounds 3. Single Family Dwelling 4. Accessory Uses 5. Essential Uses 6. Home Office 7. Micro Wind System 8. Micro Solar Energy System 9. Small Solar Energy System 	<ol style="list-style-type: none"> 1. Home occupation 2. Public Utility Buildings 3. Greenhouses & Nurseries (wholesale and retail) 4. Public or Semi-public Swimming Pools 5. Public Use Structures 6. Public Improvement

Agricultural

Permitted Uses	Exception Uses

<ol style="list-style-type: none"> 1 Agriculture 2 Churches, temples, or other similar places of worship 3 Public & Parochial Schools 4 Public Parks & Playgrounds 5 Single Family Dwellings 6 Accessory Uses 7 Essential Uses 8 Greenhouses & Nurseries (wholesale) 9 Private Swimming Pools 10 Home Office 11 Micro Wind System 12 Micro Solar Energy System 13 Small Solar Energy System 14 Medium Solar Energy System 15 Large Solar Energy System (When on 3 acres of ground or more) 16 Public Improvement 	<ol style="list-style-type: none"> 1. Animal Kennels 2. Commercial Recreation 3. Cemeteries 4. Fire Stations 5. Golf Courses 6. Hospitals & Clinics 7. Home Occupations 8. Mineral Extraction 9. Mobile Home Parks 10. Municipal Buildings and Libraries 11. Nursery Schools 12. Nursing Homes 13. Public Utility Buildings 14. Planned Unit Development 15. Parking Lots 16. Private Clubs & Camps 17. Private Air Strip 18. Sanitary Landfill 19. Swimming Pools 20. Two Family Dwelling 21. Veterinary Hospital 22. Automobile Graveyard 23. Campgrounds 24. Public or Semi-public Swimming Pools 25. Storage Warehouses 26. Junkyard 27. Scrape Metal Processing Facility 28. Agricultural Equipment Sales & Service 29. Water & Sewage Treatment Plants 30. Feed Mill 31. Marinas, if the property is adjacent to a lake, river, or stream 32. Public Use Structures 33. Home Based Business 34. Greenhouses & Nurseries (retail) 35. Communication Towers 36. Agricultural Tack Shop 37. Agricultural Related Trucking Operation 38. Agricultural Product Processing 39. Fertilizer Sales, Processing and Storage 40. Child Day Care Services (non-occupied home)
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Residential

Permitted Uses	Exception Uses
<ol style="list-style-type: none"> 1. Churches, temples, or other similar places of worship 	<ol style="list-style-type: none"> 1. Agriculture 2. Multi-Family Dwellings

<ol style="list-style-type: none"> 2. College Buildings & Grounds 3. Public & Parochial Schools 4. Public Parks & Playgrounds 5. Single Family Dwellings 6. Two-Family Dwellings 7. Accessory Uses 8. Essential Uses 9. Private Swimming Pool 10. Grain Farming 11. Home Office 12. Micro Wind System 13. Micro Solar Energy System 	<ol style="list-style-type: none"> 3. Cemeteries 4. Fire Station 5. Funeral Homes 6. Home Occupations 7. Mobile Home Parks 8. Municipal Buildings & Libraries 9. Nursery Schools 10. Nursing Homes 11. Parking Lots 12. Planned Unit Developments 13. Private Clubs 14. Public Utility Buildings 15. Rooming Houses 16. Public or Semi public Swimming Pools 17. Water & Sewage Treatment Plants 18. Marinas, when this property is adjacent to a lake, river, or stream 19. Accessory uses located on a lot or tract separate from the principal use. 20. Commercial Warehousing 21. Public Improvement 22. Child Day Care Services (non occupied home)
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Commercial

Permitted Uses	Exception Uses
<ol style="list-style-type: none"> 1. Cleaning & Laundry Plant 2. Eating & Drinking Establishments 3. Fire Station 4. Offices & Banks 5. Parking Lots 6. Personal Services 7. Printing Shops 8. Private Clubs 9. Private Parks & Playgrounds 10. Public Utility Buildings 11. Retail Businesses 12. Accessory Uses 13. Essential Services 14. Greenhouses & Nurseries (Wholesale & Retail) 15. Micro Wind System 16. Micro Solar Energy System 17. Small Solar Energy System 18. Public Improvement 	<ol style="list-style-type: none"> 1. Animal Kennels 2. Motorized Vehicle Sales, Service, & Repair 3. Churches, temples, or other similar places of worship 4. Commercial Recreation 5. Commercial Schools 6. Drive-In Businesses 7. Farm Implement Sales & Services 8. Funeral Homes 9. Hotels & Motels 10. Hospitals & Clinics 11. Livestock Auctions 12. Mobile Home Parks 13. Multi-Family Dwellings 14. Planned Unit Development 15. Public & Parochial Schools 16. Public Transportation Terminals 17. Research Laboratory 18. Single Family Dwellings 19. Theaters 20. Wholesale Businesses 21. Warehouses 22. Veterinary Hospital 23. Campgrounds

	24. Marina 25. Sexually Oriented Business 26. Communication Towers * 27. Home Office 28. Manufactured Homes Sales & Service 29. Manufacturing 30. Medium Solar Energy System 31. Child Day Care Services (non occupied home)
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Limited Industrial

Permitted Uses	Exceptional Uses
1. Fabricating 2. Manufacturing 3. Processing 4. Wholesaling 5. Warehousing 6. Ancillary Related Offices 7. Micro Solar Energy System 8. Small Solar Energy System 9. Medium Solar Energy System 10. Large Solar Energy System 11. Micro Wind System 12. Public Improvement 13. Child Day Care Services (non occupied home)	1. Motels 2. Planned Unit Developments 3. Restaurants 4. Agriculture 5. Airports 6. Communication Towers * 7. Manufactured Homes Sales & Service 8. Motorized Vehicle Service and Repair 9. WECS Large

Light Industrial "I-2"

Permitted Uses	Exceptional Uses
1. Fabricating 2. Manufacturing 3. Processing 4. Wholesaling 5. Warehousing 6. Ancillary Related Offices 7. Micro Wind System 8. Micro Solar Energy System 9. Small Solar Energy System 10. Medium Solar Energy System 11. Large Solar Energy System 12. Public Improvement 13. Child Day Care Services (non-occupied home)	1. Motels 2. Planned Unit Developments 3. Restaurants 4. Agriculture 5. Airports 6. Salvage Yards 7. Communication Towers * 8. Manufactured Homes Sales & Service 9. Motorized Vehicle Service and Repair 10. WECS Large

Heavy Industrial "I-3"

Permitted Uses	Exceptional Uses
1. Heavy Fabricating 2. Manufacturing 3. Processing 4. Extraction 5. Heavy Repair & Dismantling Industries including open land operations	1. Planned Unit Developments 2. Restaurants 3. Airports 4. Mineral Extraction 5. Salvage Yards

6. Ancillary Related Offices	6. Manufacturing & Processing of Explosive Materials
7. Ready Mix Concrete Plant or Asphalt Plants	7. Scrape Metal Processing Facility
8. Micro Wind System	8. Agriculture
9. Micro Solar Energy System	9. Communication Towers *
10. Small Solar Energy System	10. Manufactured Homes Sales & Service
11. Medium Solar Energy System	11. WECS Large, Wind Farm, anemometers and related devices and structures
12. Large Solar Energy System	12. Commercial Solar Energy System Farm
13. Public Improvement	13. Child Day Care Services (non occupied home)

* See section 3.25 communication towers.

Other Exceptions: In addition to the uses stated under exceptions in each District, any other similar uses which the Area Plan Commission may determine to be consistent with the objectives and purposes of the particular District may be permitted.

2.15 Lot and Yard Requirements: The minimum lot areas, minimum width of lot, minimum depth of front yard, minimum width of each side yard, and the minimum depth of rear yard for each District shall be as shown on Table B and Table C:

Table B: REQUIRED SETBACKS ON LOTS WITHOUT PUBLIC SEWER

District	Minimum Lot Area Sq. Ft.	Minimum Add. Lot Area Per Family Sq. Ft.	Minimum Lot Width Feet	Minimum Depth Front Yard Feet	Minimum Width Side Yard Feet	Minimum Depth Rear Yard Feet
E	1 Acre	N/A	100	50	20	20*
PU	1 Acre	N/A	100	50	20	20*
A	20,000	10,000	100	50	20	20*
AII	1 Acre	N/A	100	50	20	20*
R	20,000	10,000	100	35	10	15*
C	7,000	+5000**	30	35	10	20*
I-1	20,000	N/A	100	35	20	20*
I-2	30,000	N/A	100	35	20	20*
I-3	80,000	N/A	200	75	50	50*

Table C: REQUIRED SETBACKS ON LOTS WITH PUBLIC SEWER

District	Minimum Lot Area Sq. Ft.	Minimum Add. Lot Area Per Family Sq. Ft.	Minimum Lot Width Feet	Minimum Depth Front Yard Feet	Minimum Width Side Yard Feet	Minimum Depth Rear Yard Feet
E	1 Acre	N/A	100	50	20	20*
PU	1 Acre	N/A	100	50	20	20*
A	10,000	+2500	70	50	20	20*
AII	1 Acre	N/A	100	50	20	20*
R	10,000	+2500	75	25	10	15*
C	3,000	+2500**	30	35	10	20*
I-1	20,000	N/A	100	35	20	20*

I-2	30,000	N/A	100	35	20	20*
I-3	80,000	N/A	200	75	50	50*

* Thirty-Five feet where yard adjoins abuts, faces, or is in close proximity, (35 feet or less), a lake or waterway this measurement will be taken from the location of the Department of Natural Resources determined legal lake level. In cases where this level has not been determined this measurement shall be taken from the high bank or shoreline as determined by the APC. The required 35' setback shall not apply when the body of water in question is owned by the property owner and is contained entirely within the legal boundaries of the property in question

** Exception application required

ARTICLE 3-General Regulations:

3.1 General Development Procedure: The Area Plan Commission and the Board of County Commissioners shall continuously develop the Comprehensive Plan, including the planning policies, to guide future decisions. All Comprehensive Plan Elements, in whatever degree of detail they may embody, shall provide the basis for approval of all development under this Zoning Ordinance. No development shall be approved under this Ordinance which is in conflict with a Comprehensive Plan Elements.

3.2 Principal Uses: Only those principal uses specified for a district as shown on "Table A" shall be permitted. The uses that are listed for the various districts shall be according to the common meaning of the term or according to the definitions as may be enumerated in this Ordinance.

3.3 Mobile Homes & Recreational Vehicles: Mobile Homes and recreational vehicles not located in a Mobile Home Park or designated campground, and used as temporary or permanent place of abode shall be subject to the requirements of all Federal, State and County laws applicable to dwellings. Further "skirting" of a durable material shall be installed upon any mobile home or recreational vehicle so used or occupied as a temporary or permanent place of abode.

3.4 Exception: Exceptions and their accessory uses are permitted in districts as shown on "Table A", but only in accordance with Exception procedure.

3.5 Accessory Uses: Accessory uses and structures such as private garages are permitted in all districts in conjunction with the primary use or structure provided the accessory use does not change the character of the district in which it is located and is located on the same property as the principle structure. With a Residentially zoned district the following size limitations, in Table D, shall apply to all accessory structures, except as permitted by the Board of Zoning Appeals in accordance with the provisions of this Ordinance.

Table D: Residential Accessory Structure Size Limitations

Lot Size	Maximum Square Footage of Accessory Building
Under 10,000 sq. ft.	576 square feet (for example 24' x 24')
10,001 to 15,000 sq. ft.	720 square feet (for example 24' x 30')
15,001 to 25,000 sq. ft.	864 square feet (for example 24' x 36')
25,001 sq. ft. and over	1200 square feet (for example 30' x 40')

3.6 Temporary Uses

3.6.1 Temporary hardship residences, for the purpose of caring for or assisting a person with a documented medical condition, shall be allowed for the length of the hardship until the person is no longer in need of caring or assistance, for whatever reason. At such time the temporary residence shall be removed. The residence shall not be set with a permanent foundation and shall meet all other requirements of the Kosciusko County Zoning Ordinance and other local, state, and federal regulations. Prior to the issuance of the improvement location permit a letter from a licensed physician, on their letter head, shall be presented stating the name of the person in need of caring/assistance and the medical condition.

3.6.2 Temporary event “tents” shall be allowed without an improvement location permit assuming the structure meets all minimum district setbacks and is in place for no more than seven (7) consecutive days no more than twice (2) in a six (6) month period.

3.6.3 Residential seasonal screen porch areas which are not up for more than a six (6) month period no more than once within a 12 month period and are not permanently fixed to the ground shall meet all district setbacks however shall not be required to obtain an Improvement Location Permit.

3.6.4 Garage/Yard Sales

- a. A garage sale / yard sale may be conducted three (3) times each calendar year per lot and shall not exceed four (4) consecutive days in duration;
- b. A garage sale / yard sale shall only be conducted during the hours from sunrise to sunset;
- c. All personal property exhibited outdoors during a garage sale / yard sale shall be placed within a building or structure or otherwise removed from the premises immediately following the end of the garage sale;
- d. Nothing in this Chapter shall be construed to prohibit one (1) or more owners or occupants from conducting a combined garage sale on one (1) of the lots owned or occupied by the participants, provided that all other provisions of this Section are complied with;

3.6.5 Temporary structures used in conjunction with private development/construction work or seasonal sales may be permitted by the Board of Zoning Appeals if the proposed site is acceptable and neighboring uses are not adversely affected. They shall be removed promptly when their function has been fulfilled. Permits for temporary structures may be issued for a period not to exceed six (6) months, after such time new permits must be obtained and the need will be reevaluated.

3.6.6 Temporary structures used in conjunction with public improvement projects or declared emergencies shall be permitted if the proposed site is acceptable and neighboring uses are not adversely affected. Said structures shall obtain an improvement location permit and provide all necessary documentation and shall be removed promptly when their function has been fulfilled.

3.7 Non-Conforming Uses & Non-Conforming Structures: The following provisions shall apply to all non-conforming uses and structures:

3.7.1 Any non-conforming use and/or a non-conforming structure may continue or remain as constructed, but may not be extended, expanded, or changed unless to a conforming use or structure, except as permitted by the Board of Zoning Appeals, in accordance with the provisions of this Ordinance or section 3.7.4 of the ordinance.

3.7.2 Any non-conforming structure damaged by fire, flood, explosion, or other casualty may be reconstructed and used as before if such reconstruction is performed within six (6) months of that casualty, if the restored structure has no greater coverage and contains no greater cubic content than before that casualty, and if the reconstruction does not pose a threat to public health or is a safety hazard as determined by section 3.11.5.4.

3.7.3 If any non-conforming use, conducted in a structure or otherwise, ceases, for whatever reason, for a period of six (6) months, its use shall thereafter conform to the uses permitted in the district in which it is located.

3.7.4 On any property which is a legal non-conforming agriculturally zoned property with multiple residences an improvement location permit may be issued for a residence addition to any residential structure assuming the addition will not increase the total square footage of the specific structure, which the addition will be to, by more than 25% and in accordance with all other local, state, and federal regulations.

3.8 Unclassified or Unspecified Uses: If the Ordinance Administrator is unable to determine whether a use is permitted as a principal or accessory use, he or she shall refer the question to the Board of Zoning Appeals for a ruling.

3.9 Soil Conditions: No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Area Plan Commission due to flooding, concentrated run-off, inadequate drainage, adverse soil, unfavorable topography, or any other feature likely to be harmful to health, safety, prosperity, aesthetics, and general welfare of the county. The Area Plan Commission, in applying the provisions of this section shall, in writing, recite the particular facts upon which it bases its conclusions that the land is not suitable for certain uses. An applicant shall have opportunity to present evidence contesting the unsuitability. The Area Plan Commission may then affirm, modify, or withdraw its determination.

3.10 Flood Prone Areas: Prior to the consideration of the issuance and approval of any permit for construction of improvements upon any delineated floodway, flood plain, or flood prone area as shown by the National Flood Insurance Map, the applicant shall meet all requirements of the Kosciusko County Flood Control Ordinance and where applicable present to the Area Plan Commission approval by the Natural Resources Commission in Conformity with applicable State Statutes and Regulations promulgated thereunder.

3.10.1 The maps prepared by the Corps of Engineers delineating the limits of areas having special flood hazards and dated 1987 are hereby incorporated by reference into this Ordinance. Two (2) copies of these maps are on file in the office of the County Plan Commission and are available for public inspection.

3.11 Lot and Yard Requirements: The minimum lot area, minimum width of lot, minimum depth of front yard, minimum width of each side yard, and minimum depth of rear yard for each district shall be as shown in Section 2.15 of this Ordinance.

3.11.1 Lots which abut on more than one right-of-way, thoroughfare and/or access easement shall provide the required front yards along every right-of-way, thoroughfare and/or vehicular access easement, except alleys, and pedestrian, utility, and/or drainage easements. Lots which abut more than one lake and/or waterway shall provide the required lake yards along every lake and/or waterway.

3.11.2 Any lot with a width of at least one hundred (100) feet at the building setback line shall abut upon a public street or private road with at least fifty (50) feet of frontage abutting to it.

3.11.3 Only one (1) principal structure or use shall be located, erected, or moved on to any tract or lot.

3.11.4 No portion of any structure, whether open or enclosed, including but not limited to garages, porches, carports, balconies, roofs, pools, or decks shall project into any minimum front, side, or rear yard.

3.11.5 In any legally non-conforming Residential District where it is determined by the Ordinance Administrator that; at least fifty one (51) percent of the lots in a block were occupied by residential structures constructed prior to March 1, 1975, the front, lake, side and/or rear yard setback shall be adjusted, if the following criteria are met:

3.11.5.1 As to side yard setbacks, if the reduction does not pose a threat to the public health or safety, the Ordinance Administrator shall reduce the setback requirement according to Table E.

Table E:

Lot Width	Set Back
Less than 75 feet	No less than five (5) feet
75 feet to 85 feet	No less than seven & one half (7.5) feet
Greater than 85 feet	No less than ten (10) feet

3.11.5.2 As to a rear yard setback, if the reduction does not pose a threat to public health or safety, the Ordinance Administrator shall reduce the setback to no less than ten (10) feet.

3.11.5.3 As to the front or lake yard setback, if the reduction does not pose a threat to public health or safety, the Ordinance Administrator shall reduce the setback, as follows:

- In the event both adjoining land owners consent, in writing, the Ordinance Administrator shall reduce the setback to the average setback distance of the two (2) adjacent owners, utilizing their principal structure or residence for the purpose of determining the average, and provided such reduction does not result in a setback of less than twenty (20) feet from the property line.
- In the event that there are no principal structures or residences upon the adjacent tracts, or if the tract in question is located at either end of a block, the Ordinance Administrator shall seek out, in either direction, or, in the case of a tract located at either end of a block, toward the middle of the block, two (2) principal structure or residences for the purpose of determining the average setback and provided the effected landowners have granted written consent and that the reduction does not result in a setback of less than twenty (20) feet from the property line.

3.11.5.4 As used herein, the term "threat to public health or safety" shall be defined and determined by reasonable standards, and the Ordinance Administrator may utilize the assistance of professional fire, emergency service or health personnel, as may be appropriate to determine if a public health or safety hazard would exist.

3.11.5.5 In the event the applicant disagrees with the decision of the Ordinance Administrator, and the application of the above criteria, such applicant may appeal the decision of the Ordinance Administrator to the Board of Zoning Appeals or request a hearing for a variance from the Board of Zoning Appeals, as such remedies are provided for elsewhere in this Ordinance.

3.11.5.6 For the purpose of this section those lots which abut up to unimproved streets and alleys, pedestrian easements, and unimproved “stub” right-of-way’s, which are not the primary front or rear, which terminate at a waters edge, and do not pose a threat to the public health or safety, the Ordinance Administrator may reduce the setback requirement to five (5) foot.

3.11.6 No lot, yard parking area, building area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

3.11.7 **Residential fences** are permitted on the property lines in Residential, Agricultural, and Agricultural II districts but shall not exceed a height of six (6) feet; shall not exceed a height of three (3) feet in the front yard or lake or adjacent water yard (this shall be as defined under the definitions section of this ordinance unless said structure is located beyond the required setback in that district. In such cases a six- (6) foot fence shall be permitted from the front of the principle structure to the required setback line for such district.) and shall not be closer than two (2) feet to any right-of-way, access drive, or access easement unless the following restrictive covenant is placed on the face of the property deed and recorded in the Kosciusko County Recorder’s Office in which case said fencing may be placed within zero (0) feet of a right-of-way, access drive, or access easement but not within.

“That where as the property owner of record chose not to place a residential fence two (2) feet back from the road right-of-way access drive, or access easement as required by the Kosciusko County zoning Ordinance the property owner of this real estate and/or his / her / their heirs, successors, renters or assigns, of their free will as a specific as a condition of the Kosciusko County Zoning Ordinance section 3.11.7 agree that they will not institute any claim for damages against Kosciusko County, or its representatives for losses of any type to any fencing not complying with section 3.11.7 of the Kosciusko County Zoning Ordinance e located on the petitioners property, resulting from normal repair, maintenance or expansion of road or drainage features with the adjoining right-of-way of this real estate.”

3.11.8 **Security fences** are permitted on the property lines in all districts but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing and shall not be closer than two (2) feet to any right-of-way, access drive, or access easement.

3.11.9 **Agricultural fences** may be permitted directly on the property lines in agricultural districts. However, these fences must be for the primary purpose of confining livestock and/or protecting crops and must do so on their own merits. Said fences must be constructed of

animal grade material and should be able to confine livestock and/or crops prior to additions of assistance along right-of-ways (including but not limited to electrification, barbwire, etc).

3.11.10 Essential services, utilities, electric power and communications transmission lines are exempt from the yard and distance requirements of this Ordinance

3.11.11 – Lake Access Developments:

Lakeshore Frontage Requirements - The intent of this provision is to minimize the impact of lake front developments and lake access developments on the Shoreline and to (1) limit the funneling of lake access for multiple residences located on Non-Waterfront Lots through Waterfront Lots, (2) to establish an acceptable density on lake access by controlling development, (3) establish a balanced and orderly relationship between Lake Access Developments and the amount of Shoreline available for use by the owners of Non-Waterfront Lots, and (4) to protect the natural lake assets of Kosciusko County from overburdening Lake Access Developments. This provision limits the practice of funneling numerous lake users through a waterfront lot intended for residential use. Funneling promotes very high density use of limited lakeshore property. It often results in undesirable overcrowding, access conflicts, sanitation, noise, parking and public safety problems.

Lake Access Developments in all zoning districts shall provide Shoreline in compliance with the following linear footage requirements:

First Residential Unit	50 Feet of Shoreline
Second Residential Unit	25 Feet of Shoreline
Each Additional Residential Unit	15 Feet of Shoreline

The Developer of any Lake Access Development shall submit, with its exception, preliminary plat or development plan application, a certificate of survey depicting the Waterfront Lot Shoreline and calculating the Shoreline length. Such application may be granted only after submission of the required Waterfront Lot certificate of survey. In addition, the zoning administrator shall independently confirm the accuracy of the Shoreline length calculation prior to the public hearing, or other determination required, for approval of the application.

This amendment shall apply to modification of legal, non-conforming uses unless the change or alteration of the legal, non-conforming use maintains the same number of waterfront users or fewer waterfront users than the use had on the date of this Amendment, as calculated under this section of the ordinance. This number shall be supported through historical documentation and is subject to the requirements of all federal, state, and local regulations and requirements.

3.11.12 On any agriculturally zoned tracts of ground which are 2 acres in size or less residential setbacks shall apply for residential principle and accessory structures. This section shall not apply to ponds.

3.12 Any lot of record existing on March 1, 1975 or any lot, the purchase of which has been contracted for in writing on or before March 1, 1975 and held in separate ownership, may be used for the erection of a structure conforming to the use, lot, and yard regulations and other requirements of the district in which it is located, upon proof of equitable ownership satisfactory to the Area Plan Commission even though its area and width are less than the minimum requirements of this Ordinance.

3.13 No location improvement permit shall be issued for a tract or lot that abuts a public street dedicated to only a portion of its proposed width and located on that side or it from which the required dedication has not been secured. Reserve strips of land on which the required dedication has not been secured. Reserve strips of land which prevent or unduly restrict access to dedicated lands are prohibited.

3.14 Height Regulations:

3.14.1 Except in agricultural, industrial, or commercial districts, no principle structure shall exceed forty (40) feet in height above mean ground level, and no accessory building shall exceed twenty-five (25) feet in height above mean ground level nor an eave height higher than sixteen (16) feet unless approved by the Board of Zoning Appeals. In any district the Board may authorize a variance from this height requirements if:

3.14.1.1 If All front and side depths are increased one (1) foot for each additional foot of height; or

3.14.1.2 The structure is any of the following and does not constitute a hazard to any established airport: television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, cooling towers, chimneys, silos, elevator bulkheads, conveyors, and flagpoles.

3.14.1.3 A variance may be granted for an accessory building which exceeds the standards of section 3.14, above, by petition to the Board of Zoning Appeals and under the criteria of section 5.3 of this ordinance

3.14.1.4 For the purposes of this section of the Kosciusko County Zoning Ordinance, eave height shall be measured from the bottom of the eave fascia.

3.14.2 In any district all structures, as defined by the Kosciusko County Zoning Ordinance, are subject to the air space control height and use restrictions surrounding airports per FAA requirements. All registered FAA airstrips (public or private) properly approved by the Kosciusko County zoning ordinances or in existence as of June 1, 2011, existing at the time of this amendment shall not be encroached upon by limiting safe and appropriate take off and landing pathways due to the height or placement of any structure. Any proposed structure cannot penetrate any airspace surfaces on or near a public or private airport. Kosciusko County zoning ordinances will adhere to IC 8-21-10-8 in the Indiana Code, or its updated version, as being applicable to protect the air space of both public and private airports. Special attention shall be given to the following:

3.14.2.1 Approach Surface: Land lying beneath the approach surfaces which extends outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the runway end;

3.14.2.2 Transitional Surface: The transitional surface begins at the runway end and on either side of the runway surface and slopes upward and outward at a 7:1 slope meeting the horizontal surface at one hundred fifty (150) feet above the elevation of the airport;

3.14.2.3 Horizontal Surface: The horizontal surface begins by swinging arcs of five thousand (5,000) feet from the center end of the runway surface creating an elongated

oval above the runway. The height of the horizontal surface is one hundred fifty (150) feet above the elevation of the airport; and

3.14.2.4 Conical Surface: The conical surface begins at the edge of the horizontal surface and extends upward and outward for a distance of four thousand (4,000) feet at a slope of 20:1 with an initial elevation of one hundred fifty (150) feet above the airport elevation.

3.15 **Entrances:** All entrances from any private, commercial, or industrial installation shall require approval from the governmental agency having jurisdiction over it prior to the issuance of an Improvement Location Permit.

3.16 **Off-Street Parking:** Off-street parking spaces shall be provided in accordance with the specifications in Table F in all districts whenever any new use is established or an existing use is expanded.

Table F: Parking Requirements

Use	Parking Spaces Required
Single Family, Two-Family Residential	2 per dwelling
Multi-family	4 per dwelling unit *
Church, Temple, & School	1 per 4 seats in principal assembly room
Hotel, Motel, & Boarding School	1 for each living or sleeping unit
Child Day Care Services (non occupied home)	1 each full-time care giver and 1 for every two children approved for. (i.e. 16 children = 8 parking spaces)
Private Club or Lodge	1 per 4 members
College, Residential Hall, Fraternity, or Sorority	1 per 4 occupants
Theater	1 per 4 seats
Hospital or Rest Home	1 per 3 beds & 1 for each 2 employees on maximum shifts
Professional Offices, Wholesale Houses, & Medical Clinics	1 for every 250 square feet of floor space
Retail Businesses, Eating & Drinking Places, & Personal Service Establishments	1 for every 100 square feet of area
Bowling Alleys	5 for each lane
Recreational or Assembly Places e.g., Dance Halls, Night Clubs, Funeral Homes, Public Buildings	1 for every 100 square feet of service floor space
Industrial	1 for each 2 employees on maximum shift

- All above parking spaces shall be a minimum of 180 square feet in size.
- In instances, that the above calculations produce a partial space the number will be rounded up.
- For Multi-family parking requirements, any enclosed or covered parking area will be factored toward the total required spaces.

3.16.1 Parking spaces may be located on a lot other than that containing the principal use upon approval of the Board of Zoning Appeals.

3.16.2 Recreational Vehicles and Boats: Recreational vehicles and boats may be stored on residential lots for an indefinite period of time if that recreational vehicle or boat will not be occupied as temporary or permanent living quarters, is legally plated, and is physically able to be driven or hauled. Any recreational vehicle or boat shall be stored at a minimum of twenty (20) feet from any front yard setback line, five (5) feet from a side yard setback, line and thirty-five (35) feet from a waters edge.

3.16.3 Whenever off street parking is required under this Ordinance sufficient for the building of a parking lot (five (5) or more vehicles), and whenever a parking lot is built, such parking lot shall be laid out, constructed and maintained in accordance with the following requirements:

Lighting facilities shall be arranged so that light is reflected away from adjacent properties.

The parking lot shall be adequately drained and shall provide retention area or catch basins so as to avoid a discharge or excess water onto neighboring properties. The federal data for a five year maximum rain fall shall be used for design standards for parking lots and to design the retention of water, so that the design facilitates retention of rain fall up to a five year maximum without flooding or discharge onto neighboring properties.

Any signs and/or planting strips or green areas shall be arranged so that they do not obstruct visibility for drivers or pedestrians.

Parking facilities should provide a minimum of 180 square feet per parking space, and one space for each full time employee per shift.

3.16.4 Any light used to illuminate any off-street parking lot shall reflect light away from adjoining premises in a residential district.

3.17 Outdoor Lighting: Outdoor lighting of all types shall be directed so as not to reflect glare into residential dwellings or districts and shall be so situated as not to reflect into any public right-of-way.

3.18 Off-Street Loading: Every building which requires the receipt or distribution by vehicle of material or merchandise shall provide off-street loading berths of a size and arrangement appropriate for the types of vehicles utilizing the space. Utilization of public right-of-way for loading or unloading is prohibited.

3.19 Signs: In order to effectively advance the goals of traffic safety and aesthetics in Kosciusko County, the following regulations apply to the placement and maintenance of signs in the county. All signs listed under this section of the ordinance, with the exception of sections 3.19.7, and 3.19.11 shall obtain an approved sign permit prior to placement/construction. In order to obtain said permit a completed sign permit accompanied by a site plan shall be provided to our office. For those signs located on or along State Regulated Right-of-Ways, state permits must be obtained and presented prior to the issuance of any county permits.

3.19.1 No sign shall be placed on private or public property without consent of its owner or agent. No signage shall be allowed within a right-of-way, easement, or access drive except as allowed under section 3.19.11.

3.19.2 Signs shall not be illuminated in any manner, which causes undue distraction, confusion, or hazard to traffic, and shall not reflect light upon adjoining residential districts or

road right-of-ways, easements, or access drives. This includes, but is not limited to, any illuminated sign on which an artificial light is not maintained stationary or constant in intensity or color at all times when in use.

3.19.3 Signs located on the interstate and/or Primary Federal Aid Systems shall be in accordance with the State law.

3.19.4 Signs shall be erected or placed within 6 months of receiving a granted sign permit. The permit may be renewed, as the permit was originally issued, for up to six (6) months, after such date a new permit shall be obtained.

3.19.5 Any sign under section 3.19 that is deemed a traffic hazard or deemed to cause any other situation that may endanger the health and welfare of any pedestrian or occupant of any vehicle shall be prohibited and may be removed immediately by the Kosciusko County Highway Department, Area Plan Commission, or Sherriff's Department.

3.19.6 Notwithstanding any other provision contained herein to the contrary, non-commercial messages may be contained on any authorized sign.

3.19.7 In any district a landowner may erect a sign not exceeding two (2) square feet in surface (1' x 2') size which states the name, address, professional activity, or other message.

3.19.8 In a public use district Signs shall not have an aggregate surface size greater than five (5) square feet for each foot of width of the principal structure on the premises or Thirty-two (32) square foot whichever is greater. No sign under this section may be located closer then thirty-five (35) foot to an intersection. (Signage shall be calculated according to total signage on site.)

3.19.9 On-premise permanent commercial signs shall be permitted in connection with any legal business or industry if located on the same premise, and if they meet the following requirements except as noted under sections 3.21 (Home Occupation) and 3.22 (Home Based Business)

3.19.9.1 Signs shall not contain information or advertising for any product not sold or produced on the premises.

3.19.9.2 Signs shall not have an aggregate surface size greater than five (5) square feet for each foot of width of the principal structure on the premises or two hundred (200) square feet whichever is greater (square footage shall be calculated according to total signage on site).

3.19.9.3 Signs or any part of them shall not project over public right-of-way, except in commercial districts signs may project into that portion of the right-of-way used for pedestrian traffic only, but must be least eight (8) feet above the sidewalk and project no more than eight (8) feet into the right-of-way.

3.19.9.4 Pole mounted signs shall not exceed the height of the principle structure on site or thirty (30) foot whichever is greater.

3.19.4 10 In a commercial or industrial district, permanent off-premise signs shall be permitted if they meet the following requirement:

3.19.10.1 The sign shall not exceed three hundred (300) square feet in area. Total height of the sign from ground level shall not exceed thirty (30) feet.

3.19.10.2 The sign shall not be located closer than two hundred fifty (250) feet to a grade road intersection.

3.19.10.3 Signs or any part thereof shall not be located in, or project over the public rights-of-way.

3.19.10.4 The sign shall not be closer than three hundred (300) feet to any residentially zoned district or public use zoned district.

3.19.10.5 No sign shall be located closer than five hundred (500) feet from another sign that is established under this section of the ordinance and on the same side of the road.

3.19.11 Temporary Signs shall meet the following requirements:

3.19.11.1 Temporary signs are permitted in all Districts, provided the meet the following criteria:

3.19.11.1.1 Signs under this section shall not be located closer than ten (10) feet from any driving surface.

3.19.811.1.2 Signs under this section shall not exceed thirty-two (32) square feet in size;

3.19.811.1.3 No portion of the sign shall obstruct the flow or sight pattern of vehicular traffic on any right-of-way, access drive, or easement;

3.19.811.1.4 The sign must comply with section 3.19.1 of this ordinance in that the sign must have property owner consent prior to placement;

3.19.8 11.1.5 Any parcel located on a corner shall reserve a triangular space on the road or street corner of a corner lot, free from obstruction to vision between the heights of three (3) and twelve (12) feet above established grade, determined by a diagonal line connecting two (2) points measured fifteen (15) feet equal distant from the road or street corner along each property line.

3.19.811.1.6 Signs must be removed immediately upon conclusion of their temporary purpose.

3.19.11.7 Any sign found to be in violation of any portion of section 3.19.11 will be removed and disposed of.

3.19.12 Non-conforming Signs: In order to maintain and continue a nonconforming sign, the following conditions apply:

3.19.12.1 The sign must have been physically in existence at the time the applicable County law or regulations became effective.

3.19.12.2 The sign must have been lawful on the effective date of the Kosciusko County Ordinance, and must continue to be lawfully maintained.

3.19.12.3 The sign shall remain substantially the same as it was on the date the sign and structure became non-conforming. Reasonable repair and maintenance of the sign is acceptable. Non-conforming signs may not:

- a. Be raised in elevation
- b. Be changed in size
- c. Be illuminated (if not originally)
- d. Have posts (supports) changed in number or material (including but not limited to from wood to steel)

3.19.12.4 The sign may continue as long as it is not destroyed, abandoned, or discontinued.

3.19.12.4.1 Where an existing non-conforming sign ceases to display advertising matter, is destroyed, or is blank for a period of sixty (60) days, it will be considered discontinued or abandoned.

3.19.13 For all above listed sections any sign which is abandoned or left blank for more than a sixty (60) day period will be required to be removed or apply for a new permit. In applying for a new permit it will be required to meet all setbacks and district requirements.

3.20 **Home Office:** A “home office” is permitted in any district, as listed in Table A, as a secondary use as long as it complies with the requirements of this section.

3.20.1 The home office is an occupation carried on by the actual occupants of a dwelling unit as a use that is secondary to the use of the dwelling unit as a residence.

3.20.2 Any home office shall be confined to and operated within the existing principal structure or accessory structures.

3.20.3 There shall be no article or service sold or offered on the premises that would generate vehicle or customer/client traffic to the premise.

3.20.4 There shall be no signs relating to the home office unless it is in compliance with section 3.19.1 of the zoning ordinance.

3.20.5 There shall be no display or exterior storage of materials or products or any other indication of the “home office”.

3.20.6 The home office shall not produce any noise, vibration, smoke, dust, odors, heat, or glare.

3.20.7 All home offices may register with the Kosciusko County Area Plan Commission.

3.21 Home Occupations: A home occupation may be permitted as an exception if it complies with the requirements of this section.

3.21.1 The home occupation shall be carried on by a member of the family residing in the dwelling unit with not more than one employee who is not a family member.

3.21.2 The home occupation shall be confined to and operated within the existing principal or accessory structures.

3.21.3 Exterior displays or signs other than those permitted under Section 3.19.7, exterior storage of materials and exterior indication of the home occupation as a variation from the residential character of the principle structure shall not be permitted.

3.21.4 Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced by the home occupation.

3.21.5 The home occupation shall not create any traffic or parking problems. The use shall provide for adequate parking by its patrons.

3.22 Home Base Business: A home base business may be permitted as an exception, in an Agricultural District only, if it complies as follows:

3.22.1 The home base business shall be carried on by a member of the immediate family residing in the dwelling unit with not more than one employee who is not a immediate family member, as defined for this section of the zoning ordinance as including parents, children, spouses, grandparents, grandchildren, great grandparents, great grandchildren, and all associated in laws, and with a total maximum number of employees not to exceeding 20.

3.22.1.1 Upon request and at the Kosciusko County Board of Zoning Appeals and Hearing Officers discretion a Home Based Business may have up to five (5) employees who are not immediate family members as reviewed under the following conditions;

3.22.1.1.1 The increased number of employees will not cause the business to become incompatible with the surrounding area.

3.22.1.1.2 The increased number of employees will not result in an adverse effect on surrounding properties. (i.e. reduced property values, increased traffic flow, noise.)

3.22.1.1.3 Sufficient employee parking can be provided.

3.22.1.1.4 The spirit of the home based business exception can still be preserved with the increased employees.

3.22.1.1.5 The increased employees will not result in the inability to comply with any other portion of this ordinance.

3.22.2 The home base business may operate outside and beyond the premises however, the materials associated with the business shall be confined to principle or accessory structures. The business equipment, as much as is physically possible, should also be confined to principle or accessory structures.

3.22.3 Exterior displays or signs shall not exceed a total of twenty-four (24) square feet, exterior storage of materials, and exterior indication of the home base business as a variation from the agricultural character of the area shall not be permitted.

3.22.4 objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be produced by the Home Base Business.

3.22.5 The home base business shall not create any traffic or parking problems. The use shall provide for adequate parking by its patrons.

3.22.6 Any home based business approved under this section of the Kosciusko County Zoning Ordinance may, without further hearings, construct or place an accessory structure/addition under 500 sq. ft./and 30,000 cubic feet. Said structure/addition must still comply with all other sections of this ordinance, any previous conditions of approval, and all other local, state, and federal regulations.

3.23 Sexually oriented Businesses: A sexually oriented business may be permitted as a special exception, in a Commercially Zoned District only, if it complies with the requirements of this section, in addition to all other requirements for special exceptions in section 5.4.

3.23.1 The Sexually Oriented Business must be at least 1,000 feet from any church, school, public park, or day care center. However, if the Sexually Oriented Business is located within an incorporated city or town, the Sexually oriented Business must be at least 500 feet from any church, school, public park, or day care center.

3.23.2 The Sexually Oriented Business must be at least 1,000 feet from the boundary of any residentially zoned district. However, if the Sexually Oriented Business is located within an incorporated city or town, the Sexually Oriented Business must be at least 50 feet from the boundary of any residentially zoned district.

3.23.3 The Sexually Oriented Business must be at least 1,000 feet from another Sexually Oriented Business. However, if the Sexually Oriented Business is located within an incorporated city or town, the Sexually Oriented Business must be at least 500 feet from another Sexually Oriented Business.

3.23.4 For the purposes of this section of the ordinance, (3.23) measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises of the Sexually Oriented Business, to the nearest property line/boundary of the residentially zoned district or the premises upon which is located a church, public par, or day care center.

3.24 Planned Unit Residential, Commercial and Industrial Project: The District Regulations of this Ordinance may be modified by the Board of Zoning Appeals in the case of a plan utilizing an unusual concept of development, which meets the requirements of this Section. The planned unit projects concept is intended to encourage original and imaginative development and subdivision design, which preserves welfare of the County. After a unit plan is approved, all development, construction and use shall be in accordance with the plan unless a modified project plan is submitted to and approved by the Board of Zoning Appeals as required by this Ordinance. Planned unit development concepts shall comply with the following minimum requirements.

3.24.1 The area of land to be developed shall not be less than five (5) acres.

3.24.2 Properties adjacent to the unit plan shall not be adversely affected.

3.24.3 In planned unit residential projects, the minimum lot and yard requirements may be reduced; however, the average density of dwelling units in the total unit plan shall not be higher than that permitted in the district in which the plan is located.

3.24.4 In planned unit commercial and industrial projects, the minimum lot and yard requirements may be reduced; however, the total land area of the unit plan shall equal the accumulative lot area requirements of each use or structure contained within the unit plan.

3.24.5 The unit plan shall permanently reserve land suitable for the common use of the public or the owners in a particular development. This may be accomplished by dedication, covenant, or easement. This land may be for future public facilities, for recreational or scenic open space, or for a landscaped buffer zone as approved by the Area Plan Commission. Provisions for permanent control and maintenance of this land shall be outlined in a form acceptable to the Area Plan Commission and the Board of Zoning Appeals.

3.24.6 The use of the land shall not differ substantially from the uses permitted in the district in which the plan is located, except limited business facilities, intended to serve only the planned unit residential project area and fully integrated into the design of the project, may be considered, and upon approval of the Commission, incorporated into the unit plan.

3.24.7 The unit plan shall be consistent with the purpose of this ordinance.

3.25 Communication Towers

3.25.1 Communication towers, both private and public, may be permitted in those districts as listed in Table A. For those locations which require exception approval through the Board of Zoning Appeals petitions shall include and be accompanied by;

3.25.1.1 A specific site plan illustrating the fall radius of the tower, the height of the tower, all accessory structures to accompany the tower, and all additional structures located on the property.

3.25.1.2 Should include all future structures to be located on site.

3.25.1.3 Must provide a legal description for both the entire tract of ground and where applicable the leased area.

3.25.1.4 Should describe any screening or security measures to be taken on the site.

3.25.1.5 Should provide a map and/or list of the nearest towers to the proposed location and/or alternative sites that have been considered along with detailed reasons these sites/towers will not be sufficient.

3.25.1.6 Additional information may be required by the Board of Zoning Appeals.

3.25.2 All towers, except those defined by this ordinance as constituting public improvement, must maintain a setback radius from all right-of-ways, easements, access roads, electric transmission tower and lines a distance equal to the height of the tower. If this radius crosses an adjoining property there must be proof of consent from the adjoining property owner in a form as may be established by the Board of Zoning appeals from time to time. For any tower whose radius setback is reduced either through ordinance or approved variance certified engineered documents must be submitted showing said tower is designed to collapse upon itself and note what the maximum wind ratings the tower is designed for.

3.25.3 Towers and accessory structures for said towers, except those defined as public improvements, may be located no closer than a distance equal to the height of the tower to any structure not associated with the tower itself or on the same property as the tower so long as written consent from the property owner is provided. Towers and accessory structures for said towers defined as public improvements must meet the required district setbacks as defined under Tables b and c of this ordinance.

3.25.4 For all Tower accessory structures located on leased land within a larger tract, minimum setbacks (with exception of fall radius requirements) shall be taken from the property lines not the lease land lines.

3.25.5 No new towers, except those defined as public improvements, may be constructed within two (2) miles of an existing tower, without approval from the Board of Zoning Appeals (this excludes electric transmission towers).

3.25.6 All towers, accessory facilities, and other structures associated with said tower should be fenced and secured in a manner to prevent climbing or damage and ensure public safety.

3.25.7 All towers shall be either monopole or self-support lattice towers. No guyed wires shall be permitted.

3.25.8 All approvals and permits issued for said towers will be conditioned upon state and federal approvals and standards.

3.25.9 Collocation on existing towers does not require additional hearings, however it may require improvement location permits.

3.25.10 Replacement of existing towers or towers previously approved will be permitted without a hearing before the Board of Zoning Appeals on the condition that;

3.25.10.1 All conditions placed on the use by the Board of Zoning Appeals for that site are maintained.

3.25.10.2 Replacement towers are constructed in a manner as to facilitate collocation for up to four (4) carriers.

3.25.10.3 The replacement of the tower does not pose a threat to public health or safety.

3.25.10.4 The replacement tower must meet all other regulations of this section.

3.25.10.5 The replacement of the tower does not violate any local, state, or federal regulations or ordinances.

3.25.10.6 A valid Improvement Location Permit must be obtained prior to any construction.

3.25.11 All towers, when required under federal law to be lit, shall be lit in such a fashion that the lighting is non-obtrusive which may include but is not limited to alternating lighting; white light during daylight, red light at night.

3.25.12 All towers approved under this section are subject to the height requirements as specified under section 3.14.2 of the Kosciusko County Zoning Ordinance and must present documentation illustrating that the tower can comply at the time of approval.

3.26 Performance Standards: All uses established or placed into operation after March 1, 1975 shall comply with the following performance standards in the interest of protecting the public health, safety and welfare. No use in existence on March 1, 1975 shall be so altered or modified to conflict with these standards.

3.26.1 Fire Protection: Fire fighting equipment and prevention measures acceptable to the Fire Department having jurisdiction over the site shall be readily available for use when any activity involving the handling or storage of flammable or explosive materials is conducted within any structure or approved land use in any district.

3.26.2 Electrical Disturbances: No use shall be permitted which causes undue electrical disturbances adversely affecting radio, television, or other equipment in the vicinity.

3.26.3 Noise: No use shall produce noise which is objectionable because of volume, frequency, intermittence, heat, shrillness, or vibration. That noise shall be muffled or otherwise controlled so as not to become detrimental, provided, however, public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.

3.26.4 Vibration: **No** use shall cause vibration or concussions detectable without the aid of instruments beyond the lot lines.

3.26.5 Odor: No use shall emit any malodorous gas or matter across the lot lines when the emission of such odors would negatively affect the use and enjoyment of existing residential or commercial zoning districts within 500' of such lot lines.

3.26.6 Air Pollution: No use shall discharge flash, dust, smoke, vapors, noxious, toxic, or corrosive matter, or other air pollutants across the lot lines in such concentration as to negatively affect the use and enjoyment of existing residential or commercial zoning districts within 500' of such lot lines.

3.26.7 Heat and Glare: **No** use shall produce heat or glare to create a nuisance perceptible from any point beyond the lot lines.

3.27.8 Water Pollution: **No** use shall produce erosion or other pollutants in such quantity as to be detrimental to adjacent properties and in conflict with water pollution standards established by County, State, or Federal Agencies.

3.26.9 Waste Matter: No use shall accumulate waste products within the lot lines or discharge those products whether liquid or solid, beyond the lot lines in violation of applicable public health, safety, and welfare standards and Indiana Department of Environmental regulations or permits.

3.27 DEVELOPMENT PLAN REQUIREMENTS

Intent

The intent of this Article is to further the goals of the Kosciusko County Comprehensive Plan; provide for the adequate, consistent review of new development to ensure compliance with this Ordinance; and address the unique characteristics of certain types of development that require specific review and approval. The site development plan review process is not intended to provide an alternative to rezoning, variance, special exception, platting, or other established procedures, but rather to allow for the administrative review of site conditions and plans for consistency with applicable requirements prior to the issuance of Improvement Location Permits. Generally, the site plan review shall involve individual lots, and shall occur as a part of re-zoning or platting approval. Site plan review may occur before or after any necessary Board of Zoning Appeals petitions based on the characteristics of each individual site plan review petition.

Authority

A. Site Development Plan Required:

Site Development Plans shall be required for all developments for which an Improvement Location Permit is required by this Ordinance and which are located in any I-1, I-2, I-3, C or Overlay District. A Development Plan Review may also be required by the Board of Zoning Appeals as a condition of approval for specific projects in any district.

B. Exemptions

The following types of development shall be exempt from the requirements of this Article, but shall be required to obtain an Improvement Location Permit and any other permit or approval required by this Ordinance:

1. Sign Installation: The replacement or installation of any sign(s) not occurring as part of an improvement to any other aspect of the property;

2. Parking Lot Expansion: The expansion of an existing parking lot which does not result in a greater than ten percent (10%) or two thousand (2,000) square foot, whichever is less, increase in the surface area of the parking available on the property on the effective date of this Ordinance, exclusive of the alteration or expansion, or the need for modifications to street accesses; or

3. Structural Expansion: The expansion of an existing structure or the construction of an accessory structure which does not result in a greater than ten percent (10%) increase in the floor area of the structures on the effective date of this Ordinance, exclusive of the alteration or expansion, and does not require the provision of additional landscaping, parking, or other improvement regulated by this Ordinance.

4. The construction or expansion of a single family residential structure, residence addition, agricultural structure, or associated accessory structures.

C. Review and Approval Authority

The Technical Review Committee, in its role as staff for the Plan Commission, shall have the authority to review and approve Site Development Plans required by this Article consistent with the Technical Review Committee Article 7 of the Kosciusko County Zoning Ordinance.

1. Waiver of Requirements: Neither the Technical Review Committee nor the Plan Commission shall have the authority to waive any requirement of the Kosciusko Zoning Ordinance, the Kosciusko County Subdivision Control Ordinance, the Kosciusko County Stormwater and Erosion Control Ordinance, the Kosciusko County Flood Control Ordinance, or the Kosciusko County Mobile Home Control Ordinance in the review of a Site Development Plan.

2. Revision Process: The procedure for the review of proposed changes or revisions to a previously approved Site Development Plans shall follow the process for the initial approval of a Site Development Plan outlined in this Article.

Application Materials

A. General Requirements

All applications may be filed in the office of the County Plan Commission. All fees required shall be paid at the time the petition (if required) and permit applications are submitted.

1. Application Forms: All applications shall be made on forms provided by the Plan Director. All petitioners and permit applicants shall submit original applications which are completed in their entirety either in ink or typed. All applications shall be signed and notarized (if required).

2. Copies Required: All petitioners and applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the County and the applicable Rules and Procedures of the Plan Commission.

3. Review Schedule: All petitions and permit applications shall be assigned reference and/or docket numbers by the Plan Director. Petition applications shall be scheduled by the Plan Director for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Article and the appropriate adopted calendar of filing and meeting dates for the Plan Commission.

B. Application Submission

The petitioner shall submit the below (any of the below documents may be waived if they are deemed unnecessary by the Kosciusko County Area Plan Commission Director, the Kosciusko Technical Review Committee, or the Kosciusko County Area Plan Commission board):

1. An application for Site Development Plan review including;
 - a. an affidavit and consent of property owner (if the property owner is someone other than the petitioner);
 - b. a copy of the deed for the property;
 - c. the required filing fee (when required); and
 - d. required supporting information to the Plan Director.

Site Development Plans

Supporting information shall include, but not be limited to the following (the Plan Director, County Engineer, Technical Review Committee, and/or Plan Commission may request additional supportive information, which shall be provided by the applicant). All drawings shall be provided in hard copy and electronic format in a manner specified by the County (the County may waive the requirement that an electronic version of any or all drawings be provided).

2. **Summary Statement:** A summary statement of the characteristics and operation of the development, including the population densities, presence of any adult uses, and number of potential employees. The statement shall include any written commitments being made regarding the Site Development Plan.
3. **Statement of Re-use Options:** If the Site Development Plan involves a previously undeveloped location, the petitioner shall provide a detailed statement describing the reasons why available redevelopment and in-fill development sites are not appropriate for this development.
4. **Site Description:** A general description of the site and its ownership including:
 - a. the name, address, and telephone number of the applicant,
 - b. the name, address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Site Development Plan design
 - c. the name, address, and phone number of the primary contact individual for the application (it shall be indicated if the primary contact person is the applicant or contracted design professional),
 - d. the legal description of the subject property and common address of the site, and
 - e. the proposed name of the development (if applicable).
 - f. The names, addresses, and telephone numbers of the property owners if different from the developers or applicant.
5. **Vicinity Map:** A vicinity map showing and clearly identifying the subject property and showing all land within five hundred (500) feet of the subject property. The location map should identify the current zoning and use of all property within five hundred (500) feet of the subject property.
 - a. The vicinity map shall also show all property which is contiguous to the subject property that is owned and/or otherwise controlled by the owner or developer of the subject property.

- b. A conceptual drawing describing the future development of all contiguous holdings described above shall be provided by the applicant upon the request of the Plan Director, County Engineer, Technical Review Committee, and/or Plan Commission. At a minimum the conceptual drawings shall include a description of general driveways and access points, general land uses, general lot arrangements, and general drainage conditions and plans.
- c. A detailed drawing indicating the following for all land within two hundred (200) feet of the property lines:
 - 1. all existing structures;
 - 2. existing topography interpolated from USGS sources and/or otherwise meeting the requirements of the County (provided topographic information shall tie into horizontal and vertical control points);
 - 3. significant wooded areas and other isolated trees;
 - 4. 100-year floodplain and 100-year floodway boundaries;
 - 5. public and private streets (including street names), rights-of-way and easements;
 - 6. building setbacks including those imposed by private restriction or plat;
 - 7. all known drainage areas, tiles, pipes and structures;
 - 8. utility services (including fire hydrants);
 - 9. any known underground tanks;
 - 10. street accesses; and
 - 11. any other paved or otherwise improved areas.
 - 12. Date, north point, and scale.
 - 13. The location and nature of any streams, drains, dams, and other water features, wetlands, and/or unstable soils.

6. Property Survey: A property survey bearing the seal of a registered land surveyor and drawn to a scale of not more than 1 inch = 100 feet, showing the following existing features for the subject property:

- a. the boundary line and dimensions of the subject property;
- b. all existing structures;
- c. existing topography interpolated from USGS sources and/or otherwise meeting the requirements of the County (provided topographic information shall tie into horizontal and vertical control points);
- d. significant wooded areas and other isolated trees;
- e. 100-year floodplain and 100-year floodway boundaries;
- f. public and private streets (including street names), rights-of-way and easements;
- g. building setbacks including those imposed by private restriction or plat;
- h. all known drainage areas, tiles, pipes and structures;
- i. utility services (including fire hydrants);
- j. any known underground tanks;
- k. street accesses; and
- l. any other paved or otherwise improved areas.
- m. Date, north point, and scale.
- n. The location and nature of any streams, drains, dams, and other water features, wetlands, and/or unstable soils.

7. Site Plan: A site plan, drawn to a scale of not more than 1 inch = 100 feet, and bearing the seal of a professional engineer or land surveyor clearly showing all proposed aspects of the property and all features relevant to the Site Development Plan, including:

- a. setbacks and buffer yards;
- b. proposed final topography (including elevation contour lines at two (2) foot intervals or otherwise meeting the requirements of the County);
- c. structures (including buildings, fences, and walls);
- d. all structure heights, dimensions, and floor areas;
- e. areas of outdoor storage;
- f. permanent dumpsters and trash areas;
- g. locations, dimensions, and design features (including all curb radii, tapers, and parking space dimensions) of road accesses, interior drives, parking spaces and ramps for the disabled, parking lots, loading docks or areas, sight visibility triangles, and interior sidewalks (all public road access shall be subject to any additional requirements of the County);
- h. open spaces and specific landscaped areas;
- i. locations and capacities of public and private utilities (all septic systems and wells shall be subject to the approval of the Kosciusko County Health Department or other required State or Federal agency, all public sewer connections shall be subject to the approval of the provider but may be mandated by the Kosciusko County Health Department);
- j. the location, width, and purpose of all existing and proposed easements;
- k. the use of each structure and the amount of parking allocated for those uses (consistent with the requirements of this Ordinance);
- l. public improvements including sidewalks, pathways, street trees, and right-of-way dedications; and
- m. locations for temporary uses, such as seasonal sales areas.
- n. The location and nature of any streams, drains, dams, and other water features, wetlands, and/or unstable soils.
- o. Cross-section drawing of any walls, berms, etc.
- p. The type, size, and location of any signage or lighting existing and proposed for the property.
- q. Date, north point, and scale
- r. 100-year floodplain and 100-year floodway boundaries;

Other potential required documentation and information that shall be provided as deemed necessary by the Kosciusko County Area Plan Commission Director, the Kosciusko Technical Review Committee, or the Kosciusko County Area Plan Commission board:

- 1. A traffic study examining the impacts of the development, as well as any new roads/intersections on current and projected traffic flow and level-of-service.*
- 2. Estimated impacts on and capabilities of emergency services, including, but not limited to, fire, police, and emergency medical services, and their respective response times.*
- 4. A report examining the estimated impacts, including, but not limited to: noise, nuisance, groundwater aquifers, traffic, and property values of the proposed development on all properties within 500 feet of the subject property, as well as any proposed mitigation measures.*
- 5. The results of any geologic, hydrologic, and soil tests*

8. Landscaping Plan: A landscaping plan drawn to a scale of not more than 1 inch = 100 feet, and showing the following if required information is not indicated on the required site plan:

- a. proposed landscaping, buffer yards, and street trees;
- b. the size and spacing of the plantings at the time of installation and the species proposed to be used to meet the requirements of this Ordinance; and
- c. all existing trees and vegetation to be preserved, and the drip lines for such trees (in which no construction activity shall occur).

9. Signage Plan: A sign plan showing the location, height, method of illumination (if any) and dimension of all permanent signs and indications of appropriate locations, heights, and sizes of any temporary signs.

10. Drainage Plan: A site drainage plan bearing the seal of a professional engineer including all calculations as required by the Kosciusko County Stormwater and Erosion Control Ordinance.

11. Lighting Plan: A site lighting plan, drawn to a scale of not more than 1 inch = 100 feet, showing the type and location of all exterior lighting fixtures.

12. Construction Plan: A site construction plan, drawn to a scale of not more than 1 inch = 100 feet, showing:

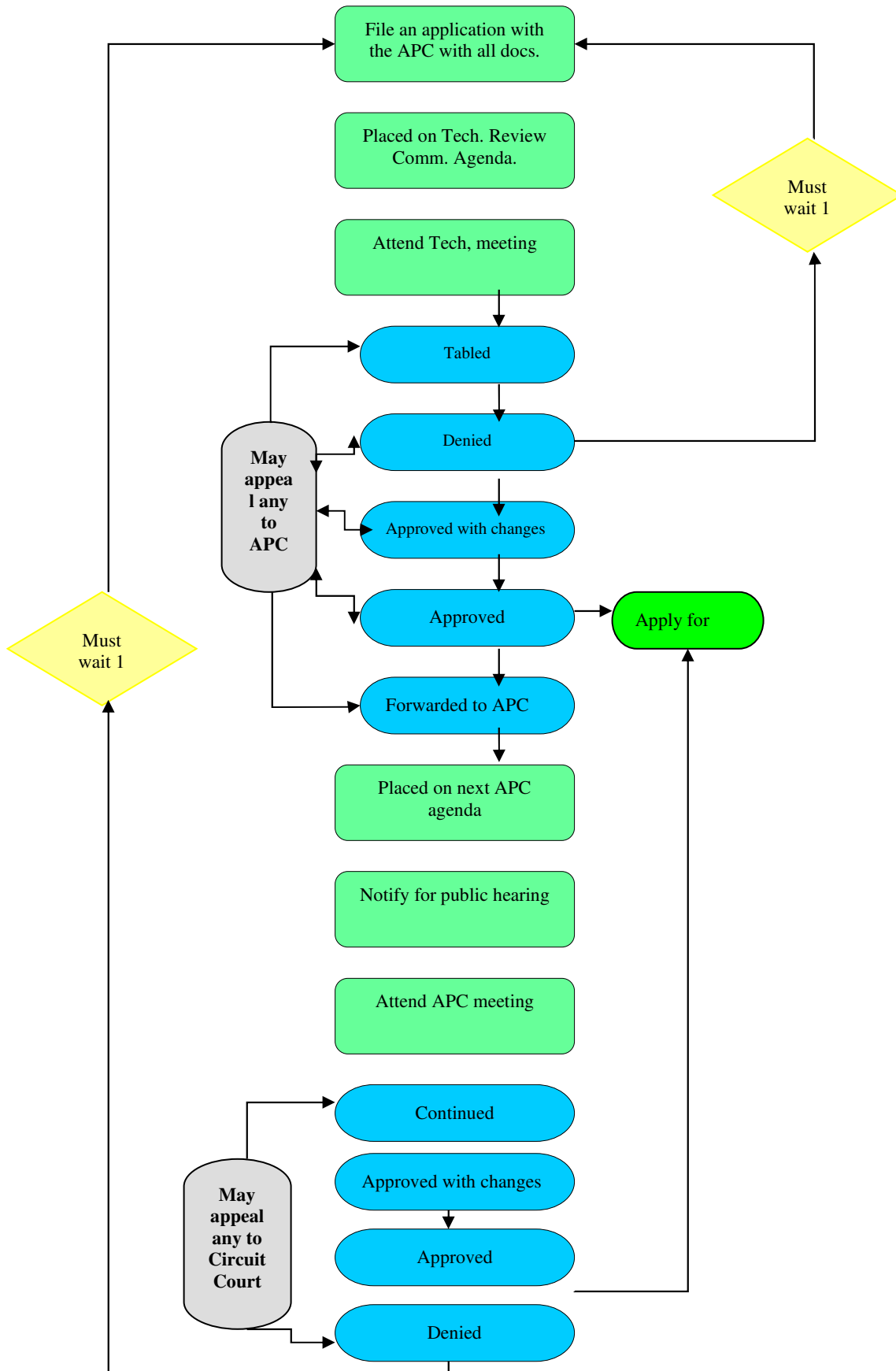
- a. proposed erosion and sediment control measures;
- b. the location of any proposed construction trailer and worker parking;
- c. the location, height, and dimensions of any temporary construction-related signage;
- d. any temporary site accesses to be used during construction;
- e. the location of any stockpiles of dirt, construction materials, and construction waste dumpsters or storage areas.

Process

A. Review Process and Standards

Site Development Plans shall be subject to the following review and approval process:

DEVELOPMENT PLAN REVIEW PROCESS



B. Technical Review Committee Review

The Technical Review Committee shall review the Site Development Plan, including all supportive information on the date established by the adopted calendar of meeting and filing dates. All Technical Review Committee actions and procedures shall be consistent with the provisions of Technical Review Committee of this Ordinance.

1. Considerations: In reviewing the Site Development Plan, the Committee shall consider whether or not the proposed Site Development Plan is consistent with the goals and objectives of the Kosciusko County Comprehensive Plan and the requirements of this Ordinance and all other applicable local, state or federal requirements.

2. Possible Action: The Committee may approve, approve with modifications, deny, table, or forward to the Plan Commission the Site Development Plan.

a. Approval: The Committee shall approve the Site Development Plan if it complies with all applicable requirements of this Ordinance.

b. Approval with Modifications: The Committee shall approve the Site Development Plan with modifications if it is generally consistent with the considerations for approval outlined in B(2)(a) above, but requires minor modifications to be completely in compliance with the requirements and intent of this Ordinance. The applicant shall revise the Site Development Plan proposal consistent with the Committee comments and supply revisions for review of the Plan Director prior to the release of any Improvement Location Permit.

c. Denial: The Committee shall deny the Site Development Plan if it is found to be inconsistent with the considerations outlined above.

d. Table: The Committee shall table the Site Development Plan based on a request by the Plan Director or the petitioner, a determination by the Plan Director that sufficient information has not been provided, or the failure of the petitioner or an appropriate representative of the petitioner to appear at the Committee meeting. Site Development Plan applications which are tabled shall be automatically docketed for the next review meeting.

e. Forward to Plan Commission: The Committee shall forward Site Development Plans which are generally consistent with the considerations outlined above to the Plan Commission for a public hearing if the proposal:

- i. includes any improvement to be dedicated to the public,
- ii. includes proposed written commitments,
- iii. requires the imposition of conditions in order to be completely consistent with the considerations for approval,
- iv. requires a surety for improvements to be set,

3. Plan Commission Preparation: If Plan Commission review is required, the Site Development Plan shall be placed on the agenda for the next meeting of the Plan Commission consistent with the adopted calendar of meeting and filing dates. The applicant shall revise the Site Development Plan proposal consistent with any Committee comments prior to review by the Plan Commission and shall provide such revision for review consistent with the adopted calendar of filing and meeting dates.

C. Public Meeting Notification (if necessary)

Notification for the scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of Indiana State Code, the Rules and Procedures of the Plan Commission,

D. Plan Commission Review (if necessary)

The Plan Commission shall, at a meeting scheduled consistent with the adopted calendar of meeting and filing dates, review the Site Development Plan and any supportive information.

1. Representation: The applicant and/or any appropriate representatives of the applicant, such as a surveyor or attorney, must be present at the public hearing to present the Site Development Plan and address any questions the Commission may have.

2. Presentations: The Commission shall consider a report from the Plan Director describing the findings of the Technical Review Committee and testimony from the applicant and any interested parties in making its decision.

3. Possible Action: The Plan Commission shall approve, approve with modifications, deny, or table the Site Development Plan application.

a. Approve: The Plan Commission shall approve the Site Development Plan if it is consistent with all applicable requirements of this Ordinance.

b. Approve with Modification: The Plan Commission shall approve the Site Development Plan with modifications if it is generally consistent with all applicable requirements of this Ordinance. The Plan Commission may impose conditions on the approval of a Site Development Plan, which shall become written commitments of the applicant, if the conditions are necessary to satisfy the requirements and intent of this Ordinance.

c. Deny: The Plan Commission shall deny the Site Development Plan if it is not consistent with the applicable requirements of this Ordinance. Site Development Plan applications which have been denied shall not be re-filed for a period of one (1) year from the date of the denial, unless a different design which addresses the reasons for the denial is submitted.

d. Table: The petition shall be tabled based on a request by the Plan Director, the petitioner, remonstrators, or interested parties; an indecisive vote; or a determination by the Plan Commission that additional information is required prior to action being taken on the request. The tabling of all petitions shall be consistent with the adopted Rules and Procedures of the Plan Commission.

4. Assurance of Completion of Improvements: The Plan Commission may approve a Site Development Plan with the condition that surety be provided that guarantees the timely completion of any proposed public improvements included in the development. The surety shall be in a form acceptable to the Plan Commission, the Plan Director, and the County Attorney, and be consistent with the surety provisions of the Kosciusko County Subdivision Control Ordinance.

E. Findings of Fact

The Plan Director shall prepare and sign written findings of fact documenting the action taken by the Technical Review Committee and the Plan Commission (if Plan Commission review is necessary). The Plan Director shall make copies of the written findings of fact available to the applicant within ten (10) days of the date of the decision.

F. Permits

Prior to any construction activity, the improvements approved through all Site Development Plans shall be required to obtain the appropriate Improvement Location Permit, and any other required permits specified by this Ordinance.

Written Commitments

The applicant in any Site Development Plan application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on the subject property consistent with IC 36-7-4-613.

A. Origin of Commitments

Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made by the Technical Review Committee, or in response to any modifications requested by the Plan Commission.

B. Consideration of Commitments

Any commitments shall be considered by the Technical Review Committee and/or the Plan Commission at the time of their review of the petition.

C. Recording of Commitments

Following final action being taken on the Site Development Plan application, the written commitments shall be recorded by the petitioner in the office of the Kosciusko County Recorder. A copy of the recorded commitments shall be provided by the petitioner to the Plan Director for the records of the Plan Commission prior to the receipt of an Improvement Location Permit.

Appeals

Any applicant or interested party may appeal a determination made by the Technical Review Committee to the Plan Commission through the procedure described below:

A. Application

The person making the appeal shall submit to the Plan Director a letter giving notice of the appeal and required supportive information within fifteen (15) days of the decision which is subject to the appeal. Supportive information shall include, but not be limited to the following:

1. Submittals: Copies of all materials submitted to the Technical Review Committee upon which the decision being appealed was based.
2. Findings of Fact: Copies of any written decisions or findings of fact which are the subject of the appeal.
3. Description: A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standards applicable to the Kosciusko County upon which the appeal is based.
4. Filing fee as required under section 4.11.4 of this ordinance.

B. Public Meeting Notification

Notification for a scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of *Notice of Public Hearing* of this Ordinance.

C. Plan Commission Meeting

The Plan Commission will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the appeal and supportive information.

1. Representation: Either the entity initiating the appeal or their representative must be present at the public hearing to present the appeal and address any questions from the Commission.
2. Presentations: The Commission shall consider a report from the Plan Director, testimony from the entity making the appeal, and testimony from any interested parties at the public hearing.
3. Proceedings: The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the requirements of the Rules and Procedures of the Commission.
4. Possible Actions: Upon hearing the appeal, the Plan Commission may approve, approve with modifications, deny, or table the Site Development Plan application consistent with the approval procedure for applications referred to the Commission by the Technical Review Committee as described in this Article.

Any decision of the Area Plan Commission as specified under IC 36-7-4-1016 shall be subject to review by certiorari as stated under I.C. 36-7-4-1003.

3.28 PONDS: The intent of this provision is to minimize the impact on existing agricultural operations, agricultural ground, and all existing practices that may be utilized by regulating the creation of Ponds/Lakes. Ponds/Lakes described under this section exclude those required or built in conjunction with a platted subdivision as defined under the Kosciusko County Subdivision Control Ordinance. Ponds/Lakes created for those purposes will however be reviewed and approved by the Kosciusko County Area Plan Commission, Kosciusko County Technical Committee, and the Kosciusko County Stormwater and Erosion Control Ordinance with the following regulations in mind.

All man made ponds/lakes created or expanded hence forth excepting those exempted above are subject to the following setbacks and requirements.

- 3.28.1 All man made ponds/lakes must obtain an Improvement Location Permit.
- 3.28.2 No man made pond/lake may be constructed closer then thirty-five (35) foot to any road right-of-way except as required under number 3.28.3.
- 3.28.3 No man made pond/lake may be constructed closer then thirty-five (35) foot from property lines except where the tract abuts (including where it may be separated by roads, ditches, or streams) agriculturally zoned ground in which case it may not be constructed closer then two hundred (200) foot to said property lines or road right-of-way line of adjoining property owner, if the properties are separated by a road. All measurements shall be established from the closest slopes of the pond/lake.
- 3.28.4 All work must be done in a manner that complies with all other Federal, State, and Local Ordinances and regulations.

3.28.5 In any district, the Board of Zoning Appeals may authorize a Variance closer than the required setbacks as prescribed under section 5.3 of the Kosciusko County Zoning Ordinance and that the following criteria is met;

3.28.5.1 Any relief given from a right-of-way is supported in writing by the Kosciusko County Highway Department.

3.28.5.2 That the installation does not create a new drainage problem or intensify an existing drainage problem.

3.28.5.3 The petition receives a favorable review by the Kosciusko County Technical Committee.

3.29 WIND TURBINES Wind Energy Conversion Systems (WECS)

3.29.1 PURPOSE AND SCOPE - This article establishes general guidelines for the siting and use of wind turbine generators, meteorological (MET) testing towers and related devices and structures. This article is intended to:

A. Protect residential areas from any potentially adverse visual or noise impacts of wind turbine generators or related devices and structures.

B. Provide for a land use that will provide an energy source with low associated environmental impacts and protect the health, safety, and welfare of Kosciusko County residents.

C. Provide for the removal of abandoned or noncompliant wind turbine generator towers, meteorological (MET) towers, or related devices and structures.

D. Allow restricted use of wind turbine generator towers and meteorological towers of limited height.

3.29.2 APPLICABILITY

A. Micro Wind System towers and meteorological testing towers less than 120 feet in height shall be permitted as listed under Table A and are subject to the standards of section 3.29.3 however are not subject to Section 3.29.4 & 3.29.6. Portions of sections 3.29.3 & 3.29.5 may be waived for micro wind systems when deemed appropriate by the Plan Director.

B. Wind Farms, Large Wind Turbines, WECS, meteorological testing towers (MET) towers 120' feet in height to 325 feet, and all related devices and structures for the above shall only be permitted after special exception approval in accordance with Article 5, section 5.4, Exceptions, exclusively in the those districts listed on Table A and shall be subject to all standards and the requirements of Sections 3.29.3 and 3.29.4.

3.29.3 GENERAL REQUIREMENTS

A. Minimum Site Area. The minimum site area for a wind turbine generator or an meteorological testing towers (MET) tower erected prior to a wind turbine generator shall be as necessary to meet required setbacks and any other standards of this ordinance.

B. Setbacks.

1. Micro towers and any associated features shall be set back from any adjoining property lot line, road right-of-way, railroad right-of-way or overhead electrical transmission or distribution lines a minimum distance equal to the total height of the structure.
2. Each proposed large wind turbine generator or meteorological testing tower shall meet the following applicable setback requirements:
 - a. Each wind turbine generator or meteorological testing towers (MET) and any associated features shall be set back from any adjoining property lot line, road right-of-way, railroad right-of-way or overhead electrical transmission or distribution lines a minimum distance of 3,960 feet or 6.5 times the height of the tower from the base to the tip of the blade in vertical position, whichever is greater.
 - b. Wind Farms and WECS' occupying multiple parcels may have internal property line setbacks waived by execution of a written document signed by all land owners sharing such a property line. All such documents shall be recorded in the office of the Kosciusko County Recorder within 45 days of the signing of *each* wind lease agreement and said document shall be cross referenced to the current recorded deed. The wind developer *may not* submit a memorandum of lease containing multiple lease contracts to the Kosciusko County Recorder. Signed wind lease contracts not submitted to the Kosciusko County Recorder's office within 45 days of signing are null and void in Kosciusko County.
 - c. The setback distance for the WECS shall be one mile from any platted community of a municipality. Distance shall be measured from the center of the foundation at the base of the WECS to the closest Corporate Limit boundary line.

C. Minimum Rotor Wind Vane or Blade Clearance. The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than 50 feet or 1/3 of the tower height whichever is greater.

D. Maximum Noise Levels. Any proposed wind turbine generator shall produce sound levels that are no more than 32 decibels as measured on the dB(A) scale at the property lines of the site in question. For all towers other than micro wind systems the following shall be provided:

1. A noise study by a licensed acoustician chosen by the Kosciusko County Plan Commission and paid for by the wind developer shall be submitted with any application for a wind turbine generator tower. Said study shall be prepared by a qualified professional acoustician with no less than three years of experience conducting WECS and community noise sound studies and shall include the

following, at a minimum:

- a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis of the expectation;
- b. A survey and report prepared by a qualified acoustician with no less than three years of experience conducting WECS community noise sound studies and wind development that analyzes the preexisting ambient noise (including seasonal variation) and the potentially affected residences, schools, public buildings or other noise sensitive land uses located within 2 miles of the proposed project site. Study shall include decibels for both A and C weighted scales.
- c. A description and map of the cumulative noise impacts and any problem areas identified.
- d. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive land uses.

E. Maximum Vibrations. Any proposed wind turbine generator shall not produce vibrations humanly perceptible beyond the property on which it is located or cause vibration that could be detected in nearby structures or damage underground wells.

F. Electrical Components

1. All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards.
2. Electrical Collection Cables - All WECS electrical collection cables between each WECS shall be located underground. All transmission lines that are buried should be at a depth of 10 feet until the same reach the property line or a substation adjacent to the property line.

G. Interference with Reception. Any wind turbine generators shall be constructed and operated so that they do not interfere with television, microwave, GPS for agricultural use, military defense radar, navigational or radio reception to neighboring areas.

H. State or Federal Requirements. Any proposed wind turbine generator or meteorological testing tower shall meet or exceed any additional local, state, or federal standards and regulations.

I. Aesthetics and Lighting. Any proposed wind turbine generator or meteorological testing tower shall meet the following requirements:

1. Each wind turbine generator or meteorological testing tower shall, be subject to any applicable standards of the FAA. When said towers are not subject to FAA regulation said tower shall be marked or identified in order to easily be identified for low-level aviation operations as noted below;

- a. Towers shall be painted utilizing a pattern used to mark structures based on size and shape, which is eight equal alternating horizontal bands from the base to the tip of the tower of alternating stripes of aviation orange and white.
 - b. Each tower shall have lighting that shall be shielded as much as possible so that no glare extends beyond the boundaries of the facility. In the instance that “strobe” lighting is required it should be configured so that it is alternating lighting; white light during daylight, red light at night.
2. Each wind turbine generator, including all accessory structures, shall, to the extent possible, use materials, and colors that will blend them into the natural setting and surrounding buildings.
 3. Each wind turbine generator tower shall be artificially lighted,-as required by the FAA in which instance all lighting shall be shielded as much as possible so that no glare extends substantially beyond the boundaries of the facility. In the instance that “strobe” lighting is required it should be configured so that it is alternating lighting; white light during daylight, red light at night.
 4. Each wind turbine generator tower and meteorological tower may be a monopole, monotube or lattice style construction and shall be self supporting. Towers shall not include guy wires.

J. Signs. A sign no more than 4 square feet in area displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the wind turbine generator or meteorological testing tower erected prior to a wind turbine generator. No wind turbine generator tower or MET tower or site shall include an advertising sign.

K. Not Essential Services. Wind turbine generators and meteorological testing towers shall be regulated and permitted pursuant to this Article of the Zoning Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

L. Removal of Abandoned or Unsafe Wind Turbine Generators or Meteorological Testing Towers

1. Any wind turbine generator or meteorological testing tower that is not operated for a continuous period of 6 months shall be considered abandoned.
2. Any tower found to be unsafe or not in compliance with the special exception conditions related to noise or shadow flicker placed upon it by the Board of Zoning Appeals (BZA), shall be found to be in violation of the special exception approval.
3. The owner of any wind turbine generator tower or meteorological testing tower that is abandoned or in violation of the special exception approval shall remove the same within twelve (12) months of receipt of notice from the Area

Plan Commission of such abandonment or violation.

4. In addition to removing the wind turbine generator, or meteorological testing tower, the owner shall restore the site to its condition prior to location of the wind turbine generator or meteorological testing tower (excluding replanting of original vegetation and trees), subject to reasonable wear and tear and shall stabilize soils through use of ground cover. All concrete and rebar must be removed from the soil.

5. Failure to remove an abandoned wind turbine generator or meteorological testing tower within the twelve (12) month period provided in this subsection shall be grounds for the Kosciusko County Area Plan Commission to pursue the violation as prescribed under section 4.12 of this ordinance.

6. A decommissioning plan approved by the Kosciusko County Technical Committee providing for the method and payment of the anticipated cost of removing a WECS at the end of its serviceable life or upon it's becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned.

1. Content

A decommissioning plan, for all systems except micro wind systems, shall include, at a minimum, the following:

a. Assurance - Written assurance that the WECS will be properly decommissioned upon the expiration of its serviceable life or in the event of its discontinuance or abandonment.

b. Cost estimates for all WECS except Micro WECS, an estimate of the costs of decommissioning and removing the WECS upon the expiration of its useful life, or in the event of its discontinuance or abandonment. The cost estimates shall be made by a professional engineer, contractor, or other person with expertise or experience in decommissioning and removal of WECS, and shall be updated every five (5) years for approval by the Kosciusko County Area Plan Commission.

c. Financial assurance the cost of removal and site restoration is the full responsibility of the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the wind energy system and to restore the site, the following steps shall be followed:

1). For each wind energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost.

2). The Planning Commission shall require independent verification of the adequacy of this amount.

3). This money shall be secured in the form of a surety, such as surety bond, letter of credit, or other financial promise, and shall be determined by the Kosciusko County Area Plan Commission..

d. Abandonment Verification under penalties for perjury, that all easements and/or leases for the WECS contain terms that provide financial assurances to the property owners to ensure that the WECS are properly decommissioned within one (1) year of the expiration of its serviceable life or in the event of its discontinuance or abandonment.

M. Climb Prevention - All Tower designs must include features to deter climbing or be protected by anti-climbing devices, when applicable, such as:

1. Fences with locking portals at least six feet high; or
2. Anti-climbing devices 15 feet vertically from the base of the tower.
3. Locked tower doors.

N. Waste Management - All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All HAZARDOUS WASTE generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.

O. Utility Interconnection

The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations applicable to WECS.

P. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.

Q. Drainage Repair

All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to near original condition, and so as not to impede the natural flow of water. All repairs must be completed within a reasonable amount of time agreed upon by the Kosciusko County Surveyor.

R. USE OF ROADS

An Applicant, Owner, or Operator proposing to use any county road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation,

or maintenance of the WECS(s) or Substation(s), shall prior to construction:

Identify all such public roads and services;

1. Roads

- a. Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Kosciusko County Highway Superintendent. The Superintendent shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
- b. Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Kosciusko County Highway Superintendent. The Superintendent may choose to require either remediation of road repair upon completion of the project or are authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a Professional Engineer may be required by the Superintendent to insure the county that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.
- c. Newly constructed WECS access roads may not impede the flow of water.
- d. All repairs must be completed in the time period agreed upon by the Kosciusko County Highway Superintendent.
- e. Throughout the life of the project as repairs to WECS are made, road repairs will be completed each time the company's equipment traverses Kosciusko County roads if the Kosciusko County Highway Superintendent deems repairs be necessary, at the wind developer's expense.
- f. The location of all WECS access roads must be approved by the Kosciusko County Plan Director and may not be located closer than 2,000 feet from any residence as measured from the center of the access road to the corner of the residence.

S. Dust Control

Reasonable dust control measures will be required by the County during construction of the WECS.

T. Sewer and Water

1. Any facility shall comply with existing septic and well regulation as required by the Kosciusko County Health Department and the State of Indiana Department of Public Health.

2. Wells within one mile of each site shall be inspected by a licensed certified Indiana well installed prior to and following construction. All expenses associated with the inspections shall be at the expense of the developer. Any damage caused by vibration or the operations of WECS or their construction shall be repaired at the expense of the developer and construction companies and these companies are required to provide commercial water tanks and water to affected homes until an investigation is complete and problems, if caused by WECS construction or operation, are mitigated.

U. Height

All Micro Wind System towers, MET towers, Wind Farms, Wind Turbines (Large Wind System or Small Wind System), and WECS, approved under this section are subject to the height requirements as specified under section 3.14.2 of the Kosciusko County Zoning Ordinance.

V. Fire Prevention and Emergency Response Plan and Requirements.

1. Description of the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
2. Designation of the specific agencies that would respond to potential fire or other emergencies.
3. Description of all emergency response training and equipment needed to respond to a fire or other emergency including an assessment of the training

W. The site plan and other documents shall illustrate and describe mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands, avian and wildlife (migratory bird patterns and bat population effects), other fragile ecosystems, historical/cultural sites and antiquities.

X. Shadow Flicker

At no time shall a wind turbine's tower, nacelle, or blades create shadow flicker on any non-participating landowner's property. For the purpose of this section a non-participating landowner shall be defined as a landowner on which a tower does not physically sit.

Y. Property Value Guarantee will be offered by the wind developer to all residents and landowners within two miles of a wind turbine. Fair market value will be established by, at minimum, two reputable appraisers of the Kosciusko County Plan Commission's choice to establish baseline data for property values at the wind developer's expense. If the property value of a home decreases and a home or landowner is unable to sell his property after the wind turbines are erected, the developer will pay that landowner the difference or buy the property at the baseline fair market value determined prior to construction of the wind project.

Z. Prior to meeting with landowners in Kosciusko County to secure leases and holding private meetings with residents, the wind developer must notify every household and landowner within five miles of a planned wind project of their intentions to develop a wind farm in the area via certified letter. The wind developer must also contact the Kosciusko County Plan Director and inform the Kosciusko County Planning Commission of their intent to develop a wind farm in Kosciusko County prior to notice being sent to residents and landowners and prior to meeting with landowners to secure wind lease contracts in Kosciusko County.

3.29.4 SPECIAL EXCEPTION APPROVAL REQUIRED

A. Unless exempted under Section 3.29.2, all wind turbine generators and anemometer towers shall be subject to special exception approval and all requirements for special exception uses in Article 5, section 5.4. In addition to the general standards of approval for special exception, all special exceptions regulated under this Article shall comply with the following standards of approval:

1. The use shall meet all general requirements listed above in Section 3.29.3.
2. All decommissioning money paid to Kosciusko County to be placed in an interest accruing account controlled by Kosciusko County prior to the approval of any permits. In order to ensure the proper removal as required under section 3.29.3.L.6, of any abandoned or dangerous wind turbine generator tower.
3. As specified in Section 3.29.3 a Noise Study is submitted including satisfactory mitigation measures to assure that no nearby residential uses will be subjected to noise impacts greater than 32 dBA at the property line.
4. The special exception, if granted by the BZA, for a proposed project shall be valid for a period of one (1) year in which to apply for an Improvement Location Permit, after which, approval shall terminate and be of no further force or effect if construction in earnest of the approved tower/s has not commenced. The Applicant shall be granted a one (1) year extension to result in a total of two (2) years from the date of the BZA approval if the Applicant presents a request for an extension to the BZA and provides a report to the BZA which shows the progress made on the project. Thereafter, an additional extension shall be at the BZA's discretion.

B. APPLICATION REQUIREMENTS

Prior to the construction of a WECS, the Applicant shall obtain approval for the following: (1) an Application for a Exception Use from the Kosciusko County Board of Zoning Appeals ("BZA") to permit a WECS in any zone list under table A, (2) Request for Variance for any variances anticipated on the WECS Project, and (3) Drainage approval as required under the Kosciusko County Stormwater and Erosion Control Ordinance when deemed necessary, (4) an Improvement Location Permit from the Kosciusko County Area Plan Commission.

1. The Application for Exception Use

a. The application shall be filed with the Kosciusko County Area Plan Commission and include the following items:

1. A WECS Project summary, including, to the extent available:
(1)-Each turbine's point location, including its name plate generating capacity; the make and model of the WECS that will be installed; the maximum height of the WECS Tower(s) measured from the base to the tip of the blade in vertical position and diameter of the WECS(s) rotor(s); and (2) a description of the Applicant, Owner, and Operator, including their respective business structures.
2. The name(s), address (es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with WECS or associated utility lines on their properties. All leases for properties with WECS must be filed in the Kosciusko County Recorder's Office within 45 days of the contract being signed agreeing to a wind lease or said contract is null and void in Kosciusko County.
3. A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five foot intervals.
4. A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower site not greater than 1 inch equals 20 feet): the proposed location of the wind energy facility (including planned locations of each WECS Tower; WECS access roads; Substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: Primary Structures within one mile of any WECS; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) time the WECS Tower Height of any WECS Tower; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U. S. Army Corps of Engineer requirements and guidelines.
5. Location of all existing underground utility lines associated with the WECS site.
6. All required hearing filing fees as prescribed by this ordinance.

2. The Application for Improvement Location Permit

A. The Applicant shall apply to the Area Plan Commission for an Improvement Location Permit. In addition to the information required on

the Improvement Location Permit Application and those documents required under section 3.29.3, the Applicant shall provide the following information to the Area Plan Commission prior to the issuance of an Improvement Location Permit:

1. Location of all utility lines within a radius equal to two (2) times the height of the proposed WECS.
2. Location of all underground utility lines associated with the WECS site.
3. Dimensional representation of the structural components of the tower construction including the base and footings.
4. Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.
5. Manufacturer's specifications and installation and operation instructions and an un-redacted operations safety manual for the model of WECS that will be installed.
6. Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by BOCA.
7. All turbines shall be new equipment commercially available. Used, experimental or proto-type equipment still in testing shall be approved by the BZA as per the normal special exception process.
8. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Kosciusko County Plan Commission.
9. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the BZA.
10. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.
11. A revegetation plan for restoring areas temporarily disturbed during construction.
12. A fire protection plan for construction and operation of the Facility (See V. Fire Prevention and Emergency Response Plan and Requirements).

13. Any other item reasonably requested by the BZA.

14. A drainage plan for construction and operation must be developed under the standards of the Kosciusko County Stormwater and Erosion Control Ordinance.

15. An erosion control plan must be developed and provided in compliance with the Kosciusko County Stormwater and Erosion Control Ordinance and all other local, state, and federal regulations.

B. Each WECS Tower and MET tower shall require an Improvement Location Permit. The fee for each improvement Location Permit shall be subject to the fee schedule established under section 4.11 of the Kosciusko County Zoning Ordinance.

3.29.5 OPERATION

A. Interference

If, after construction of the WECS, the Plan Commission receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the Owner or operators shall be notified in writing and the Owner or Operator shall take reasonable steps to respond to minimize the complaint. Applicant, owner and/or operator shall take such actions as may be required to mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, GPS for agricultural use, military defense radar or television signals caused by any WECS. In addition, the applicant, owner and/or operator shall comply with the following:

a. Failure to remedy a complaint - If the Plan Commission Director determines that an owner or operator has unreasonably failed to remedy verified interference with the broadcast of residential television, telecommunication, communication or microwave transmissions within ninety (90) days after owner or operator received a written complaint related thereto, the Plan Commission Director may take appropriate action to rescind the permit or approval associated to the WECS in question. This does not apply to interference with private telecommunications systems.

B. Coordination with Local Fire Department

1. The WECS applicant, owner or operator shall submit to all providers of emergency services serving the WECS Project area a copy of the as-built site map in digital format, if requested.

2. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.

3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

C. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

2. All hazardous materials or waste related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

D. An ongoing log of maintenance activities performed on all WECS shall be submitted to Kosciusko County Plan Director on an annual basis.

3.29.6 LIABILITY INSURANCE

The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage and name Kosciusko County as an additional insured with limits of at least \$2 million per occurrence per wind tower and \$5 million in the aggregate with a deductible of no more than \$5 thousand.

3.30 Solar Energy Systems (SES)

3.30.1 Intent – It is the intent of this section to protect the public health, safety, and general welfare of the community while accommodating alternative energy needs by establishing requirements and regulations for the placement, construction, modification, and removal of solar energy systems.

3.30.2 Setbacks –

- Ground mounted SES shall be installed so all components meet the district setbacks as noted under Tables B & C of the Kosciusko County Zoning Ordinance or as prescribed in this section.
- Roof/Structure mounted SES shall be installed so as not to extend closer than the existing structure on which it is to be mounted.

3.30.3 Height

- Ground mounted SES shall not exceed the maximum height requirement for accessory structures in the zoning district in which they are to be installed.
- Roof/Structure mounted SES shall not project vertically more than the height requirement for the district in which it is to be installed.

3.30.4 Drainage – Solar Energy Systems shall meet the requirements of the Kosciusko County Stormwater & Erosion Control Ordinance.

3.30.5 General Requirements

3.30.5.1 No Improvement Location Permit shall be required to install a roof/structure mounted micro or small SES and shall be permitted in those districts as listed on Table A of the Kosciusko County Zoning Ordinance.

3.30.5.2 Ground mounted micro or small SES shall be required to obtain an Improvement Location Permit as specified under Article 4 of the Kosciusko County Zoning Ordinance as permitted in those districts as listed on Table A of the ordinance and specified below.

3.30.5.3 Medium SES shall require an Improvement Location Permit as specified under Article 4 of the Kosciusko County Zoning Ordinance as permitted or as approved of by the Board of Zoning Appeals in those districts as listed on Table A of the ordinance and specified below.

3.30.5.4 Large SES-

- Shall be allowed in those districts either as a permitted use or exception use as listed on Table A of the ordinance and specified below.
- Large SES located in agriculturally zoned areas must be on a parcel at least 3 acres in size.
- Large SES shall be reviewed and approved of by the Kosciusko County Technical Review Committee.
- When deemed necessary, prior to the issuance of any permits, an approved drainage review indicating the site development complies with the requirements of the Kosciusko County Stormwater Control Ordinance must be provided.
- Large SES shall be required to obtain an Improvement Location Permit as specified under Article 4 of the Kosciusko County Zoning Ordinance.

3.30.5.5 Commercial SES Farms shall be permitted in those districts at listed on Table A of the Kosciusko County Zoning Ordinance or as approved by the Board of Zoning Appeals. An application for an Exception or Improvement Location Permit shall meet the below requirements and be accompanied by at minimum those items listed below.

3.30.5.4.1 GENERAL REQUIREMENTS

A. Minimum Site Area. The minimum site area for a Commercial Solar Energy System Farms (CSES) at minimum five (5) acres and shall be as necessary to meet required setbacks and any other standards of this ordinance.

B. Setbacks.

1. Each proposed (CSES) shall meet the following applicable setback requirements:

a. Each (CSES) array and any associated features shall be set back from any adjoining property lot line, road right-of-way, railroad right-of-way a minimum distance of two hundred (200) feet.

b.-(CSES) occupying multiple parcels may have internal property line setbacks waived by execution of a written document signed by all land owners sharing such a property line. All such documents shall be recorded in the office of the Kosciusko County Recorder within 45 days of the signing of *each* solar lease agreement and said document shall be cross referenced to the current recorded deed. The solar developer *may not* submit a memorandum of lease containing multiple lease contracts to the Kosciusko County Recorder. Signed solar lease contracts not submitted to the Kosciusko County Recorder's office within 45 days of signing are null and void in Kosciusko County.

c. The setback distance for the (CSES) shall be one mile from any platted community of a municipality. Distance shall be measured from the center of the array to the closest Corporate Limit boundary line.

C. Maximum Vibrations. Any proposed (CSES) or associated features shall not produce vibrations humanly perceptible beyond the property on which it is located or cause vibration that could be detected in nearby structures or damage underground wells during construction or upon operation.

D. Electrical Components

1. All electrical components of the (CSES) shall conform to applicable local, state, and national codes, and relevant national and international standards.

2. Electrical Collection Cables - All (CSES) electrical collection cables between each WECS shall be located underground. All transmission lines that are buried should be at a depth of 10 feet until the same reach the property line or a substation adjacent to the property line.

E. Interference with Reception. Any solar arrays shall be constructed and operated so that they do not interfere with television, microwave, GPS for agricultural use, military defense radar, navigational or radio reception to neighboring areas.

F. State or Federal Requirements. Any proposed (CSES) shall meet or exceed any additional local, state, or federal standards and regulations.

G. Aesthetics and Lighting. Any proposed (CSES) shall meet the following requirements:

1. Each (CSES) shall be lit in a fashion so no light extends beyond the perimeter of the facilities involved.

2. Each (CSES), including all accessory structures, shall, to the extent possible, use materials, and colors that will blend them into the natural setting and surrounding buildings.

H. Signs. A sign no more than 4 square feet in area displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the entrance of the (CSES) access road. No (CSES) or site shall include an advertising sign.

I. Not Essential Services. (CSES) shall be regulated and permitted pursuant to this Article of the Zoning Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

J. Removal of Abandoned, discontinued, or Unsafe (CSES)

1. Any (CSES) that is not operated for a continuous period of 6 months shall be considered abandoned.

2. Any (CSES) or component found to be unsafe or not in compliance with the special exception conditions related to noise or glare placed upon it by the Board of Zoning Appeals (BZA), shall be found to be in violation of the special exception approval.

3. The owner of any (CSES) that is abandoned or in violation of the special exception approval shall remove the same within one hundred and fifty (150) days of receipt of notice from the Area Plan Commission of such abandonment or violation.

4. In addition to removing the (CSES), the owner shall restore the site to its condition prior to location of the (CSES) (excluding replanting of original vegetation and trees), subject to reasonable wear and tear and shall stabilize soils through use of ground cover. All concrete and rebar must be removed from the soil.

5. Failure to remove an abandoned (CSES) within the one hundred and fifty (150) day period provided in this subsection shall be grounds for the Kosciusko County Area Plan Commission to pursue the violation as prescribed under section 4.12 of this ordinance.

6. A decommissioning plan approved by the Kosciusko County Technical Committee providing for the method and payment of the anticipated cost of removing a (CSES) at the end of its serviceable life or upon it's becoming a discontinued or abandoned use to ensure that the (CSES) is properly decommissioned.

1. Decommissioning shall include but not be limited to;

- a. The Physical removal of all solar energy systems, structures and equipment from the site.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. Stabilization or revegetation of the site as necessary to minimize erosion. The Kosciusko County Area Plan Commission may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2. A decommissioning plan at a minimum, shall also include the following:

- a. Written statement detailing the time line for decommissioning, not exceeding 150 days after the date of documented discontinued operations. The owner shall notify the Kosciusko County Area Plan Commission upon the discontinuation of the operations.
- b. Assurance - Written assurance that the (CSES) will be properly decommissioned upon the expiration of its serviceable life or in the event of its discontinuance or abandonment.
- c. Cost estimates for all (CSES) an estimate of the costs of decommissioning and removing the (CSES) upon the expiration of its useful life, or in the event of its discontinuance or abandonment. The cost estimates shall be made by a professional engineer, contractor, or other person with expertise or experience in decommissioning and removal of CSES, and shall be updated every five (5) years for approval by the Kosciusko County Area Plan Commission.
- d. Financial assurance the cost of removal and site restoration is the full responsibility of the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the CSES and to restore the site, the following steps shall be followed:
 - 1). For each CSES, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost.
 - 2). The Planning Commission shall require independent verification of the adequacy of this amount.
 - 3). This money shall be secured in the form of a surety equal to 150% of the quote, such as surety bond, letter of credit, or other financial promise , and shall be determined by the Kosciusko County Area Plan Commission. In the instance the developer defaults on the

proper decommissioning the County or its agent retains the right, after an appropriate court order, to enter the property and remove any abandoned, hazardous, or decommissioned solar energy system with funds from the surety on file.

e. Abandonment Verification under penalties for perjury, that all easements and/or leases for the CSES contain terms that provide financial assurances to the property owners to ensure that the CSES are properly decommissioned within one (1) year of the expiration of its serviceable life or in the event of its discontinuance or abandonment.

K. Waste Management - All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All HAZARDOUS WASTE generated by the operation and maintenance of the facility, including but not limited to lubricating materials, cleaning materials, or such shall be handled in a manner consistent with all local, state and federal rules and regulations and shall not be allowed to seep into the ground.

L. Utility Interconnection

The CSES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations applicable to CSES.

M. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.

N. Drainage, Flood, and Erosion Control

1. A detailed drainage plan compliant with the requirements of the Kosciusko County Stormwater Control Ordinance shall be submitted and approved of.

2. In instances where the project is required to comply with IDEM, erosion control regulations proper approvals shall be submitted indicating the plans have been approved. In instances where the project does not require IDEM approval an erosion control plan showing how any disturbance will be controlled on site as required under the Kosciusko County Stormwater and Erosion Control Ordinance shall be submitted.

3. Any project within a special flood hazard area shall comply with all standards required under the Kosciusko County Flood Control Ordinance.

4. All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the CSES, must be completely repaired to near original condition, and so as not to impede the natural flow of water. All repairs must be completed within a reasonable amount of time agreed upon by the Kosciusko County Surveyor.

O. USE OF ROADS - An Applicant, Owner, or Operator proposing to use any county road(s), for the purpose of transporting CSES or Substation parts and/or equipment for construction, operation, or maintenance of the CSES(s) or Substation(s), shall prior to construction:

Identify all such public roads and services

1. Roads

- a. Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Kosciusko County Highway Superintendent. The Superintendent shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
- b. Any road damage caused by the construction of the CSES project equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Kosciusko County Highway Superintendent. The Superintendent may choose to require either remediation of road repair upon completion of the project or are authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a Professional Engineer may be required by the Superintendent to insure the county that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.
- c. Newly constructed CSES access roads may not impede the flow of water.
- d. All repairs must be completed in the time period agreed upon by the Kosciusko County Highway Superintendent.
- e. Throughout the life of the project as repairs to CSES are made, road repairs will be completed each time the company's equipment traverses Kosciusko County roads if the Kosciusko County Highway Superintendent deems repairs be necessary, at the solar developer's expense.
- f. The location of all CSES access roads must be approved by the Kosciusko County Plan Director and may not be located closer than 2,000 feet from any residence as measured from the center of the access road to the corner of the residence.

P. Dust Control - Reasonable dust control measures will be required by the County during construction of the CSES.

Q. Sewer and Water

1. Any facility shall comply with existing septic and well regulation as required by the Kosciusko County Health Department and the State of Indiana Department of Public Health.
2. Wells within one mile of each site shall be inspected by a licensed certified Indiana well installed prior to and following construction. All expenses associated with the inspections shall be at the expense of the developer. Any damage/pollution caused by the operations of CSES or their construction shall be repaired at the expense of the developer and construction companies and these companies are required to provide commercial water tanks and water to affected homes until an investigation is complete and problems, if caused by CSES construction or operation, are mitigated.

R. Fire Prevention and Emergency Response Plan and Requirements.

1. Description of the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
2. Designation of the specific agencies that would respond to potential fire or other emergencies.
3. Description of all emergency response training and equipment needed to respond to a fire or other emergency including an assessment of the training

S. The site plan and other documents shall illustrate and describe mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands, avian and wildlife (migratory bird patterns and bat population effects), other fragile ecosystems, historical/cultural sites and antiquities.

T. Glare - At no time shall a (CSES) create glare on any non-participating landowner's property. For the purpose of this section a non-participating landowner shall be defined as a landowner on which no part of the CSES does not physically sit.

U. Property Value Guarantee will be offered by the solar developer to all residents and landowners within two miles of a CSES. Fair market value will be established by, at minimum, two reputable appraisers of the Kosciusko County Plan Commission's choice to establish baseline data for property values at the solar developer's expense. If the property value of a home decreases and a home or landowner is unable to sell his property after the CSES is erected, the

developer will pay that landowner the difference or buy the property at the baseline fair market value determined prior to construction of the solar project.

V. Prior to meeting with landowners in Kosciusko County to secure leases and holding private meetings with residents, the solar developer must notify every household and landowner within five miles of a planned solar project of their intentions to develop a CSES in the area via certified letter. The solar developer must also contact the Kosciusko County Plan Director and inform the Kosciusko County Planning Commission of their intent to develop a CSES in Kosciusko County prior to notice being sent to residents and landowners and prior to meeting with landowners to secure solar lease contracts in Kosciusko County.

W. Screening & Buffering -Proper screening and buffering shall be installed to reduce the visual impact on adjacent properties as deemed necessary by the Kosciusko County Board of Zoning Appeals.

3.30.5.4.2 SPECIAL EXCEPTION APPROVAL REQUIRED

A. All CSES shall be subject to special exception approval and all requirements for special exception uses in Article 5, section 5.4. In addition to the general standards of approval for special exception, all special exceptions regulated under this Article shall comply with the following standards of approval:

1. The use shall meet all general requirements listed above in Section 3.30.5.1
- 2.-All decommissioning money paid to Kosciusko County to be placed in an interest accruing account controlled by Kosciusko County prior to the approval of any permits. In order to ensure the proper removal as required under section 3.30.5.4.4 of any abandoned or dangerous CSES.
3. The special exception, if granted by the BZA, for a proposed project shall be valid for a period of one (1) year in which to apply for an Improvement Location Permit, after which, approval shall terminate and be of no further force or effect if construction in earnest of the approved tower/s has not commenced. The Applicant shall be granted a one (1) year extension to result in a total of two (2) years from the date of the BZA approval if the Applicant presents a request for an extension to the BZA and provides a report to the BZA which shows the progress made on the project. Thereafter, an additional extension shall be at the BZA's discretion.

B. APPLICATION REQUIREMENTS

Prior to the construction of a CSES, the Applicant shall obtain approval for the following: (1) an Application for an Exception Use from the Kosciusko County Board of Zoning Appeals ("BZA") to permit a CSES in any zone list under table A, (2) Request for Variance for any variances anticipated on the CSES Project, and (3) Drainage approval as required under the Kosciusko County Stormwater and Erosion Control Ordinance when deemed necessary, (4) an Improvement

Location Permit from the Kosciusko County Area Plan Commission.

1. The Application for Exception Use

a. The application shall be filed with the Kosciusko County Area Plan Commission and include the following items:

1. A CSES Project summary, including, to the extent available: Each array's point location, including its name plate generating capacity; the make and model of the CSES that will be installed; the maximum height of the SES Array(s) measured from the base to the tip of the panel when at max height position and (2) a description of the Applicant, Owner, and Operator, including their respective business structures.

2. The name(s), address (es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with CSES or associated utility lines on their properties;. All leases for properties with CSES must be filed in the Kosciusko County Recorder's Office within 45 days of the contract being signed agreeing to a solar lease or said contract is null and void in Kosciusko County.

3. A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five foot intervals.

4. A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower site not greater than 1 inch equals 20 feet): the proposed location of the Solar Energy System (including planned locations of each CSES array, access roads; Substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: Primary Structures within one mile of any CSES; property lines, including identification of adjoining properties; setback lines; public roads; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; delineated special flood hazard areas, and any wetlands based upon a delineation prepared in accordance with the applicable U. S. Army Corps of Engineer requirements and guidelines.

5. Location of all existing underground utility lines associated with the CSES site.

6. All required hearing filing fees as prescribed by this ordinance.

2. The Application for Improvement Location Permit

A. The Applicant shall apply to the Area Plan Commission for an Improvement Location Permit. In addition to the information required on the Improvement Location Permit Application and those documents required under section 3.30.5, the Applicant shall provide the following information to the Area Plan Commission prior to the issuance of an Improvement Location Permit:

1. Location of all underground utility lines associated with the CSES site.
2. Dimensional representation of the structural components of the array construction including the base and footings as well as all associated accessory structures.
3. Schematic of electrical systems associated with the CSES including all existing and proposed electrical connections.
4. Manufacturer's specifications and installation and operation instructions and an un-redacted operations safety manual for the model of CSES that will be installed.
5. All components of the CSES shall be new equipment commercially available. Used, experimental or proto-type equipment still in testing shall be approved by the BZA as per the normal special exception process.
6. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Kosciusko County Plan Commission.
7. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.
8. A revegetation plan for restoring areas temporarily disturbed during construction.
9. A fire protection plan for construction and operation of the Facility (See Fire Prevention and Emergency Response Plan and Requirements).
10. Any other item reasonably requested by the BZA.

11. A drainage plan for construction and operation must be developed under the standards of the Kosciusko County Stormwater and Erosion Control Ordinance.

12. An erosion control plan must be developed and provided in compliance with the Kosciusko County Stormwater and Erosion Control Ordinance and all other local, state, and federal regulations.

B. Each CSES require an Improvement Location Permit. The fee for each improvement Location Permit shall be subject to the fee schedule established under section 4.11 of the Kosciusko County Zoning Ordinance.

3.30.5.3 OPERATION

A. Interference

If, after construction of the CSES, the Plan Commission receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the Owner or operators shall be notified in writing and the Owner or Operator shall take reasonable steps to respond to minimize the complaint. Applicant, owner and/or operator shall take such actions as may be required to mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, GPS for agricultural use, military defense radar or television signals caused by any CSES. In addition, the applicant, owner and/or operator shall comply with the following:

a. Failure to remedy a complaint - If the Plan Commission Director determines that an owner or operator has unreasonably failed to remedy verified interference with the broadcast of residential television, telecommunication, communication or microwave transmissions within ninety (90) days after owner or operator received a written complaint related thereto, the Plan Commission Director may take appropriate action to rescind the permit or approval associated to the CSES in question- This does not apply to interference with private telecommunications systems.

B. Coordination with Local Fire Department

1. The CSES applicant, owner or operator shall submit to all providers of emergency services serving the CSES Project area a copy of the as-built site map in digital format, if requested.

2. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.

3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

C. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the CSES shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

2. All hazardous materials or waste related to the construction, operation and maintenance of the CSES shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

D. An ongoing log of maintenance activities performed on all CSES shall be submitted to Kosciusko County Plan Director on an annual basis.

3.30.5.5 LIABILITY INSURANCE

The Owner or Operator of the CSES(s) shall maintain a current general liability policy covering bodily injury and property damage and name Kosciusko County as an additional insured with limits of at least \$2 million per occurrence property and \$5 million in the aggregate with a deductible of no more than \$5 thousand.

3.30.6 All SES must strictly comply and be installed to meet all other local, state, and federal regulations.

3.30.7 All SES must strictly comply with section 3.26 of the Kosciusko County Zoning Ordinance regarding performance standards.

3.30.8 Abandonment and Decommissioning Requirements

a. Any micro, small, medium, large scale, and Commercial ground mounted SES which has reached the end of its useful life or has been abandoned shall be removed by the owner. The owner shall physically remove the installation no more than 150 days after the date of documented discontinued operations. The owner shall notify the Kosciusko County Area Plan Commission upon the discontinuation of the operations.

Decommissioning shall consist of;

- Physical removal of all solar energy systems, structures and equipment from the site.
- Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- Stabilization or revegetation of the site as necessary to minimize erosion. The Kosciusko County Area Plan Commission may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

3.30.9 Not Essential Services - SES shall be regulated and permitted pursuant to this Article of the Zoning Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

3.31 Child Day Care Services (non occupied home)

An establishment providing care, supervision, and protection of children in a private residential structure. A residential structure in which at least six (6) and no more than sixteen (16) children at any time receive child care from a provider:

- (a) while unattended by a parent, legal guardian, or custodian;
- (b) for regular compensation; and
- (c) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. The term includes class I child care home and class II child care home as defined in *IC 12-7-2-33.7* and *IC 12-7-2-33.8*

3.31.1.1 Signage – signage shall be allowed as follows;

- a. Residential District – No larger than 12 square foot
- b. Agricultural District – No Larger than 24 square foot
- c. Commercial or Industrial 1 or 2 District – As allowed under section 3.19.4

3.31.2 Fencing – Any outdoor play area shall be secured by ordinance compliant fencing.

3.31.3 Parking shall be compliant with Table F of this ordinance

3.31.4 Sewage and Water – All sewage and water facilities must have proper approval for the overseeing authority.

ARTICLE 4 - Administration and Enforcement

4.1 **Ordinance Administrator:** The Ordinance Administrator appointed by the Area Plan Commission, shall;

4.1.1 Administer and enforce the provisions of this Ordinance;

4.1.2 Issue Improvement Location and Occupancy Permits; and

4.1.3 Maintain a permanent file of all permits and applications as public records.

4.2 **Permits:** No permit shall be issued unless the proposed structure, use of structure, or land use is in complete conformity with the provisions of this Ordinance, or unless a written order is received from the Board of Zoning Appeals, the Area Plan Commission, or a Court in accordance with this Ordinance and State Law.

4.3 **Improvement Location Permit:** An Improvement Location Permit shall be obtained before any structure may be constructed, reconstructed, moved, or enlarged; this includes but is not limited to the placement of foundations, slabs, and footers. Additionally, all preparation site work must be done in a manner that complies with all other Federal, State, and Local Ordinances and regulations. If an Improvement Location Permit is issued, the applicant may apply for an Occupancy Permit, which shall not be issued until the structure is complete and in compliance with this Ordinance.

4.4 Application for an Improvement Location Permit shall be accompanied by a plot plan drawn to scale, and showing clearly and completely the following:

4.4.1 The location, intended use, dimensions, nature of the property;

4.4.2 The location and dimensions of any existing or proposed structures;

4.4.3 All adjoining thoroughfares and any existing or proposed access to these thoroughfares;

4.4.4 The existing and proposed use of all structures and land; and

4.4.5 Such other information deemed necessary by the Ordinance Administrator to determine conformance with this Ordinance and any other Federal, State, or Local Ordinances or regulations that may be applicable.

4.4.6 When constructing, altering, or converting a structure for residential, commercial, public use, or industrial purposes in an agricultural zoned district, the permit application must also be accompanied by the completed and recorded "Agricultural Disclaimer Acknowledgement Form" which must be cross referenced to the property deed in question. Said form shall be provided by the Office of the Kosciusko County Area Plan Commission, however, the applicant shall be responsible for the completion and recording of the form including any associated fees.

4.5 If the work authorized by any permit has not begun within one hundred eighty (180) days from the date of its issuance, that permit shall expire. A written cancellation notice shall be sent to the property owner of applicant.

4.6 If the work described in any permit has not been substantially completed within two (2) years of the date of its issuance, the permit shall expire and a written cancellation notice shall be sent to the property owner or applicant. Further work shall not proceed until a new permit is obtained. The permit may be renewed, as the permit was originally issued, for up to one (1) year if the renewal is obtained prior to expiration date, after such date a new permit shall be obtained.

4.7 No permit shall be issued for a lot, parcel, tract, or piece of land for any use unless that lot, parcel, tract, or piece of land has access to a platted or legally dedicated public roadway.

4.8 Occupancy Permit: An Occupancy Permit may be obtained before any person may:

4.8.1 Occupy or use vacant land;

4.8.2 Occupy or use any structure hereafter constructed, reconstructed, moved, enlarged, or structurally altered;

4.8.3 Change the use of a structure or land to a different use; or

4.8.4 Change the use of a non-conforming use.

4.9 A temporary Occupancy Permit may be issued for a period not to exceed six (6) months during alteration or partial occupancy of land or structures. The temporary permit may include any conditions and safeguards necessary to protect the safety of the occupants and the public.

4.10 No Improvement Location Permit shall be required for:

4.10.1 Accessory structures not requiring a fixed location on the ground and with no more than a total of 120 square feet or less in size. Said accessory structure may be placed no closer than 25' of a front yard, as defined by this ordinance, no closer than 5' from any side or rear yard as defined by this ordinance, and shall meet all other district setback requirements.

4.10.2 Routine maintenance, repair, or remodeling of existing structures not involving any change in use, lot coverage, or additional square and/or cubic footage of living space.

4.10.3 Signs with a surface area of two (2) square feet or less

4.10.4 Lot and yard improvements such as fences, drives, sidewalks, platforms, stairs, retaining walls, play equipment and landscaping;

4.10.5 Essential services as defined in Article 8;

4.10.6 A temporary structures as prescribed under section 3.6.3 and 3.6.4

4.11 Fees: No fee shall be charged if an application is made and Improvement Location Permit/Occupancy Permit/Sign Permit is issued prior to the start of construction or occupancy. Also, no fee shall be charged if an application is made and Improvement Location Permit/Occupancy Permit/Sign Permit is issued to the current property owner subsequent to a prior property owner failing to obtain the proper permits. If construction is commenced or occupancy effected prior to the issuance of the applicable permit, the following schedule shall apply.

4.11.1 Improvement Location Permit:

Residential Accessory Structures, Residential Additions, & Agricultural Accessory Structures	\$125.00
Single-Family Residence	\$250.00
Multi-Family Residence	\$250.00 + \$5.00 per sq. ft. up to but not exceeding \$1,000
All Others	
2500 square feet or less	\$500.00
2501 square feet to 5000 square feet	\$500.00
Over 5000 square feet	\$500.00 plus \$10.00 per each 10 sq. ft. over 5000 sq. ft. up to but not exceeding \$1,000

4.11.2 Occupancy Permit:

Occupancy Permit fee is included in the Improvement Location Permit, when required.
Occupancy Permit fee when no Improvement Location Permit, when required \$5.00

4.11.3 Sign Permit:

Sign permit fee for signs with a surface area of more than two (2) square feet is
\$25.00 if the sign is erected prior to permit approval.

4.11.4 Petition Filing Fee:

Variance Petition	\$150.00
Exception Petition	\$150.00
Appeal of Plan Director Determination	\$150.00
Zoning Ordinance Amendment	\$300.00
Development Plan Review (APC) Meeting (if required)	\$300.00

4.11.5 Any person filing a petition for amendment to the Ordinance or a petition for Board of Zoning Appeals action shall pay the cost of all required public notice.

4.12 Violations and Penalties: No person, including but not limited to, any owner or real estate subject to this ordinance, any lessee thereof, or any agent or contractor shall locate, erect, construct, reconstruct, enlarge, change, maintain, or use any structure or land in violation of any regulation or provision of this Ordinance or of any regulation promulgated here under by the Board of Zoning Appeals. Any structure or use that violates this Ordinance shall be deemed to be a public nuisance, and the owner, lessee, agent or contractor, as the case may be, shall be liable for maintaining a public nuisance. Any person who violates any provision of this ordinance shall be guilty of an ordinance violation, and upon conviction, shall be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00). Each day the violation continues or occurs shall constitute a separate offense. Any enforcement action may be instituted in the name and against the owner and/or the party actually responsible for the violation of this ordinance.

4.13 Method of Appeal: Any person aggrieved or affected by any provision of this Ordinance or by any decision of the Ordinance Administrator may appeal to the Board of Zoning Appeals, as provided by the rules of the Board, by filing a notice of appeal specifying the grounds for it. Every decision of the Board shall be subject to review by certiorari as stated under I.C. 36-7-4-1003.

ARTICLE 5 - Board of Zoning Appeals

5.1 **General:** In accordance with State Law, a Board of Zoning Appeals shall be established and appointed.

5.1.1 The Board of Zoning Appeals shall consist of two divisions. The Kosciusko County Division shall have exclusive territorial jurisdiction over all lands subject to this Ordinance except land located within the corporate limits of the Town of Syracuse, the Syracuse Division of the Board of Zoning Appeals shall have exclusive jurisdiction. Reference hereinafter to the Board of Zoning Appeals shall respectively be to the Kosciusko County Division of the Board of Zoning Appeals for matters concerning real estate located within the territorial limits subject to this Ordinance unless this real estate is located within the corporate limits of the Town of Syracuse, when the reference shall then relate to the Syracuse Division of the Board of Zoning Appeals.

5.1.2 The Board of Zoning Appeals shall hold meetings, keep minutes and pursuant to notice, shall conduct hearings, compel the attendance of witnesses, take testimony and render decisions in writing, all as required by law. When permitted any appeal, variance, exception or change of a non-conforming use, the Board may impose all conditions and requirements it deems necessary for the protection of adjacent property and the public interest.

5.1.3 Each division of the Board of Zoning Appeals shall consist of five (5) members appointed in accordance with I.C. 36-7-4-902, or subsequent provisions of any amendatory act thereto. Each member of the Syracuse Division of the Board of Zoning Appeals must be a resident of the Town of Syracuse. The terms of the members of the Syracuse Division of the Board of Zoning Appeals shall be established as provided in I.C. 36-7-4-906, or subsequent provisions of any amendatory act thereto.

5.2 **Appeals:** The Board may hear and decide appeals from any order, requirement, decision, grant, or refusal made in the administration of this Ordinance.

5.3 **Variances:** The Board of Zoning Appeals, upon appeal, shall have the power to authorize variances from the requirements of this Ordinance, and to attach any conditions to the variances it deems necessary to assure compliance with the purposes of this Ordinance where:

5.3.1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

5.3.2 The use and value of the areas adjacent to the property included in the variance will not be affected in a substantially adverse manner and;

5.3.3 The strict application of the terms of the zoning ordinance will result in practical difficulties to the use of the property.

5.4 **Exceptions:** The Board of Zoning Appeals shall have the power to authorize Exceptions if the following requirements are met:

5.4.1 The Exception shall be listed as such in Table A of this Ordinance for the District requested;

5.4.2 The Exception 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 the performance standards of Section 3.26;

5.4.3 The Exception shall be sited, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties;

5.4.4 The Exception shall produce a total visual impression and environment, which is consistent with the environment of the neighborhood;

5.4.5 The Exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood;

5.4.6 The Exception shall preserve the purpose of this Ordinance.

5.5 Non-Conforming Uses: The Board of Zoning Appeals shall have the power to authorize changes of lawful non-conforming uses and/or non-conforming structures as follows:

5.5.1 A non-conforming use which occupies a portion of a structure or premises may be extended within such structure or premises as they exist when the prohibitory provision took effect, but not in violation of the area and yard requirements of the district in which such structure or premises are located;

5.5.2 The Board of Zoning Appeals may authorize a change of use of a non-conforming use or structure if the Board determines that the proposed new use would not cause hardships to the neighborhood properties or have an adverse effect on the character of the neighborhood; and is of greater restriction than the existing non-conforming use.

5.5.3 The Board of Zoning Appeals may authorize a change or expansion of a non-conforming structure if the Board determines that the proposed change or expansion will not cause hardship to the neighborhood properties, will not have an adverse effect on the character of the neighborhood, and will not pose a safety hazard to adjoining structures or properties.

5.5.4 The Board of Zoning Appeals may impose any conditions and safeguards it deems necessary for the protection of adjacent property and the public interest.

5.6 Accessory Use Exceptions: The Board of Zoning Appeals shall have the power to authorize exceptions to the accessory use size limitations contained in Article 3, Section 4. Exceptions may be granted if the following requirements are met:

5.6.1 The exception 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 the performance standards of Section 3.26 and lot and yard requirements of section 2.14;

5.6.2 The exception shall be cited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties;

5.6.3 The exception shall produce a total visual impression and environment, which is consistent with the environment of the neighborhood;

5.6.4 The exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood;

5.6.5 The exception shall preserve the purposes of this Ordinance.

ARTICLE 6 - Hearing Officers

6.1. The Hearing Officers shall consist of two divisions: the Kosciusko County Division Hearing Officer, and the Syracuse Division Hearing Officer. The Kosciusko County Division shall have exclusive territorial jurisdiction over all lands subject to this Ordinance except land located within the corporate limits of the Town of Syracuse, where the Syracuse Hearing Officer shall have exclusive jurisdiction. Reference hereinafter to the Hearing Officer shall respectively be to the Kosciusko County Division Hearing Officer, for matters concerning real estate located within the territorial limits subject to this Ordinance unless this real estate is located within the corporate limits of the Town of Syracuse, when the reference shall then relate to the Syracuse Division Hearing Officer.

6.2. The Hearing Officers shall hold meetings, keep minutes and pursuant to legal notice, shall conduct hearings, compel the attendance of witnesses, take testimony and render decisions in writing, all as required by law. When granting any appeal, request for variance, exception or change of a non-conforming use, the Officer may impose all conditions and requirements deemed necessary for the protection of adjacent property and the public interest and the compliance with the goals of this ordinance.

6.3 The Officer for each respective territory shall be appointed from within the membership of each existing board of zoning appeals by a majority vote. Each term shall be for a period of four months with the possibility of reappointment. In the case that the appointed officer will not be present at a scheduled hearing, the board may appoint a proxy from within who will be determined by a majority vote. Said proxy shall only temporarily fill the officers' seat until such time that the appointed officer returns or the term limit has expired.

6.4 The hearing officer shall have the following duties and powers:

6.4.1 The exclusive right to hear and approve or deny Exceptions for "Home Occupations" and "Home Based Business", subject to the following:

6.4.1.1 The exception 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 the performance standards of Section 3.19 and lot and yard requirements of Section 2.10;

6.4.1.2 The exception shall be cited, oriented and landscaped to produce a harmonious relationship of buildings and grounds adjacent buildings and properties;

6.4.1.3 The exception shall produce a total visual impression and environment, which is consistent with the environment of the neighborhood;

6.4.1.4 The exception shall organize vehicular access and parking minimizes traffic congestion in the neighborhood;

6.4.1.5 The exception shall preserve the purpose of this Ordinance.

6.4.2 The exclusive right to hear and approve or deny variances from the development standards of the Zoning Ordinance. A variance may be approved by the hearing officer only upon a written determination that:

6.4.2.1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

6.4.2.2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

6.4.2.3 The strict application of the terms of the zoning ordinance will not result in any practical difficulties in the use of the property.

6.4.2.4 The rules of procedure adopted by the Board under Section 5.1 and 5.2 of this Ordinance in their entirety shall apply to the Hearing Officer.

6.5 Appeals from the Hearing Officer:

6.5.1 Any order, requirement, decision, or determination of the Hearing Officer may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by that order, requirement, decision, or determination.

6.5.2 Every appeal shall be filed within fourteen (14) days from the date of the order, requirement, decision, or determination.

6.5.3 Notice of the hearing on the appeal shall be given fourteen (14) days prior to the Board of Zoning Appeals hearing date and may be made a part of the Notice of Hearing by the Hearing Examiner.

6.5.4 The Board of Zoning Appeals hearing on the appeal shall be de novo, in the same manner as the petition originally filed with the board.

6.5.5 The impositions of conditions, requirements of commitments, or any other adverse action by the Staff or Hearing Officer shall permit the applicant to obtain transfer to the Board before obtaining a decision.

6.5.6 The hearing officer has the reserved right to forward any petition directly to the full board for determination at any time.

6.5.7 The Kosciusko County Area Plan Commission Staff has the reserved right to forward any petition directly to the full board for determination at any time.

ARTICLE 7 Technical Review Committee

7.1 The Technical Review Committee shall have exclusive territorial jurisdiction over all lands subject to this Ordinance. Reference hereinafter to the Technical Committee shall respectively be to the Kosciusko County Technical Review Committee, for matters concerning real estate located within the territorial limits subject to this Ordinance.

7.2 The Technical Committee shall hold meetings, keep minutes and pursuant to legal notice, shall conduct hearings, compel the attendance of witnesses, take testimony and render decisions in writing, all as required by law. When granting reviewing a Plat, Rezoning request, or development sign request the Technical Committee shall act as a recommending body to the Kosciusko County Area Plan Commission. When the Technical Committee is reviewing development plans as specified under section 4.21.1 of this ordinance as specified under IC 36-7-4-1402 shall have the authority to approve or deny a proposed plan as specified under IC 36-7-4-1404 and may impose all conditions and requirements deemed necessary for the protection of adjacent property and the public interest and the compliance with the goals of this ordinance and those of the Kosciusko County Comprehensive Plan.

7.3 The Technical Committee as created by the Area Plan Commission shall consist of at least one member or representative from the following:

- Kosciusko County Area Plan Commission Staff
- Kosciusko County Surveyors Office
- Kosciusko County Highway Department
- Kosciusko County Health Department
- Kosciusko County Soil & Water
- Kosciusko County Agricultural Extension Agent
- At least one but no more then 4 representatives appointed from within the membership of the Plan Commission
- As well as any other relative government entity or public service provider effected by the proposed project (i.e. INDOT, City and Towns, sewer providers)

7.4 All appeals from the Technical Committee shall follow the procedure as specified under section 4.21.1 of this ordinance.

ARTICLE 8 – AMENDMENTS

8.1 **General:** Any legislative body that has adopted this Ordinance may introduce and consider amendments to this Ordinance and to the Zone Maps covering their jurisdiction, as proposed by the legislative body, the Area Plan Commission, or by petition of the owners of property of fifty (50) percent or more of the area involved in the petition.

8.2 **Petitions:** Petitions for amendments shall be filed with the Area Plan Commission, and the Petitioner, upon such filing, shall whether or not the proposed amendment is adopted, pay the cost of required public notice.

8.3 **Referral:** Any proposed amendment not originating from the Area Plan Commission shall be referred to the Area Plan Commission for consideration and report before any final action is taken by the Legislative Body. The Area Plan Commission shall hold a public hearing, as prescribed by law, and report its findings and recommendation in writing to the Legislative Body.

8.4 **Action:** After receiving the Area Plan Commission's report, the Legislative Body may proceed to take action on the proposed amendment in accordance with State Law.

ARTICLE 9 - DEFINITIONS

9.1 **General:** Certain words used in this Ordinance are defined below. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; and the word "shall" is mandatory and not permissive.

Abandonment: The cessation of use of an out door advertising sign upon a site with no intention to reclaim or use the sign again for advertising purposes.

Accessory Use: A use customarily incidental and subordinate to the principal use, in a style of construction compatible with the construction of the improvements constituting the principal use and located on the same lot as the principal use. No structure originally designed and intended for use with wheels, and/or axels, as a mobile vehicle or structure may be established on a lot as an accessory use.

Adult Arcade means any place to which the public is permitted or invited where coin-operated or slug-operated; or electronically, electrically, or producing devices are maintained to show images to ten or fewer persons per machine at any one time, and where the images displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult Bookstore or Adult Video Store means a commercial establishment which, as one of its principal business purposes offers for sale or rental, for any form of consideration any one or more of the following;

Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representation which depicts or describes "specified sexual activities" or specified anatomical areas" or; instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical area" and still be categorized as Adult Bookstores, or Adult Video Stores. Such other business purposes will not serve to exempt said commercial establishments from being categorized as an adult Bookstore or Adult Video Store as long as one of its principal business purposes is the offering of sale or rental or consideration the specified material which depicts or describes "specified sexual activities" or "specified anatomical area."

Adult Cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features: persons who appear in a state of nudity; or live performances which are characterized by the exposure of specified anatomical areas" or by specified sexual activities"; or files, motion pictures, video cassettes, slides, or other photographic reproductions, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical area."

Adult Entertainment Facilities is any commercial establishment, business or service, or portion thereof, which offers sexually oriented material, devices, paraphernalia or specific sexual activities, services, performances or any combination thereof, or in any other form,

whether printed, filmed, recorded or live. The term “adult entertainment facilities” shall include but not be limited to such activities as included in the definition of the sexually oriented business.

Adult Motel means a hotel, motel, or similar commercial establishment which:
Offers a sleeping room for rent for a period of time that is less than 10 hours; or Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours

Adult Theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

Agricultural: Any use of land or structure for farming, dairying, pasturage, agriculture, horticulture, floriculture, arboriculture, or animal or poultry husbandry. Accessory uses permitted in connection with an agricultural use may include barns, stables, corncribs, silos, and other uses or structures that are clearly a part of an agricultural operation.

Agricultural Product: A natural product of a farm, feedlot, confined feeding operation, nursery, grove, orchard, vineyard, garden or apiary. The term includes trees and firewood.

Agricultural Product Processing: The changing of an agricultural product from its natural form to another form for the purpose of use on site, sale or distribution.

Agricultural Related Trucking: Agriculturally related trucking shall mean a commercial trucking business, which transports cargo consisting of not less than 50% processed or non-processed agricultural products.

Alley: A public or private service way permanently reserved as a secondary means of access to abutting property.

Anemometer: An instrument for measuring and recording the speed of the wind.

Area: Area of a lot or site shall be calculated from dimensions derived by horizontal projection of the site.

Areola: A circular area of a different color, surrounding a central point, as such an area surrounding the nipple of the breast.

Automobile Graveyard: Any establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or unlicensed vehicles or motor vehicle parts.

Blank Sign: A sign void of advertising matter.

Board: The Advisory Board of Zoning Appeals established by this Ordinance.

Building facade: That portion of any exterior elevation of a building extended from grade to the top of the parapet wall or eaves and the entire width of the building elevation, and which may also be referred to as the building face.

Building Materials: Including but not limited to Canvas, Ceramic, Concrete, Drywall, Plaster, Steel, Stone, or Wood.

Buttock, one of the two masses of muscle and fat tissue, divided by a cleft, that is prominent at the lower back of the torso, both masses forming the seat; a gluted prominence; the nates

Campground: Any plot of land, public or private, providing guests a camping place, using Recreational Vehicles or tents and by whatever name the same may be called, and whether any fee is charged for its use or not.

Child Day Care Services

An establishment providing care, supervision, and protection of children in a private residential structure, not occupied by a permanent residence, in which at least six (6) and no more than sixteen (16) children at any time receive child care from a provider:

- (a) while unattended by a parent, legal guardian, or custodian;
- (b) for regular compensation; and
- (c) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

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

Commercial Solar Energy System Farm – A Solar Energy System facility and all associated components, whose primary purpose is to collect, store, convert, and distribute solar energy to utility companies

Communication Tower: Any tower which supports a device, which transmits and/or receives electromagnetic signals. Including but not limited to antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals. This does not include the following:

- a. A single ground or building mounted receive only radio television antenna including mast, for the sole use of the tenant occupying a residential parcel on which the radio or television antenna is located; with an antenna height not exceeding twenty-five feet (25’);
- b. A ground or building mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed thirty-five feet (35’);
- c. A ground, building, or tower antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed thirty-five feet (35’).
- d. A ground or building mounted received only radio or television satellite dish

antenna, which does not exceed thirty-six inches (36”) in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the primary structure on said parcel.

e. Government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights not exceeding thirty-five feet (35’)

Coverage: That percentage of the lot covered by principal and accessory use structures.

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

Deck: A customarily wooden structure whose height exceeds 12 inches above finished grade level.

Developer: A person submitting a plat, condominium regime, horizontal property regime, mobile home park, or a development plan of any kind or of any similar nature, of the type or character described in the definition of a Lake Access Development. The Developer may be the owner or a person or entity operating in their self interest but with the consent of the owner of the real estate in question.

Dwelling Unit: Any structure or part of a structure designed or used as the living quarters for one family.

Dwelling, Multi-Family: A residential building designed for three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided. This may include but is not limited to apartments or condominiums.

Dwelling, Single-Family: A detached residential dwelling unit designed for and occupied by one family only.

Duplex: A free standing single dwelling structure designed with two (2) separate living units and having one single contiguous foundation and roof line and whose separate units share at least one (1) common enclosed wall.

Essential Services: The erection, construction, alteration or maintenance by public utilities, rural electric membership cooperative, or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems including poles, wires, mains, drains, sewers, pipes, conduit cable, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by these public utilities, rural electric membership cooperatives, or municipal or other governmental agencies or for the public health or safety or general welfare but not including buildings in other than Agricultural District.

Establishment means and includes any of the following:

The opening or commencement of any sexually oriented business as a new business; The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business; The additions of any sexually oriented business to any other existing sexually oriented business; or The relocation of any sexually oriented business

Family: One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

Fertilizer Sales, Processing and Storage: A use engaged in storage, processing, distribution, manufacturing, warehousing and/or sales of fertilizer products. For purposes of this ordinance, this definition is not intended to be applied on individual farming operations that may be storing fertilizer products for their own application.

Freestanding/pole mounted signs: Signs supported by one or more uprights, poles, columns or braces in or upon the ground surface and not attached to any building or structure.

Garage Sale: (See Yard Sale)

Ground-Mounted Solar Energy System – A SES that is structurally mounted on the ground.

Home Base Business: In an agricultural district, a business conducted on or off the premises which is clearly incidental and secondary to the use of the land or buildings for dwelling and/or agricultural purposes, and which does not change its character.

Home Occupation: An occupation carried on in a dwelling which is clearly incidental and secondary to the use of the land or building for dwelling purposes, and which does not change its character but does offer a service or product for sale on the premise.

Home Office: An occupation carried out in a dwelling which is clearly incidental and secondary to the use of the land or building for dwelling and does not change its character. In addition no service or product may be for sale on the premise.

Junk: Old scrap copper, brass, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, abandoned vehicles or wrecked automobiles, trucks, semi-trailers, farm equipment or parts of them, iron, steel and other old or scrap ferrous or nonferrous materials.

Junkyard: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills, but shall not include a scrap metal processing facility.

Lake Access Development: Any development (i) that has a portion of its perimeter bound by a Public Freshwater Lake or, (ii) that contains as a part of the development or through the grant of an easement, license or other interest, the right of owners in the development to use a Waterfront Lot for access to the waters of any Public Freshwater Lake and, (iii) that requires any type of approval by the Board of Zoning Appeals or Area Plan Commission. A Lake

Access Development shall include by way of example, but not be limited to lake front recreational areas, beaches, parks, playgrounds, regardless of whether such area has been specifically denominated as a common area or access point, whether located in a residential subdivision, apartment building development, condominium, cooperative, used by a neighborhood association, or associated with an organization, club, retirement community, mobile home park, mobile home subdivision, subdivisions subject to the provisions of the subdivision control ordinance, or multi-family residential units, mobile home parks, and camp grounds, planned unit developments with a residential component, residential development under the Indiana Horizontal Property Regime Act, platted or exempt residential subdivisions and any other residential use in all zoning districts.

Lakes/Ponds: Any impounded body of water, natural or artificially made.

Large Solar Energy System - A SES which occupies more than 3000 sq. ft. of area whose primary purpose is to offset part or all of the beneficiary's utility needs and is an secondary use to the principle structure or use.

Large Wind System: A WECS that has a nameplate capacity (manufacturer's rating) of more than 50 kilowatts per wind tower, or a total height of more than 140', or a swept area of more than 40'. Any WECS meeting one or more of these criteria shall be considered a large wind system.

Lot: A tract of land occupied or capable of being occupied by one or more structures.

Lot of Record: Any lot which individually or as part of a subdivision has been recorded in the office of the County Recorder.

Lot, Depth of: A mean horizontal distance between the front and rear lot lines.

Lot, Minimum Area of: The horizontally projected area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfares.

Lot, Width of: The mean width measured at right angles to the depth.

Mini-Farm: Any parcel of land within the "A-II" zoning district, that has been subdivided according to the Kosciusko County Subdivision Control Ordinance, for the purpose of a combination residential/agricultural use. The parcel of land is limited to only 1 single family dwelling along with associated residential and agricultural accessory structures.

Massage Establishments is any business or enterprise which offers, sells or provides, or which holds itself out as offering, selling or providing, massages which include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating or other tactile stimulation of the human body, by either male or female employees or attendants, by hand or other physical means including but not limited to any electrical or mechanical device.

Medium Solar Energy System – A SES which occupies 1201 sq. ft. of area but not more than 3000 sq. ft. of area whose primary purpose is to offset part or all of the beneficiary's utility needs and is an secondary use to the principle structure or use.

Meteorological (MET) Testing Towers - A structure, including all accessory facilities, temporarily erected for no more than two (2) years, on which an anemometer or similar instrument is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

Micro Solar Energy System – A SES which occupies 576 sq. ft. of area or less and whose primary purpose is to offset part or all of the beneficiary’s utility needs and is an secondary use to the principle structure or use.

Micro Wind System: A free standing or building-mounted wind system that has a nameplate capacity (manufacturer’s rating) of 10 kilowatts or less, and does not exceed a total height of 120’. Micro wind systems are subject to regulations in all zoning districts

Motorized Vehicle: Any self-powered vehicle by which someone travels or something is carried or conveyed; a means of conveyance or transport:, including but not limited to automobiles, recreational vehicles, watercraft, all terrain vehicles, motorcycles, and air craft.

Non-Conforming Sign: A sign which was lawfully erected but does not comply with the provisions of this ordinance passed at a latter date or later fails to comply with this ordinance due to changed conditions.

Non-Conforming Structures: A structure designed, converted, or adapted for a use prior to the adoption of this Ordinance or any of its amendments which was constructed in such a manner as not to meet the current requirements for setback, height, size, elevation, or any other building requirement spelled out in this ordinance.

Non-Conforming Use: Any use or arrangement of land or structures legally existing on the effective date of this Ordinance or of any of its amendments, which does not conform to the provisions of this Ordinance or of its amendments.

Non-Waterfront Lot: Any parcel of real estate not having as one of its boundaries the Shoreline of a Public Freshwater Lake.

Nude Model Studio means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by others person who pay money for any form of consideration

Nudity or a state of nudity means the appearance of bare human buttocks, anus, male genitals, female genitals, or female breast.

Officer: Hearing officer established under this ordinance.

Off-Street Parking: The provision of parking spaces which are not located on any public right-of-way.

Off-premise Signs: A sign erected and maintained upon the land of another.

On-premise Commercial Sign: A sign, whose purpose is to advertise, describe, or propose an economic transaction of any sort.

On-Premise Signs: A sign erected and maintained by the property owner on his or her own land.

Person: An individual, proprietorship, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, other representative, or other legal entity.

Platform: A customarily wooden floored formation whose height is 12 inches or less above finished grade level. An eighty percent (80%) open railing not exceeding a height of 36 inches, measured from the top of the platform, is considered to be a part of the platform.

Portable Signs: Any sign designed to be placed upon wheels or lightweight frame for convenient moving.

Public Freshwater Lake: Shall have the definition stated in IC 14-26-2-3 as amended from time to time.

Public Improvement: Any improvement, facility, or service together with its associated site, accessories, or right-of-way necessary to provide transportation, communication, drainage, utilities, or similar essential services and facilities and that are solely owned and operated by a governmental agency.

Recreational Vehicle: A mobile vehicle, with wheels, designed for overnight living or camping purposes, capable of being towed by a passenger automobile and having an overall length less than thirty-five (35) feet and an overall width of not more than eight (8) feet.

Reserve Strip: A strip of land that prevents or limits access to land dedicated or intended to be dedicated to public use.

Retaining Wall: A wall that holds a mass of earth in place and prevents it from slipping and/or eroding.

Right-of-Way: An area or strip of land, either public or private, on which a right-of-passage has been granted for the use of vehicles.

Roof Mounted/Building Mounted Solar Energy System – A Solar Energy System that is structurally mounted to an existing structure.

Scrap Metal Processing Facility: An establishment having facilities for processing iron, steel or nonferrous metal and whose principal product is scrap iron, steel or scrap for sale for re-melting purposes only.

Screening: When required by this ordinance, screening shall be accomplished through installation or construction of either a plant material buffer or an opaque wall, barrier or fence.

Where plants are used as the material for screening, it shall conform to the following:
Species of plants shall be suited to the local climatic and soil conditions;
Shall consist of evergreen shrubs which will, with normal growth, attain a height of six feet within three years.
Shall have a density so that vision and light will be substantially obscured from adjacent properties and,
Shall be maintained and replanted, as may be necessary to meet the above standards.

In the event screening shall constitute an opaque wall, barrier or fence, they shall conform to the following:

Materials used shall be of good condition, properly installed in a workman like manner, and consist of wood, masonry, or equivalent construction material.

Shall bear no signs or advertising.

Shall be of a color, either naturally or by painting, of a neutral or subdued hue, so as not to constitute a distraction or eye-sore and so as to be consistent with the neighborhood; and,

Shall be maintained in a stable condition and appearance.

All screening shall be installed, constructed or provided prior to occupancy of the property.

All screening materials shall be properly and adequately maintained and kept free of trash and litter.

Semi-Nude means a state of dress in which clothing covers no more than the genitals, pubic region, and aureola of the female breast, as well as portions of the body covered by supporting straps or devices

Sexual Encounter Center means a business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration:

Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

Activities between male and female persons and or persons of the same sex when one or more of the persons are in a state of nudity or semi-nude

Sexually Oriented Business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, or sexual encounter center.

Specified Anatomical Areas means male genitals in a state of sexual arousal and or the vulva or more intimate parts of the female and male genitals

Specified Sexual Activities means and includes any of the following:

The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

Sex Acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

Masturbation, actual or simulated; or

excretory functions as a part of or in connection with any of the activities set forth in A through C above

Shoreline: Shall have the definition stated in IC 14-26-2-4 as amended from time to time.

Sidewalk: A constructed pedestrian walkway or surface no more than 5 feet in width whose height is 6 inches or less above finished grade level. An eighty percent (80%) open railing not exceeding a height of 36 inches, measured from the top of the walkway, is considered to be a part of the walkway.

Sign: Any identification, description, display or illustration which is affixed to or represented upon a structure or tract of land which directs attention to an object, product, place, activity, business, person, service, or interest.

Small Solar Energy System – A SES which occupies 577 sq. ft. but no more than 1200 sq. ft. of area whose primary purpose is to offset part or all of the beneficiary's utility needs and is a secondary use to the principle structure or use.

Solar Energy Systems (SES) - Any device or combination of devices or elements which rely upon sunlight as an energy source and is for the purpose of the collection, storage, and distribution of solar energy.

Stairs: A series of steps no more than 5 feet in width, with landing areas not exceeding twenty five (25) square feet, designed only to ascend or descend from one elevation to another. An eighty percent (80%) open railing not exceeding a height of 36 inches, measured from the top of the stair treads, is considered to be a part of the stairs.

Structure: Any three dimensional object above or below grade made with building materials but not including sidewalks, platforms, stairs, drives, retaining walls, and fences.

Substantial Enlargement is means the increase in floor area occupied by a business by more than 25 percent.

Supply Yards: A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include wrecking, salvaging, dismantling or storage of automobiles and similar vehicles.

Tent: A pavilion or portable lodge consisting of skins, canvas, or some strong cloth, stretched and sustained by poles, used for sheltering persons or property from the weather.

Temporary Sign: Any sign not permanently installed or not intended or designed for permanent display, including but not limited to yard signs, portable signs, banners, pendants, valences, constructed of cloth, canvas, fabric, cardboard, wallboard, or other material, with or without frames, intended to be displayed for a limited period of time.

Temporary Yard Sign: A specific type of freestanding sign not permanently installed or not intended or designed for permanent display, generally with a wire frame or crossbar, not

permanently attached to the ground; common types of yard signs are the “H Frame” and “I Frame” intended to be displayed for a limited period of time.

Wall mounted: A single-faced sign, which is in any manner attached or affixed to an exterior wall of a building or structure or mounted above or below a canopy.

Warehousing, Commercial: A building/buildings used for the storage of goods and materials and available to the general public or owners for a fee to rent or purchase.

Waterfront Lot: Any parcel of real estate having as one of its boundaries the Shoreline of a Public Freshwater Lake.

Wind Energy Conversion System (WECS): The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, wind tower, transformer, turbine, vane, wind farm collection system, wire, or other component used in the system.

Wind Farm: Two or more large or small wind systems on a single property or aggregated properties for the purpose of converting and then storing or transferring energy from the wind into usable forms of energy

Wind Farm Collection System: All the low-voltage wiring and cabling connecting any wind turbine with another wind turbine or to a place where voltage is stepped up, commonly known as a substation or switching station.

Wind Turbine Generator: A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted and are a part of a micro wind system, small wind system, or large wind system:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind kinetic energy into electrical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
3. A generator, alternator, or other device used to convert the mechanical energy transferred by the rotation of the rotor into electrical energy.

Wind Turbine Generator Height: The distance between the ground and the highest point of the wind turbine generator tower including blades.

Yard: A space on the same lot with the main building, open, unoccupied and unobstructed by building or structures from the ground to the sky, except as otherwise provided in this Ordinance.

Yard, Front: Any yard extending across the full width of a lot, the depth of which shall be the least distance between the front lot line and the front of the principle structure. Any property line abutting a right-of-way (public or private), thoroughfare and/or vehicular access easement shall be considered a front lot line.

Yard, Lake: Any yard extending across the full width of a lot, the depth of which shall be the least distance between the lake and/or waterway lot line and the rear of the principle structure. Any property line abutting a lake and/or waterway shall be considered a rear lot line.

Yard, Rear: A yard extended the full width of the lot between the rear most main building and the rear lot line, the depth of which shall be the least distance between the rear lot lines and the rear of such main building.

Yard Sale: A sale of personal property to the general public on any portion of a residential property, including properties in nonresidential zoning districts which are used for residential purposes. This definition shall also include all sales entitled garage, patio, carport, basement, porch, driveway, rummage and the like.

Yard, Side: A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally and perpendicular from the nearest point of the side lot line toward the nearest part of the main building.

COMPATIBLE USES

Residential and Agricultural
Residential and Environmental
Residential and Limited Industrial
Environmental and Agricultural
Agricultural and Limited Industrial
Agricultural and Light Industrial
Agricultural and Heavy Industrial
Agricultural and Commercial
Commercial and Limited Industrial
Limited Industrial and Light Industrial
Limited Industrial and Heavy Industrial
Light Industrial and Heavy Industrial

INCOMPATIBLE USES

Residential and Light Industrial
Residential and Heavy Industrial
Environmental and Commercial
Environmental and Limited Industrial
Environmental and Light Industrial
Environmental and Heavy Industrial
Commercial and Light Industrial
Commercial and Heavy Industrial
Commercial and Residential

ARTICLE 10 -ADOPTION

10.1 The Kosciusko County Commissioners shall adopt this Revised and Amended Ordinance on the 29th day of August, 2000. This Ordinance shall be in full force and effective on the 1st day of January, 2001 from and after its adoption and publication.

**BOARD OF COMMISSIONERS OF
KOSCIUSKO COUNTY, INDIANA**

Brad Jackson

W.E. Creighton

Avis B. Gunter

Attest: _____
Sue Ann Mitchell-Kosciusko County Auditor

