COMPREHENSIVE ZONING ARTICLE

FOR

Warrick County, Elberfeld, Lynnville, and Tennyson
Indiana

WARRICK COUNTY (UNINCORPORATED TERRITORY)
ARTICLE NO._____

TOWN OF LYNNVILLE
ARTICLE NO.___

TOWN OF ELBERFELD
ARTICLE NO.____

TOWN OF TENNYSON
ARTICLE NO.____

An Article to regulate the erection, reconstruction, alteration, location, and use of buildings, structures, land and water, for trade, industry, residence or other purposes; to regulate the size of buildings and other structures hereafter erected or altered, the size and dimensions of yards, courts and other open spaces surrounding buildings; to regulate building lines and the percentage of lot that may be occupied and the density of population; and, for said purposes, to divide the County of Warrick and participating cities and towns as shown on the official zoning map into districts of such number, shape and area as may be deemed best suited to carry out these regulations, and for each such district to impose regulations, designating the kinds of classes of trades, industries, residences or other purposes for which buildings or other structures or premises may be erected, altered, or used; to provide for the regulation of these uses; repealing all other laws and parts of laws in conflict; and to prescribe penalties for the violation of the provisions of this Article.

Whereas, the County of Warrick and participating cities and towns are authorized by Indiana code 36-7-4 et seq., as amended, to provide by Article, regulations and restrictions governing the height, number of stories and size of buildings and other structures, the percentage and portion of lot that may be occupied, the size of yards, courts, and other open spaces, and the location and use of buildings, structures, and land for trade, industry, residences, apartment houses and other purposes; and

WHEREAS, the Board of County Commissioners of Warrick County and the Town Boards of Elberfeld, Lynnville, and Tennyson, Indiana deem it necessary in order to control the use of land and buildings; to regulate the size and bulk of buildings and their relation to each other; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, schools, parks and other public requirements; to make and promulgate such regulations with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout said County in accordance with the Comprehensive Plan;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WARRICK COUNTY, INDIANA HEREBY ADOPT THIS COMPREHENSIVE ZONING ARTICLE.

ARTICLE I INTENT, PURPOSE AND METHODS

SECTION 1 STATEMENT OF PURPOSE

This Article is for the purpose of promoting public health, safety, morals, convenience, comfort, amenities, prosperity, economic development, and general welfare of the community; that stabilize and enhance property values; provide for a more uniformly just land-use pattern; facilitate adequate provisions for increased safety in traffic and for transportation, vehicular parking, parks, parkways, recreations, schools, public buildings, lights, air, sanitation, and other public requirements and that lessen congestion, disorder and unregulated development.

SECTION 2 COMPREHENSIVE ZONING ARTICLE:SHORT TITLE

This Article shall be known and citied as the COMPREHENSIVE ZONING ARTICLE FOR WARRICK COUNTY, INDIANA, (excluding Boonville, Newburgh, and Chandler.)

ARTICLE II DEFINITIONS

SECTION 1 GENERAL

For the purpose of this ARTICLE, the following words and phrases are defined as follows: "BOARD" shall mean the Warrick County Area Board of Zoning Appeals; "COMMISSION" shall mean the Warrick County Area Plan Commission; "COUNTY" shall mean Warrick County, Indiana; "BOARD OF COUNTY COMMISSIONERS" shall mean the Board of County Commissioners for Warrick County; "PERSON" shall mean natural person, joint venture, joint stock company, partnership, association, limited liability company, club, company, corporation, business trust, or the manager, lessee, agent, servant, officer, or employee of any of them; "SHALL and "MAY": "SHALL" is mandatory, "MAY" is permissive.

Words used in the present tense include the future, the singular number includes the plural and the plural the singular; the words "DESIGNED FOR" include the meaning "USED FOR"; the word "STRUCTURE" includes the word "BUILDING"; and "BUILDING" the word "STRUCTURE"; the word "LOT" includes the words "PLOT", "SITE", and "TRACT"; the words "AREA" and "DISTRICT" may indicate and include the meaning of "ZONE". The word "USED", shall include "ARRANGED", "DESIGNED", "CONSTRUCTED", "ALTERED", "CONVERTED", "RENTED", "LEASED", or "INTENDED TO BE USED". The word "LAND" shall include water surface and land under water.

SECTION 2 TERMS DEFINED

ABUTTING PROPERTY OWNERS ~ *Amended 1-24-07*

Record title owners whose property is contiguous to the subject property, including any property that would touch at any point the subject property, ignoring all rights of way, including all rights of way, owned in fee, easements and alleys, including property owned by a governmental body for the primary purpose of a road way. However, record title owners of property separated from the subject property by a freeway or expressway are not considered "abutting property owners". For the purpose of notifying abutting property owners if only a portion of a parcel of real estates is being considered at the public hearing, and with the remaining portion owned by the same property owner, then the abutting property to the entire parcel shall be notified, except that when the abutting property owner's real estate is 500 feet or more distant from the part of the real estate being considered, no notification shall be required.

ACCESSORY USE OR STRUCTURE

The term applied to the BUILDING or USE which is incidental or subordinate to and customary in connection with the PRINCIPAL BUILDING or USE and which is located on the same lot with such PRINCIPAL BUILDING or USE.

ACCESSORY BUILDING

A subordinate building or portion of a main building, the use of which is incidental to that of the main building or to the permissible use of the premises.

ACCESSORY LIVING QUARTERS

Living quarters within an accessory building, for the sole use of persons employed on the premises, such quarters not rented or otherwise used as a separate dwelling.

ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE

A commercial establishment which has any portion of its revenues, floor space or advertising associated with the sale or rental for any form of consideration, of any one (1) or more of the following: (a) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassette slides, tapes, records, CD-ROMs or other forms of visual or audio representations which meet the definitions of "harmful to minors," under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-4-4 (and as it may from time to time be amended); (b) instruments, devises, or paraphernalia which are designed for use in connection with "sexual conduct" as defined in I.C. 35-42-4-4 (and as it may from time to time be amended).

ADULT ARCADE

A commercial establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines for viewing by five (5) or fewer persons per machines at any one (1) time, in which any portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of "harmful to minors" under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-4-4 (and as it may be from time to time be amended).

ADULT CABARET

A commercial establishment which features live performances which meet the definition of “harmful to minors”, under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display “sexual conduct” as defined in I.C. 35-42-4-4 (and as it may from time to time be amended) to a clientele who pays any form of consideration for such live performance.

ADULT MOTION PICTURE THEATER

An indoor or outdoor facility with a capacity of six (6) or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial time is devoted to the showing of such material which meets the definition of “harmful to minors”, under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display “sexual conduct” as defined in I.C. 35-42-4-4 (and as it may from time to time be amended), for observation by patrons.

ADULT THEATER

A theater, concert hall, auditorium, or similar establishment, either indoor or outdoor, which for any form of consideration, regularly features live performances, a portion of the total presentation time are distinguished or characterized by an emphasis on actives which meet the definition of “harmful to minors”, under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display “sexual conduct” as defined in I.C. 35-42-4-4 (and as it may from time to time be amended).

AGRICULTURE

The tilling of soil, the raising of crops, forestry, horticulture and gardening, keeping or raising of domestic animals & fowl and any agricultural industry or business such as dairy farms, greenhouses or similar uses.

ALLEY

A public right of way other than a street, road or crosswalk, not intended for general traffic circulation and used primarily for access to the rear or side of property.

ALTERATION, STRUCTURAL

Any change, removal, replacement, reinforcement or addition of beams, ceiling and floor joints, reinforced concrete floor slabs, load-bearing partitions, columns, exterior walls, stairways, roofs, corridors or other structural materials

used in a building that supports the said beams, ceiling and floor joists, load-bearing partitions, columns, exterior walls, stairways, roofs, or structural materials used in the BUILDING or STRUCTURE. The above defined structural alteration is allocable to any BUILDING or STRUCTURE or any part thereof, whether or not permanent or temporary shoring is used during construction and whether or not additions to or rebuilding the major portion of an existing BUILDING is being accomplished.

APARTMENT BUILDING

"See Dwelling, Multiple"

AUTOMOBILE OR TRAILER SALES AREA

An open area, other than a street, used for display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

AUTOMOBILE REPAIR, MAJOR

General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body, frame or fender repair; over-all painting.

AUTOMOBILE REPAIR, MINOR

Upholstering, replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half (1 ½) tons capacity, but not including other operations named under "Automobile Repair, Major", or similar thereto as determined by the Commission.

AUTOMOBILE SERVICE OR FILLING STATION

A retail place or business engaged primarily in the sale of motor fuel but also supplying goods and services generally required in the operating and maintenance of automotive vehicles and the fulfilling of motorist needs, which may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubrication services; the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products, excluding major automobile repairs, painting, body and fender work.

BAR (TAVERN)

Any place devoted to the retailing and drinking of malt, vinous, or other alcoholic beverages, or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the premises.

BASEMENT

A story of a building, the greater part of which is below the grade level.

BEGINNING OF CONSTRUCTION

The incorporation of labor and material in the foundation and/or building pad.

BOARDING OR LODGING HOUSE

A dwelling or part thereof where lodging and/or meals are provided for compensation.

BUILDING

Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.

BUILDING AREA

The maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces, unenclosed porches not exceeding one story in height, or architectural appurtenances projecting not more than two (2) feet.

BUILDING, COMPLETELY ENCLOSED

A BUILDING separated on all sides from adjacent open space, or from other BUILDINGS or other structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

BUILDING DETACHED

A building having no party wall in common with another building.

BUILDING – HEIGHT OF

The vertical distance from the mean elevation at the ground level of the front of the building to the highest part of the roof.

BUILDING SET BACK LINE

The minimum distance between the street, right of way, rear or side lot lines and the front line, rear line or side line of the building or any projection.

BUILDING, NON-CONFORMING

"See Non-conforming."

BUILDING PRINCIPAL

A building in which is conducted the principal use of the building site on which it is situated. In any residential district any dwelling shall be deemed to be a main building of the building site on which the same is located. Where a garage, carport, porch or other structure is attached to the principal building in a substantial manner as by a roof such structure shall be deemed to be part of the principal building.

BUILDING, SEMI-DETACHED

A building having one party wall common with an adjacent building.

BUSINESS OR COMMERCIAL

The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

CARPORT

An open-sided accessory structure designed or used for the parking of self-propelled private passenger vehicles by the occupant of the main building.

CELLAR

A story or floor of which is more than one-half (1/2) of a story height below the average adjacent ground level at the exterior walls of the building.

CEMETERY

Land used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematoria, mausoleum, and mortuaries when operated in conjunction with, and within, the boundary of such cemetery.

CERTIFIED SURVEY

A survey, sketch, plan, map or other exhibit is said to be certified as to its accuracy or conformity to specified standards signed by a registered surveyor, and which shows property corner stakes; property line dimensions; property line bearings, existing structures, their dimensions and relation to property lines; general elevation of property; all existing utilities and related data; existing right-of-way; easements of record; existing sidewalks; street of record; building setbacks required by law; general block plan; and other similar data.

CLINIC

An establishment where patients, who are not lodged over-night, are admitted for examination and treatment by one person or a group of persons practicing any form of healing or health services to individuals, whether such persons by medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession the practice of which is lawful in the State of Indiana.

CLUB, PRIVATE

Shall pertain to and include those associations and organizations of a fraternal or social character, not operated or maintained for profit.

COMMERCIAL VEHICLE

Any vehicle other than private passenger vehicles designed, intended or used for transportation of people, goods, or things. The term commercial vehicle shall also include private passenger vehicles such as pick-up trucks, vans, and automobiles which have been altered for use in a commercial enterprise.

COMPREHENSIVE PLAN

A comprehensive land use plan for Warrick County as adopted by the Area Plan Commission, Warrick County, and the participating municipalities, as more particularly defined by I.C. 36-7-4-500 et seq. as amended.

CONFINED FEEDING OPERATION

A confined feeding operation is a facility for the confined feeding of cattle swine or sheep or fowl which requires a permit from the Indiana Department of Environment Management or successor entity, pursuant to I.C. 13-18-10 et seq., and/or any subsequent statues in acted therein.

DISTRICT

A portion of the territory of Warrick County or any participating city or town within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Article. Includes "Zone" and "Zoning District."

DOCK

A landing pier for boats; a wharf; a structure supported by piling or floats in such a manner as to allow free flow of water beneath said structure and in which any buildings constructed thereon are incidental to the use of said structures as a wharf or landing pier.

DWELLING, ONE FAMILY

A structure or building containing one DWELLING UNIT.

DWELLING, TWO-FAMILY OR DUPLEX

A building designed for or used exclusively for residential purposes by two families living independently of each other.

DWELLING, MULTIPLE

A building or portion thereof used or designed as a residence for three (3) or more families living independently of each other, (and doing their own cooking in said building), including apartments and apartment hotels.

DWELLING ROW

A building having a party wall on each side in common with an adjoining building.

DWELLING UNIT

A building or portion thereof, designed for and used for residential purposes by a family.

EASEMENT

A strip or parcel of land dedicated for public utility purposes or other necessary public uses.

EDUCATIONAL INSTITUTIONS

Preprimary, primary, or grammar, public, parochial or private school; high school; preparatory school or academy, public or founded or owned or conducted by or under the sponsorship of a religious or charitable organization; private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to colleges or universities which award B.A. or B.S. degree; junior college, college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or private when not conducted as a commercial enterprise for the profit of individual owners or stockholders. This definition shall not be deemed to include trade or business school as defined in this Section.

EMPLOYEE (SERVANTS QUARTERS)

An ACCESSORY BUILDING located on the same PREMISES with the main BUILDING, used solely for persons employed on the PREMISES and not rented or otherwise used as a separate DWELLING UNIT.

FAMILY

Any number of individuals occupying a dwelling and maintaining a common household and single housekeeping unit and using common cooking facilities not herein defined as a boarding house, lodging house or hotel.

FHBM

Flood Hazard Boundary Map.

FIRM

Flood Insurance Rate Map.

FLOOD

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

FLOOR AREA

The gross horizontal area, measured from the exterior faces of the exterior walls or from the exterior faces of the supporting exterior columns for any floor not enclosed by exterior walls, or from the center line of party walls separating two buildings.

FLOODPLAIN

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

FLOOD PROTECTION GRADE

Flood Protection Grade or "FPG" means the elevation of the regulatory flood plus two (2) feet at any given location in the SFHA.

FLOOD WAY AND/OR FLOOD DISTRICT

A channel of river or stream in those portions of the flood plains adjoining the channels which are reasonably required to efficiently carry and discharge peak flood flow of a regulatory flood of any river or stream as so designated by the Indiana Department of Natural Resources and/or so designated by the Federal Emergency Management Agency.

FRONTAGE

That part or part of a parcel which abuts a street measured along the street right of way line.

GARAGE, PRIVATE

A detached accessory building or portion of a main building, used for the storage of vehicles. *Amended 9/12/16*

GARAGE (REPAIR)

A BUILDING, or part thereof, where automobiles are received and a charge is made for repairs to any part thereof, but does not include automotive overhauling, wholesale rebuilding of automotive parts or paint and body works.

GARAGE/YARD SALE *–Added 9/12/2007(2007-16)*

A private sale conducted by the owner or occupant of the premises, conducted within a residence, garage, or other accessory building or outside thereof, which sale is of an item or items of personal property owned or in the possession of the occupant of the premises, which personal property was not acquired by the owner or occupant for the purposes of resale.

GROUP HOME

A dwelling shared by four (4) or more handicapped persons including resident staff, who live together as a single housekeeping unit and a long term family-like environment, which staff persons provide care, education, participation, community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. "Handicapped" for purposes of this definition shall be as defined by the Americans with Disabilities Act. Group homes shall also include facilities established pursuant to I.C. 12-17.4-5 et seq.

GUEST HOUSE

A BUILDING separate and in addition to a main RESIDENTIAL building on a LOT intended for intermittent or transient occupancy; such quarters having no kitchen facilities and not rented or otherwise used as a separate DWELLING UNIT.

HOME OCCUPATION

Any non-residential occupation or activity conducted within a dwelling and in which the person in charge of conducting said activity is an occupant of such dwelling, which use is incidental and secondary to the use of the dwelling structure which occupies not over twenty-five (25) percent of the first floor of such dwelling and does not change the character thereof and where there is no display of goods outside storage of goods or equipment and which does not involve the sale of goods, equipment or commodity on the premises.

HOME WORKSHOPS *Amended 7/14/2010*

A use conducted entirely within a dwelling, or in an accessory building located on same lot, parcel or tract of land, consisting of 3.5 acres or more, as a dwelling used for residential purposes, provided the home workshop is clearly incidental and secondary to the use of the property for residential purposes and does not change the character thereof or have any exterior evidence other than a sign not exceeding twenty-five (25) square feet, as provided for in these regulations. Home workshop use may include light fabricating, manufacturing, building trades, distribution or processing activities, or storage facilities and items or actions incidental to the same, provided that such use does not occupy an area in excess of one-thousand (1000) square feet per acre not to exceed ten thousand (10,000) square feet per lot, parcel or tract. Retail businesses shall not be considered home workshops.

HOSPITAL, ANIMAL

A building or premises used for the care of sick or injured animals or a veterinarian hospital.

HOTEL

A BUILDING or part thereof, in which rental SLEEPING UNITS are offered to the public and which maintains an inner lobby through which all occupants must be provided a means in which to pass to gain access; caters to transient occupancy.

IMPROVEMENT LOCATION PERMIT

A document issued by the Warrick County Plan Commission authorizing buildings, structures or uses consistent with the terms of this Article.

JUNK – SALVAGE YARD

Any land, property, structure, building or combination thereof, where junk is stored or processed. "Junk or salvage" includes, but is not limited to, wrecked or inoperable vehicles, parts of vehicles, scrap iron and other metals, wood, paper, rags, rubber tires, bottles, etc.

KENNEL

Premises upon which four (4) or more weaned dogs are kept.

KITCHEN FACILITIES

A portion of a BUILDING used for the preparation of meals.

LEGAL NON-CONFORMING USE; BUILDING OR STRUCTURE

A USE, BUILDING OR STRUCTURE existing prior to June 13, 1964, which does not conform with the USE regulations of the district in which it is located pursuant to the provisions of this Article.

LOADING AND UNLOADING BERTHS

The off- street area required for the receipt or distribution by and from vehicles of material or merchandise.

LODGING HOUSE

A building, other than a hotel, where lodging with or without meals is provided for compensation.

LOT

A piece of parcel of land occupied or intended to be occupied by a principal building or group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this Article, and having frontage and access on an improved and accepted public street or dedicated right of way which meets the standards of width and improvements specified for the street in question. It may be a single parcel separately described in a deed which is recorded in the office of the County Recorder, or it may include parts of or a combination of such parcels when adjacent to one another and used as one lot.

LOT AREA

The computed horizontal area contained within the lot lines of a lot.

LOT, CORNER

A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less that one hundred thirty-five (135) degrees. The point of intersection of the street right-of-way lines is the “corner”.

LOT COVERAGE

The combined area occupied by the ground floor of all principal and accessory buildings, including any area covered by any extension beyond the exterior face of the exterior walls.

LOT, DEPTH

The mean horizontal distance between the front and the rear lot lines or between the front lot line and the intersection of the two side lines if there should be no rear lot line.

LOT LINE, FRONT

The line separating the lot from the street.

LOT LINE, REAR

A lot line which is opposite and most distant from the FRONT LOT LINE.

LOT LINE, SIDE

Any lot line other than a front or rear lot line.

LOT OF RECORD

A lot which is part of a subdivision as approved by the Warrick Area Plan Commission and recorded in the office of the County Recorder, or a parcel or tract of land described by metes and bounds which has been so recorded prior to June 13, 1964.

LOT THROUGH

A lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH

The distance measured between side lot lines at the building set back line.

MANUFACTURED HOME ~ *Amended 1-24-07*

"Manufactured/modular home" means a dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code or I.C. 22 et seq. as promulgated by the Indiana Administrative Building Council. A modular housing unit is constructed in part or in whole at a place other than the foundation site, transported to the foundation site, and assembled on site to create one whole structure. The manufactured home or modular housing unit should include but not be limited to these features: asphalt roof, roof pitch of at least 2.5:12, house-type windows, doors and siding, and must be placed on a permanent foundation. Modular home, prefabricated homes, and other such implied terms shall be deemed to be the same "manufactured homes."

MORTUARY

A building or portion thereof which is designed or used for a funeral parlor or undertaking establishment.

MOBILE HOME OR TRAILER

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

MOBILE HOME LOT

A parcel and/or plot of ground within a mobile home park designed for the accommodation of one mobile home.

MOBILE HOME PARK

An area of land used or intended to be used for the parking of two or more mobile homes and including such service buildings as are incidental thereto as established in conformance with all applicable statutes, rules, regulations as enforced by and promulgated by the Indiana Department of Health and/or its successor agency.

MOTEL

A building or series of buildings, being attached, semi-detached, or detached, containing RENTAL SLEEPING UNITS, and where each unit has convenient access to a parking space for the use of the unit's occupants. The Rental Sleeping Units, with the exception of a dwelling unit for the manager or caretaker, are devoted to the use of automobile transients and no KITCHEN FACILITIES are offered.

NON-RESIDENTIAL SITE REVIEW COMMITTEE

A committee consisting of the Area Plan Commission Executive Director, Warrick County Highway Engineer and Warrick County Surveyor, who will review all non-residential site plans prior to Improvement Location Permit being approved.

NURSING HOME

Any premises where persons are lodged, furnished with meals and nursing care.

PARCEL *Added 5/9/11*

As used in this Ordinance, Parcel means an area of land that is

a. Under common fee simple ownership
b. Contained within a continuous border; and
c. A separately identified parcel for property tax purposes

PARKING SPACE / AREA

A permanently surfaced area, either within a structure or in the open, excluding paved area necessary for access and or public right of ways, used for the parking of motor vehicles.

PERMIT

"See improvement Location Permit."

PERMITTED USE

For the purpose of this Article, a permitted use in any district shall include any use listed as a Principal Permitted Use or Accessory Use, and shall further include Special Uses as listed for the particular district.

PLAT

A map, plan or chart of a city, town, section or subdivision indicating the location and Boundaries of individual properties.

PLANNED UNIT DEVELOPMENT (PUD)

A Planned Unit Development, hereinafter referred to as "PUD", is a specific classification of land to be developed for either residential, commercial or industrial purposes, or a combination thereof, to allow for development of a large tract as a single compatible unit. PUD's are governed by the provisions of I.C. 36-7-4-1500, et seq.

PREMISES

A lot including buildings thereon, if any.

PROFESSIONAL OFFICE

Office for members of recognized professions, such as architects, attorneys, dentists, engineers, physicians, surgeons, or other similar professional persons.

REGULATORY FLOOD

Regulatory flood means the flood having a one percent (1%) probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural

Resources. The regulatory flood elevation at any location is as defined in Section 5 of this Article. The Regulatory Flood is also known by the term "Base Flood".

RECREATION, COMMERCIAL

Recreation facilities operated as a business and open to the general public for a fee.

RESTAURANT

A BUILDING or room, not operated as a dining room in connection with a hotel, where food is prepared and served for compensation for consumption either on the premises or off premises.

SANITARIUM

An institution for the treatment of diseases.

SELF-SERVICE STORAGE FACILITY

A building or group of buildings consisting of varying sizes of individual, small, compartmentalized units for the storage of goods or wares.

SFHA

SFHA or Special Flood Hazard Area means those lands within the jurisdiction of the unincorporated areas of Warrick County, Indiana that are subject to inundation by the regulatory flood. The SFHA's of the unincorporated areas of Warrick County, Indiana, are generally identified as such on the Flood Insurance Rate Map of the unincorporated areas of Warrick County, Indiana, prepared by the Federal Emergency Management Agency and dated May 17, 1982 and all amendments thereto.

SIGN

Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure, or surface. Signs places or erected by the State or local governments for the purpose of showing street names or traffic directions or regulations or for other municipal or governmental purposes shall not be regulated by this Article.

SIGN, BILLBOARD

Any sign advertising merchandise, service, commodity sold, produced, manufactured, or furnished off premises.

SIGN, ILLUMINATED

Any sign which has characters, letters, figures, designs, or outlines illuminated by electric lights or illuminated tubes as part of the SIGN proper, or illuminated by independently located spot lights or flood lights.

STORY

That portion of a building, included between the surface of any floor and the surface next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF

A story with at least two (2) of its opposite sides situated on a sloping roof, the FLOOR AREA of which does not exceed two-thirds (2/3) of the floor area immediately below it.

STREET

A public way established by or maintained under public authority, or a right of way dedicated to public use, whether constructed or not.

STRUCTURE ~ *Amended 12-14-05*

Anything constructed or erected, the use of which requires location on the ground, or attached to something having a location on the ground. This includes in-ground pools and above ground pools where depths exceed three (3) feet six (6) inches.

TOWN BOARD

The Board of Trustees of an incorporated town.

TRADE OR BUSINESS SCHOOL

A vocational establishment conducted as a commercial enterprise for instructional purposes.

URBAN AREA ~ *Amended 7-9-12*

In accordance to Indiana Code 36-7-4—1103 (b) all lands and lots within the corporate boundaries of a municipality, and other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been planned for residential areas contiguous to the municipality.

USE

The purpose, for which land or a BUILDING or STRUCTURE is arranged, designed or intended or for which either land or a BUILDING is or may be occupied, maintained, let, or leased.

USE AND DEVELOPMENT COMMITMENTS

A written commitment concerning the development of a parcel of real estate authorized by and in conformity with I.C. 36-7-4-613 as amended, concerning real estate which is the subject of a petition to amend the zoning maps.

USE, OPEN

The use of a lot without a building or including a building incidental to the open use with ground floor area equal to five percent (5%) or less of the area of the lot.

VARIANCE

A modification of, or deviation from, any regulation, except a use regulation, for a specified zone DISTRICT of the COMPREHENSIVE ZONING ARTICLE, which is authorized and approved by the Board of Zoning Appeals.

WIRELESS COMMUNICATIONS FACILITIES

Antennas, towers or other similar structures utilized for the purpose of transmitting signals for cellular/wireless telecommunication purposes.

YARD

A space on the same lot with a STRUCTURE or USE, open and unobstructed from the ground to the sky, EXCEPT by encroachments specifically permitted by the provisions of this ARTICLE.

YARD, FRONT

A yard, extending across the full width of the lot, the depth of which shall be the least Distance between the front lot line and the front of the main building.

YARD, SIDE

A yard between the foundation line of any part of the building and the side line of the lot and extending from the front yard to the rear yard.

YARD, REAR

A yard extending across the full width of the lot between the rear line of the building and the rear line of the lot.

ZONING ARTICLE

For the purpose of this Article shall mean the Comprehensive Zoning Article for the County of Warrick, Indiana and participating cities and towns.

ARTICLE III ZONING DISTRICTS

SECTION 1 DESIGNATION OF DISTRICTS

For the purpose of the Article in regulating use of land, water and building, and height, bulk, population density and open space, the County of Warrick and participating cities and towns are hereby divided into the following districts;

SYMBOL	DISTRICTS
FP	Flood Plain (district created pursuant to prior Article)
Con	Recreation and Conservancy
A	Agriculture
	RESIDENTIAL DISTRICTS
R-1	One Family Dwelling
R-1A	One Family Dwelling
R-1B	One Family Dwelling
R-1C	One Family Dwelling
R-1D	One Family Dwelling
R-2	Multiple Family Dwelling
R-2A	Two Family Dwelling
R-2B	Apartments District
R-3	Resort
R-0	Residential Office
R-MH	Mobile Home
	COMMERCIAL DISTRICTS
C-1	Neighborhood Commercial
C-2	Shopping Center
C-3	Highway Commercial
C-4	General Commercial
	WATERFRONT
W-R	Waterfront Recreational
W-I	Waterfront Industrial
	INDUSTRIAL
M-1	Light Industrial
M-2	General Industrial
M-3	Solid Waste Disposal Facility

SECTION 2 ZONING DISTRICT MAPS

The area for each district set forth in section 1 the designations of said district, and the corresponding boundaries shall be shown upon the maps hereto attached and made a part of this Article and shall be referred to as the "ZONING DISTRICT MAPS" Said maps and the notations therein have become a part of this Article as if set out in full in the text.

The Official Zoning District Maps for the unincorporated territory of Warrick County and those participating municipalities shall be located in the office of the Warrick County Area Plan Commission. The Official Zoning District Maps for the incorporated participating cities and towns shall be located in the office of each respective Clerk-Treasurer.

SECTION 3 REPLACEMENT OF OFFICIAL ZONING DISTRICT MAPS

In the event that the Official Zoning District Maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners and participating units of government may by resolution adopt a replacement which shall supersede the prior Official Zoning District Maps. The new Official Zoning District Maps may correct drafting or other errors or omissions in the prior Official Zoning District Maps, but no such corrections may have the effect of amending the original zoning article or any subsequent amendment thereof. The new Official Zoning District Maps shall be identified by the signatures of the Board of County Commissioners of Warrick County, Indiana and the Mayor or President of any participating city or town, duly attested under the following words: "This is to certify that this Official Zoning District Map supersedes and replaces the Official Zoning District Maps adopted on (date of adoption of map being replaced), as part of Article No.___ Lynnville Town Board; Article No._____ Elberfeld Town Board; Article No._____ Tennyson Town Board; Article No._____ Warrick County, Indiana together with the effective date."

The Official Zoning Maps may be maintained in electronic form as provided for under Indiana Law. The electronic form of said Zoning maps shall also constitute the Official Zoning District Maps.

SECTION 4 ANNEXED AREAS

All "A" Agriculture and "Con" Recreation and Conservancy Zoned areas hereafter annexed to any participating unit of government are hereby declared to be zoned "R-1A" until otherwise zoned or classified as to Zoning District. The zoning classification of all other areas annexed shall remain the same upon annexation.

SECTION 5 WATER AREAS

The water surface and the land under the water surface of all canals, creeks, rivers, waterways, ponds, lakes and other water areas in the County of Warrick are hereby placed in the same zoning district as the land which it abuts as shown on the Zoning District Maps. Where the zoning districts shown on the Zoning District Maps are different on opposite sides of the water area, then the kind of zoning district on each side shall extend to the center line or midpoint of the water area..

SECTION 6 DISTRICTING OF VACATED WAYS AND RAILROAD RIGHT-OF-WAYS

(1) Where a street or alley shown on the Zoning District Map is hereafter officially vacated by replatting or otherwise, the land formerly in such street or alley right-of-way shall be included within the zoning district of the land from which the former street, alley or right of way was originally derived. In the event that the area vacated was derived equally from the respective adjoining properties on either side of the vacated street, alley or right of way, that portion of the vacated street or alley way shall be included in the zoning district of the land from which it was originally derived.

(2) Railroad right-of-way in the County of Warrick is hereby placed in the same zoning district as the land which it abuts as shown on the Zoning District Maps. Where the zoning districts shown on the Zoning District Maps are different on opposite sides of the railroad right-of-way, the kind of zoning district on each side shall extend to the center line or midpoint of said right-of-way.

SECTION 7 BOUNDARIES OF DISTRICTS

(1) Unless otherwise shown, the district boundaries are street lines, alley lines, or the subdividing or boundary lines of recorded plats, or the extensions thereof, and where the districts designated on maps accompanying and made a part of this Article are approximately bounded by street lines, alley lines or the extensions thereof shall be considered to be district boundaries.

(2) Where due to the scale or illegibility of the District Map or due to the absence of a street, alley, or recorded subdividing lines or plat lines, there exists an uncertainty, and/or contradiction or conflict as to intended location of any district boundary, the Commission shall determine the location of said district boundaries consistent with the provisions with this Article.

(3) Where the boundary line of a district divides a lot having frontage on a street in a less restricted zone, the provisions of this Article covering the less restricted portion of such lot shall apply to the entire lot. Where the boundary line of a district divides a lot having frontage only on a street in a more restricted district, the

provisions of this Article covering the more restricted portion of such lot shall apply to the entire lot.

ARTICLE IV GENERAL PROVISIONS

SECTION 1 CONFLICTING REGULATIONS

Wherever any provisions of this Article impose more stringent requirements, regulations or limitations than are imposed or required by the provisions of any other law or Article, then the provisions of this Article shall be controlling, except where the regulation of the particular matter is specifically preempted by State or Federal Law.

SECTION 2 SCOPE

No building or structure or part thereof, shall be erected, constructed, reconstructed or altered, and maintained, and no existing use, new use or change of use of any building, structure or land, or part thereof shall be made or continued, except in conformity with the provisions of this Article.

SECTION 3 TIME LIMIT

Any improvement location permit granted pursuant to the provisions of this Article, shall become null and void if proposed construction is not commenced within six (6) months of the issuance of said improvement location permit. *Amended 11/14/16.*

SECTION 4 PLATTING OF UNPLATTED LAND

The subdividing and/or platting of any tract of land shall be done in the manner prescribed by the Warrick County Subdivision Control Article.

SECTION 5 PUBLIC NUISANCES *Amended 1/9/12*

A public nuisance shall be that which affects an entire neighborhood or community, and is a violation as described in Indiana Code 32-30-6-6. (*Nuisance described and considered subject to an action; whatever is:1. Injurious to health; 2. Indecent; 3. Offensive to the senses; or 4. An obstruction to the free use of property; so as essentially to interfere with the comfortable enjoyment of life or property, is a nuisance, and the subject of an action.)*

SECTION 6 EXCLUSIONS FROM HEIGHT LIMITS

Penthouse on roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, television aerials, steeples, roof signs, flagpoles, smokestacks, chimneys, wireless masts, water tanks, grain elevators, silos, gas containers, industrial installations requiring a vertical production procedure, such as

floor mills, steel mills and refineries or similar structures may be erected above the height limits herein prescribed, but no penthouse or roof structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential, business, or industrial use.

SECTION 7 AIRPORT RESTRICTIONS

The issuance of all permits shall be subject to those restrictions of the Federal Aviation Administration, Indiana Department of Transportation, and/or any other federal, state, or local governmental agency having jurisdiction regarding development of airport facilities.

SECTION 8 NATURAL RESOURCES AND MINERALS

The extrusion of natural resources such as coal and other minerals in place including extraction and production of oil and gas shall be subject to all appropriate State and Federal regulations and shall require the obtaining of a special use permit in the manner prescribed by Article V of this Article.

SECTION 9 "GARAGE/YARD SALES" RESTRICTIONS *Amended 9/12/2007*

A. A "garage/yard sale" may be conducted not more than two times in any one calendar year on any premises located in any zoning district: no sale shall be conducted for more than three consecutive days.

B. All personal property exhibited for sale outside any structure during such garage or yard sale shall be removed from the outside and placed within a structure within 48 hours following the last day of such sale. All signs erected for such garage or yard sale shall likewise be removed.

ARTICLE V SPECIAL USES

SECTION 1 OBJECTIVES

Certain uses are necessary to the life and economic health of the community, but have characteristics of operation that do not readily permit classification in the usual residential, commercial, or industrial districts. Because of the various types of uses and locations requiring this special consideration, the specific conditions under which each use may be permitted must be considered. These uses are specifically listed in Section 5 conditions for the approval of a special use are enumerated in Section 3.

SECTION 2 SPECIAL USES AS SECONDARY CLASSIFICATIONS

Special uses are secondary classifications. If an application is approved by the Board of Zoning Appeals the special use designation shall be placed on the zoning map in addition to its primary zoning classification.

SECTION 3 SPECIAL USE DESIGNATIONS

The following uses are subject to the requirements of this chapter:

USE DESIGNATION

SU-1 Commercial and private non-commercial recreational areas, uses and facilities including country clubs, social centers, swimming pools, golf courses, and golf driving ranges.

SU-2 Riding stables, dude and guest ranches and riding trails, fair ground, riding academy, or stable.

SU-3 Borrow pit and earth storage areas.

SU-4 Commercial baseball or athletic fields, stadium or racetrack, auditoriums, or arenas.

SU-5 Commercial facilities for the sale of livestock, animal breeding, research laboratory and confined feeding operations.

SU-6 Gun clubs, skeet shoots or target ranges and paint ball facilities (indoor & outdoor).

SU-7 Airports or heliports.

SU-8 Electronic message boards and/or signs with flashing, moving, rotating or intermittent lights or animated messages.

SU-9 Hospitals.

SU-10 Cemeteries, mausoleums, columbaria or crematoria.

SU-11 Public parks or public recreational facilities.

SU-12 Home occupations.

SU-13 Mineral extraction, storage and processing, and/or oil/gas productions in an Urban area as described in Indiana Code 36-7-4-1103 and flood hazard areas as adopted by ordinance effective August 2, 2012, excluding any underground mining activities resulting in mineral extraction during which no surface use or disruption occurs within Warrick County for which a Special Use will not be required.~ *Amended 7-9-12*

SU-14 Temporary Mobile Offices.

SU-15 Colleges, universities and schools (public and private) and libraries. *Amended 9/12/2007*

SU-16 Accessory living quarters clearly complementary to main use and not for rental purposes.

SU-17 Adult businesses including adult arcades, adult bookstores, adult novelty stores or adult video stores, adult cabaret or juice bars, adult motion picture theaters, adult theaters, nude model studios, sexual encounter centers, and peep show facilities, or other forms of visual or audio representations which meet the definition of "harmful to minors", under I.C. 35-49-2-2.

SU-18 Radio or television towers, wireless communication facilities and/or towers, and installation of cellular antenna towers and similar uses excluding exempt public utilities; amateur radio antennas which exceed the height regulations of the district in which it is proposed to be located.

SU-19 *Deleted by Ordinance 2013-09 on 6/10/2013*

SU-20 Hazardous Waste processing and autoclave and other similar facilities.

SU-21 Private Aircraft landing facilities.

SU-22 Mobile Homes (Single Site).

SU-23 Self-Storage Warehouse Facilities with outside storage ***except in "M-1" Light Industrial and "M-2" General Industrial zoning districts.*** *Amended 8-31-09.*

SU-24 Kennel (without veterinary clinic or other accessory businesses)
~ *Amended 5-25-05*

SU-25 Drive In Restaurant and/or outside entertainment ~ *Amended 1-24-07*

SU-26 Road Side Stand (temporary location for sale of agricultural products.) ~ *Amended 1-24-07*

SU 27 Child Care Home (s) Child Care Home Class I & II as described in IC 36-7-4-1108 *Amended 10-13-14.*

SU-28 Home Workshop (see Section 5 Procedure Subsection K for conditions) *Amended 7/14/2010*

SECTION 4 DISTRICT LIMITATIONS.

Only those special uses which are indicated on Table "A" shall be permitted in the zoning districts indicated.

SECTION 5 PROCEDURE

A. A person desiring a special use classification must submit an application to Board of Zoning Appeals at the Area Plan Commission office. The application must contain a site plan showing the following:

1. The proposed use of the land;

2. The location and size of all buildings and structures, including signs;

3. The location of streets, access drives, and off-street parking and loading facilities;

B. After receipt of the application, the Board of Zoning Appeals shall conduct a public hearing pursuant to I.C. 36-7-4 for which twenty-one (21) days prior notice has been given by the applicant by certified mail, return receipt requested, to (i) abutting surface property owners; (ii) in the case of a SU-13 Application if there are two (2) or more owners of the surface of the subject property, to the owners of the surface of the subject property, unless such owners have signed the SU-13 Application, and (iii) to the public by legal advertisement. Also, no less than ten (10) days prior to the hearing, a notice containing the date, time, place and purpose of the hearing must be posted conspicuously on the property by the petitioner. *Amended 01/24/2011.*

After the hearing, the Board of Zoning Appeals shall make its determination for approval, denial, or modification of the special use classification based on the following criteria:

1. Whether the specific site is appropriate location for the uses;

2. Whether the use as developed will adversely affect the surrounding area;

3. Whether there will be nuisance or serious hazard to vehicles, pedestrians, or residents;

4. Whether adequate and appropriate facilities will be provided for proper operation of the uses;

5. Whether the use is in harmony with the Warrick County Comprehensive Plan and;

6. Whether the use is essential or desirable to the public convenience and welfare.

C. The Board of Zoning Appeals approval or modification of a special use classification may include whatever reasonable conditions, limitations, or temporary uses necessary for the protection of the public interest including the following:

1. Greater front, side, and rear yards than the minimums for the area;

2. More off-street parking and screening;

3. Modifications of exterior design or materials;

4. Limitations on the lot coverage and occupancy of the building or structure;

5. Limitations on signs and sign coverage; and

6. Time limitations.

D. To protect the public interest and to ensure compliance with requirements to be included in the site plan, the Board of Zoning Appeals may require whatever evidence and guarantees are necessary to assure compliance with conditions, limitations, and temporary uses.

E. All SU 12 Special Uses shall be subject to the following requirements: *Amended 8-31-09.*

1. No identifying or business sign shall be erected or placed on any site for which an SU 12 has been granted by the Board of Zoning Appeals.

2. Except for the shipment and receipt of goods, products or items necessary for the SU 12, the use shall not be visible from the exterior of the premises.

3. No person or persons may be employed in the SU 12 home occupation at the site other than the resident (or residents) of the site for which the SU 12 has been granted.

4. The use may not be varied from the specified home occupation identified by the applicant for which it is granted.

F. All SU-17 Special Uses shall be subject to the following requirements:

1. No such use shall be located within 1,000 feet of any dwelling unit, duplex, or other building used for residential use or any recorded residential subdivision in the A zoning district.

2. No such use shall be located within 1,000 feet of any residential zoned district.

3. No such use shall be located within 1,000 feet of any religious institution or public or private school.

4. No such use shall be located within 1,000 feet of any public park.

All distance measurements shall be confirmed by a land surveyor registered by the State of Indiana confirming that there are no residential properties, public or private schools, public park, or pre-existing non-conforming uses which are Adult Bookstore, Adult Novelty Store, Adult Arcade, Adult Cabaret, Adult Motion Picture Theater, Adult Theater, Nude Model Studio, Sexual Encounter Center or Peep Show Facility within the distance limitations set forth herein.

G. In addition to all other procedures listed above, the petitioner for a SU-17 shall send notice as called for in Subsection (B) above to not only the abutting property owners, but the applicant shall send notice by certified mail, return receipt requested, to all property owners of property within 1,000 feet of the property requested for Special Use. A list of all such property owners shall be given to the Area Plan Commission at the time of filing the application.

H. The distance provided in (F) and (G) above shall be measured by the following; a straight line, without regard to intervening buildings, structures, or other obstacles, from the nearest point of the property or the land use district boundary line from which the land use is to be separated.

I. All SU-18 Special Uses shall be subject to the following requirements:

1. Commercial site plan meeting the requirements for review by the Site Review Committee, including a surveyor certification of the exact location of tower from property lines; center lines of abutting streets or right-of-way; distance to the nearest residential district, residence, or recorded residential subdivision.

2. Structural plans including elevation and plan views showing height above grade level and dimensions is required in addition to site plan.

3. Information regarding the number of antennas that the proposed new tower or structure is designed to or can safely accommodate.

4. Evidence demonstrating that no existing tower or structure can accommodate applicant's proposed antenna, either because there are no existing towers or structures meeting the applicant's engineering requirements within the geographic area that the antenna is intended to service, or if there are towers or structures in the geographic area, evidence that such structures do not have sufficient height or structural strength to meet the applicant's engineering requirements. This section shall not be interpreted to mandate, but rather only to encourage co-location.

5. The set back requirements from any residentially dwelling property or undeveloped residentially district or recorded residentially subdivision shall a distance of two (2) feet for each foot of height of the tower or three hundred (300) feet whichever is greater.

6. Wireless communications facilities that include towers are not permitted in residential districts. However, in these districts, commercial telecommunications antennas attached to existing buildings or structures are permitted on any property with a commercial use or an institutional use such as church, park, library, government, school, hospital, utility or similar use. Commercial antennas mounted on roofs, walls, and existing structures may be approved by Site Review Committee, providing the antennas meet the requirements of the district in which they are located and do not exceed the building height by more than twenty (20) feet.

7. The use of a wireless telecommunications facility by more than one wireless telecommunications provider (co-location) is encouraged, and when new towers are necessary, construction should accommodate multiple users. Co-location of antennas on a single tower antenna attached to existing structures/buildings, or replacement towers to be constructed at the site of a current tower are permitted uses and will not be subject to the Special Use permitting process.

8. Each operator of a telecommunications facility must send to the Area Plan Commission a copy of any notice sent to the FCC of intention to cease operations. All abandoned or unused towers and associated facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Board of Zoning Appeals. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted prior to issuance of the required improvement location permit, shall be incorporated as part of the permit, and permit

approval shall be conditioned upon removal of the structures(s) within six (6) months after cessation of the use. In the event that the tower is not removed within six (6) months of the cessation of operations at a site, the tower and associated facilities may be removed by the County and the costs of removal assessed against the property.

J. In addition to all other limitations and provisions contained in this Article, any single mobile home site permitted as SU-22 special use shall be subject to the following conditions: *Amended 9/14/09.*

1. No other residential structure shall be located on the subject parcel.

2. Applicant must obtain an Improvement Location Permit from the Warrick County Area Plan Commission.

K. All SU-28 Special Uses shall be subject to the following requirements. *Amended 7/14/2010 & 6/10/2013*

1. A person/owner operating the home workshop shall be a resident of the premises. In addition to the owner/operator there shall not be more than one (1) employee for every one thousand (1000) square feet of the building being used as the home workshop.
2. In no case shall a home workshop be permitted in an accessory building prior to occupancy of the principal dwelling on the lot, parcel or tract of land by the owner.
3. The building in which the home workshop is located if other than the residence cannot be closer to the road than the residence.
4. Outside storage must be enclosed in a solid fence and not exceed the square footage of the building.
5. There shall be no more than one (1) commercial vehicle maintained for every one (1000) square feet of the building used for the home workshop and shall not be visible from adjacent properties and public roadways.
6. The applicant/owner may request in the application that the Board approve the maximums as allowed in section 1,2,3,4,& 5 of this subsection. If approved the Board shall not require a plot plan showing any proposed building or additions. All proposed structures must meet the requirements of lot coverage and setbacks as required in the zoning classification.

L. All mineral extractions shall be subject to the following requirements.

1. The applicant/owner proposing to extract minerals shall schedule a conference with the Site Review Committee for technical review before commencement of mineral extraction, and/or submitting a written application for Special Use approval. At this technical review the applicant/owner must submit a drawing/plan of the area proposed that demonstrates a boundary one quarter of a mile out from the furthest points of the legally described area. The drawing/plan shall show increments from

the furthest said points sections of one quarter of a mile within the proposed area and must display any residences within said quarter mile sections. This requirement is in addition to all others as required of the Special Use application.

SECTION 6 DISCONTINUANCE OF SPECIAL USE – *Amended 12/14/09.*

A. If a special use is abandoned for one (1) year, the Special Use shall be null and void. The Special Use shall be completely established within one (1) year from the date of approval unless a written request for a longer time period is submitted and made a part of the application and approved by the Board ***unless specified elsewhere in this Article.*** *Amended 11/14/16.*

B. A special use may not be altered to become any other use ***nor expanded*** than that which was approved by the Board of Zoning Appeals. ***If the special use approval is altered or expanded the approval shall be null and void unless the applicant/owner comes into compliance, amends his application or files a rezoning petition (if necessary) within forty-five (45) days from the notice of violation.***

ORDINANCE FOR FLOOD HAZARD AREAS ~ *Amended 10/8/2018*

FOR THE UNINCORPORATED AREAS OF WARRICK COUNTY AND THE TOWNS OF ELBERFELD, LYNNVILLE AND TENNYSON

ARTICLE VI FLOOD HAZARD PROTECTION

SECTION 1. Statutory Authorization, Findings of Fact, Purpose, and Objectives.

A. Statutory Authorization.

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Board of Commissioners of Warrick County, the Town Council of Elberfeld, Indiana, the Town Council of Lynnville, Indiana, and the Town Council of Tennyson, Indiana hereby adopt the following floodplain management regulations.

B. Findings of Fact.

(1) The flood hazard areas of the unincorporated areas of Warrick County and the Towns of Elberfeld, Lynnville, and Tennyson are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

C. Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(6) Make federal flood insurance available for structures and their contents in the unincorporated areas of Warrick County and the Towns of Elberfeld, Lynnville, and Tennyson by fulfilling the requirements of the National Flood Insurance Program.

D. Objectives.

The objectives of this ordinance are:

(1) To protect human life and health.

(2) To minimize expenditure of public money for costly flood control projects.

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) To minimize prolonged business interruptions.

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

SECTION 2. <u>Definitions.</u>

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

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

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.

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

Boundary River means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

Boundary River Floodway means the floodway of a boundary river.

Building - see "Structure."

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

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

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

D Zone means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

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

(1) construction, reconstruction, or placement of a structure or any addition to a structure;

(2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(3) installing utilities, erection of walls and fences, construction of roads, or similar projects;

(4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

(5) mining, dredging, filling, grading, excavation, or drilling operations;

(6) construction and/or reconstruction of bridges or culverts;

(7) storage of materials; or

(8) any other activity that might change the direction, height, or velocity of flood or surface waters.

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

Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

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

Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

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

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

FEMA means the Federal Emergency Management Agency.

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

Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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

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

Flood Protection Grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

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

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

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and

hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

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

Fringe is those portions of the floodplain lying outside the floodway.

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

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

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

Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community

must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

Letter of Map Amendment (LOMA) means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

Lowest floor means the lowest elevation described among the following:

(1) The top of the lowest level of the structure.

(2) The top of the basement floor.

(3) The top of the garage floor, if the garage is the lowest level of the structure.

(4) The top of the first floor of a structure elevated on pilings or pillars.

(5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;

b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher

than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

c) such enclosed space shall be usable solely for the parking of vehicles and building access.

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

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

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

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

National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.

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

Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

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

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “Regulatory Flood”.

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

Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

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

Regular program means the phase of the community’s participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 3(B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood”, “One-Percent Annual Chance Flood”, and “100-Year Flood”.

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

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of Warrick County and the Towns of Elberfeld, Lynnville, and Tennyson subject to inundation by the regulatory flood. The SFHAs of Warrick County and the Towns of Elberfeld, Lynnville, and Tennyson are generally identified as such on the Warrick County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2012 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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

Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred “repetitive loss” or “substantial damage" regardless of

the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

Zone A (see definition for A zone)

Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

SECTION 3. General Provisions.

A. Lands to Which This Ordinance Applies.

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of Warrick County and the Towns of Elberfeld, Lynnville, and Tennyson.

B. Basis for Establishing Regulatory Flood Data.

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Warrick County and the Towns of Elberfeld, Lynnville, and Tennyson shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Warrick County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated August 2, 2012 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Warrick County and the Towns of Elberfeld, Lynnville, and Tennyson, delineated as an "A Zone" on the Warrick County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2012 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

C. Establishment of Floodplain Development Permit.

A Floodplain Development Permit and/or Improvement Location Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

D. Compliance.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

G. Interpretation.

In the interpretation and application of this ordinance all provisions shall be:

(1) Considered as minimum requirements.

(2) Liberally construed in favor of the governing body.

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

H. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Warrick County, the Town of Elberfeld, the Town of Lynnville, and the Town of Tennyson, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

I. Penalties for Violation.

Failure to obtain a Floodplain Development Permit and/or Improvement Location Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code. All violations shall be punishable by a fine not exceeding $2,500.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(3) Nothing herein shall prevent Warrick County and the Towns of Elberfeld, Lynnville, and Tennyson from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

SECTION 4. <u>Administration.</u>

A. Designation of Administrator.

The Executive Director of the Warrick County Area Plan Commission shall administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

B. Permit Procedures.

Application for a Floodplain Development Permit and/or Improvement Location Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(1) Application Stage.

a) A description of the proposed development.

b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

c) A legal description of the property site.

d) A site development plan showing existing and proposed development locations and existing and proposed land grades.

e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.

f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.

g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 4(C)(6) for additional information.)

(2) Construction Stage.

Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

(3) Finished Construction.

Upon completion of construction, an elevation certification (FEMA Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Cerificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

C. Duties and Responsibilities of the Floodplain Administrator.

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits and/or Improvement Location Permits to assure that the permit requirements of this ordinance have been satisfied.

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 5(E) and (G)(1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.

(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 4(B).

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 4(B).

(13) Stop Work Orders

a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.

b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(14) Revocation of Permits

a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

b) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

SECTION 5. <u>Provisions for Flood Hazard Reduction.</u>

A. General Standards.

In all SFHAs and known flood prone areas the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

B. Specific Standards.

In all SFHAs, the following provisions are required:

(1) In addition to the requirements of Section 5(A), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

a) Construction or placement of any structure having a floor area greater than 400 square feet.

b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

f) Reconstruction or repairs made to a repetitive loss structure.

(2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 5(B)(4).

(3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 5(B)(4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Section 4(C)(12).
b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

b) The fill shall extend 5 feet beyond the foundation of the structure before sloping below the BFE.

c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

e) The top of the lowest floor including basements shall be at or above the FPG.

(6) **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home

park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:

(i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 5(B)(4).

(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

(i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 5(B)(4).

(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

c) Recreational vehicles placed on a site shall either:

(i) be on site for less than 180 days;

(ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(iii) meet the requirements for "manufactured homes" as stated earlier in this section.

(7) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

a) Shall not be used for human habitation.

b) Shall be constructed of flood resistant materials.

c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

d) Shall be firmly anchored to prevent flotation.

e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 5(B)(4).

(8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

C. Standards for Subdivision Proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

D. Critical Facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing

and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

E. Standards for Identified Floodways.

Located within SFHAs, established in Section 3(B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the Floodplain Administrator shall submit the data and request that the Federal Emergency Management

Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

F. Standards for Identified Fringe.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

G. Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

(1) Drainage area upstream of the site is greater than one square mile:

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

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 5 of this ordinance have been met.

(2) Drainage area upstream of the site is less than one square mile:

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

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 5 of this ordinance have been met.

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

H. Standards for Flood Prone Areas.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 5.

SECTION 6. <u>Variance Procedures.</u>

A. Designation of Variance and Appeals Board.

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

B. Duties of Variance and Appeals Board.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Warrick County Circuit Court.

C. Variance Procedures.

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

(1) The danger of life and property due to flooding or erosion damage.

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(3) The importance of the services provided by the proposed facility to the community.

(4) The necessity of the facility to a waterfront location, where applicable.

(5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(6) The compatibility of the proposed use with existing and anticipated development,

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. Conditions for Variances.

(1) Variances shall only be issued when there is:

a) A showing of good and sufficient cause.

b) A determination that failure to grant the variance would result in exceptional hardship.

c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(2) No variance for a residential use within a floodway subject to Section 5(E) or (G)(1) of this ordinance may be granted.

(3) Any variance granted in a floodway subject to Section 5(E) or (G)(1) of this ordinance will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of Section 5(B), may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section 6(E)).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section 6(E)).

E. Variance Notification.

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and;

(2) Such construction below the flood protection grade increases risks to life and property.

The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

F. Historic Structure.

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

G. Special Conditions.

Upon the consideration of the factors listed in Section 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

SECTION 7. <u>Severability.</u>

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION 8. <u>Effective Date.</u>

This ordinance shall take effect upon its passage by the Board of County Commissioners, Warrick County, Indiana.

Passed by the Board of County Commissioners, Warrick County, Indiana on the 8th day of October, 2018.

ARTICLE VII RECREATION AND CONSERVANCY "CON" DISTRICT

The following regulations shall apply in all "CON" districts.

SECTION 1 USE REGULATIONS

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for either than one or more of the following specified permitted uses:

(1) Forest or Forestry Reserve.

(1.1) Churches and Church-operated incidental/accessory facilities (on same site) and religious facilities. ~ *Amended 6-10-13*

(2) General agricultural operations.

(3) Hunting or Fishing Lodge. (Private) ~ *Amended 1-24-07*

(4) One Family Dwelling.

(5) Other uses similar to and not more objectionable to the general welfare than those uses listed above.

(6) Private recreation camps and enterprises for permanent, seasonal or temporary use.

(7) Propagation Nurseries.

(8) Railroad Right-of-Way.

(9) Soil or water conservation projects.

(10) Watershed Protection.

SECTION 2 SPECIAL USES

The special uses permitted in the "CON" district are set forth in Article V.

SECTION 3 LOT SIZE

Minimum lot size in the "Con" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the “Con” district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the “Con” district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the “Con” district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “Con” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “Con” district shall be pursuant to Article XXVI A and Article XXV B.

ARTICLE VIII AGRICULTURAL "A" DISTRICT

The following regulations shall apply to all "A" Districts.

SECTION 1 USE REGULATIONS ~ *As amended 5-25-05*

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part for other than one or more of the following specified permitted uses:

(1) Any use permitted in the Conservation "CON" district subject to the use regulations specified in said district.

(2) Accessory farm buildings, including separate tenant housing for farm employees, and other buildings required for the general agricultural business of the farm.

(3) General farming of field crops.

(4) General stock breeding and raising.

(5) Greenhouses and plant nurseries.

(6) Single family dwellings.

(7) Storage bins, windmills and similar farm structures.

(8) Truck farms and gardens and storage facilities.

(9) Other Uses: Other uses similar to the above which, in the judgment of the Commission are similar to and not more objectionable to the general welfare, that the uses listed. "Other Uses" so determined shall be regarded as listed uses.

SECTION 2 SPECIAL USES

The special uses permitted in the "A" district are set forth in Article V.

SECTION 3 LOT SIZE

The minimum lot size in the "A" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the "A" district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the “A” district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the “A” district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “A” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “A” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE IX ONE FAMILY DWELLING "R-1, "R-1A", "R-1B", "R-1C", "R-1D", DISTRICTS

The following regulations shall apply in all "R-1", "R-1A", "R-1B", "R-1C", and "R-1D" districts.

SECTION 1 USE REGULATIONS

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than one or more of the following uses:

(1) Single family dwelling.

(2) Single family residential Planned Unit Development (PUD) as provided for in Article XII (C).

(3) Churches and Church-operated incidental/accessory facilities (on same site) and religious facilities. *Amended 6/10/13*

SECTION 2 SPECIAL USES

The special uses permitted in the "R-1", "R-1A", "R-1B", "R-1C", and "R-1D districts are set forth in Article V.

SECTION 3 LOT SIZE

The minimum lot size in the "R-1", "R-1A", "R-1B", "R-1C", and "R-1D" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the "R-1", "R-1A", "R-1B", "R-1C", and "R-1D" district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the "R-1", "R-1A", "R-1B", "R-1C", and "R-1D" district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the "R-1", "R-1A", "R-1B", "R-1C", and "R-1D" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “R-1”, “R-1A”, “R-1B”, “R-1C”, and “R-1D” district where applicable shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “R-1”, “R-1A”, “R-1B”, “R-1C”, and “R-1D” district shall be pursuant to Article XXVI A and Article XXVI B.

ARTICLE X MULTIPLE-FAMILY “R-2” DISTRICT

The following regulations shall apply in all “R-2” districts.

SECTION 1 USE REGULATIONS

No building or structure, or part thereof, shall be erected, altered, or used, or land or water used, in whole or in part, for other than one or more of the following specified permitted uses:

(1) Any uses permitted in “R-1”, “R-1A”, “R-1B”, “R-1C”, “R-1D” districts subject to the USE REGULATIONS specified in said districts.

(2) Up to four (4) independent dwelling units.

(3) Multi family Planned Unit Development (PUD) as authorized and provided for in Article XII (C).

(4) Uses accessory to any of the above when located on the same lot and not involving the conduct of any business, trade, occupation or profession unless otherwise specified in this Article.

SECTION 2 SPECIAL USES

The special uses permitted in R-2 district are set forth in Article V.

SECTION 3 LOT SIZE

The minimum lot size in the “R-2” district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the “R-2” district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the “R-2” district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the “R-2” district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “R-2” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “R-2” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE X (A) MULTIPLE FAMILY "R-2A"

The following regulations shall apply in all "R-2A" districts.

SECTION 1 USE REGULATIONS

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than one or more of the following specified permitted uses:

(1) Any uses permitted in the "R-1", "R-1A", "R-1B", "R-1C", "R-1D" districts subject to the USE REGULATIONS specified in said districts.

(2) Two Family Dwellings.

(3) Condominiums as defined by I.C. 32-25-1 et seq. and subject to the requirements of I.C. 32-25-1 et seq. The issuance of any Improvement Location Permit shall be subject to applicant providing proof of compliance with I.C. 32-25-1 et seq.

SECTION 2 SPECIAL USES

The special uses permitted in "R-2A" district are set forth in Article V.

SECTION 3 LOT SIZE

The minimum lot size in the "R-2A" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the "R-2A" district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the "R-2A" district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the "R-2A" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “R-2A” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “R-2A” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE X (B) MULTIPLE FAMILY "R-2B" APARTMENTS DISTRICT

The following regulations shall apply in all "R-2B" districts.

SECTION 1 USE REGULATIONS

No building or structure, or part thereof, shall be erected, altered, or used, or land or water used, in whole or in part, for other than one or more of the following specified permitted uses:

(1) Any use permitted in an "R-1", "R-1A", "R-1B", "R-1C", "R-1D", "R-2", and "R-2A" districts subject to the USE REGULATIONS specified in said districts.

(2) Town houses and multiple family dwellings including apartments and condominiums (subject to compliance with the requirements under I.C. 32-25-1 et seq).

(3) Multi family Planned Unit Development (PUD) as authorized and provided for in Article XII C.

(4) Uses accessory to any of the above when located on the same lot and not involving the conduct of any business, trade, occupation or profession unless otherwise specified in this Article.

SECTION 2 SPECIAL USES

The special uses permitted in "R-2B" district are set forth in Article V.

SECTION 3 LOT SIZE

Minimum lot size in the "R-2B" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the "R-2B" district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the "R-2B" district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the “R-2B” district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “R-2B” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “R-2B” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XI RESORT "R-3" DISTRICT

The following regulations shall apply in all "R-3" districts.

SECTION 1 USE REGULATIONS

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or part, for other than one or more of the following specified permitted uses which said use shall also require the obtaining of a special use permit from the Board of Zoning Appeals:

(1) Amusement Parks.

(1.1) Churches and Church-operated incidental/accessory facilities (on same site) and religious facilities. *Amended 6-10-13*

(2) Bait Shops.

(3) Beaches and Swimming piers.

(4) Boat Docks and boat clubs, including sales, service supplies, storage and loading facilities for boats.

(5) Church Camps.

(6) Dance Halls and Clubs.

(7) Delicatessen.

(8) Gift and Curio Shops.

(9) Hotel, Apartment Hotel, Motel and Motor Hotel.

(10) Lodging House, Tourist Homes or Tourist Cottages.

(11) Nursing and Rest Homes.

(12) Restaurants, Refreshment Stands and Drive-In Restaurants and Theaters.

(13) Sporting goods and supplies.

SECTION 2 SPECIAL USES

Other Special uses other than those set forth in section 1 are permitted pursuant to the provisions of Article V.

SECTION 3 LOT SIZE

Minimum lot size in the “R-3” district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the “R-3” district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the “R-3” district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the “R-3” district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “R-3” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “R-3” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XII RESIDENTIAL OFFICE – "R-O" DISTRICT

The following regulations shall apply in all "R-O" districts.

SECTION 1 USE REGULATIONS

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than one or more of the following specified permitted uses:

(1) Any use permitted in the "R-2" subject to the area, yard, lot coverage and minimum floor area regulations applicable to the "R-2" district. *Amended 9/12/2016.*

(3.1) Churches and Church-operated incidental/accessory facilities (on same site) and religious facilities. *Amended 6-10-13*

(2) Accessory Uses and Structures.

SECTION 2 SPECIAL USES

The special uses permitted in "R-O" district are set forth in Article V.

SECTION 3 LOT SIZE

Minimum lot size in the "R-O" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the "R-O" district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the "R-O" district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the "R-O" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “R-O” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “R-O” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XII (A) MOBILE HOME PARK "R-MH" DISTRICT

SECTION 1 PURPOSE OF DISTRICT

The "R-MH" district is intended for those locations where there is need to regulate and control the design, use and intensity of use of mobile home parks so that the design and arrangement of mobile homes will be compatible with surrounding areas and traffic circulation and access controlled for the safety, convenience and general welfare of contiguous and nearby development.

SECTION 2 USE REGULATIONS

No development shall be located altered or used or land or water used in whole or in part for other than one or more of the following specified uses.

1. One-family mobile unit.

2. One-family compact or expandable mobile home unit.

3. Uses accessory to any of the above uses or other uses or enterprises similar to the above, which, in the judgment of the Commission are similar to and not more objectionable to the general welfare, than the uses listed. All uses shall be subject to compliance with statutes and regulations applicable to covering mobile home parks by the State of Indiana as regulated by the Indiana State Department of Health.

SECTION 3 LIMITATIONS OF USES

The area of a district planned for a mobile home park shall be at least ten (10) acres of Net Development Area; however, such area may be platted and/or developed in two or more stages, provided that said stages conform in all respects with the over-all mobile home park design. In addition, the mobile home park must comply with the provisions of Article XII (D) Development Plans.

Net Development Area shall be determined by subtracting from the Gross Development Area the total areas for parks, schools, streets, rights of way and other related uses.

The maximum density allowed for the Net Development Area shall be ten (10) mobile home units per acre.

SECTION 4 APPROVAL OF MOBILE HOME PARK PLAN ESTABLISHMENT OF "R-MH" DISTRICT.

(1) No mobile home shall be located or altered, or land or water used, nor shall any improvement permit be issued therefore, unless and until the mobile home park plan has been approved by the Indiana Department of Health Pursuant to its authority under I.C. 16-14-27 et seq.

(2) The role of the Board of Commissioners is limited solely to approving the zoning classification of the subject property to "R-MH".

SECTION 5 SPECIAL USES

The special uses permitted in "R-MH" district are set forth in Article V.

SECTION 6 LOT SIZE

Minimum lot size in the "R-MH" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 7 SET BACK REQUIREMENTS

The minimum set back requirements in the "R-MH" district shall be determined pursuant to the provisions of Article XXI.

SECTION 8 BUILDING HEIGHT

The maximum building height permitted in the "R-MH" district shall be determined pursuant to the provisions of Article XXI.

SECTION 9 FLOOR AREA

The total floor area of any building in the "R-MH" district shall be determined pursuant to the provisions of Article XXI.

SECTION 10 OFF STREET PARKING

Any off street parking and/or loading space requirements for the "R-MH" district shall be determined pursuant to the provisions of Article XXII.

SECTION 11 SIGNS

Any signs which may be permitted in the "R-MH" district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XII (B) PLANNED UNIT DEVELOPMENT (PUD) – *Amended 9/12/2007*

SECTION 1 PURPOSE AND INTENT

The intent and purpose of these regulations are to provide greater design flexibility and the development of land when consistent with the Comprehensive Plan. The use of plan unit developments (PUD) classification is deemed to be appropriate when the use of such regulations under this Article promote a harmonious variety of uses; provides for an economy of shared services and facilities; and is compatible with surrounding area fostering the creation of attractive, healthy, efficient and stable environments for living, shopping or working. PUD regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design, and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life.

SECTION 2 GENERAL REQUIREMENTS

A. PERMITTED USES IN PUD DISTRICT. A PUD may be utilized in any of the following zoning districts:

R-1; R-1A; R-1B; R-1C; R-1D; R-2; R-2A; R-2B; R-3; R-O;C-1;C-2;C-3; C-4

SECTION 3 APPLICATION PROCEDURE

Applications for PUD districts shall be submitted according to the following procedures:

A. REZONING PETITION: A rezoning petition must be filed with all information required on the petition.

B. DEVELOPMENT PLAN: A Development Plan submitted with the following information: **NOTE: (A PRIMARY PLAT MAY BE SUBMITTED IN PLACE OF THE DEVELOPMENT PLAN AT THE TIME OF FILING THE REZONING PETITION. THE PLAT MUST CONFORM TO THE REQUIREMENTS SET FORTH IN THE SUBDIVISION CONTROL ORDINANCE.)**

1. FORM OF SUBMISSION: The Development Plan and any supporting map shall be clearly and legibly drawn.

2. INFORMATION: The Development Plan must show the following:

a. Title of project
b. North point, graphic scale and date
c. A legal description
d. Flood plain and flood ways

e. Proposed lot lines and plot designs.
f. The location of all existing and proposed buildings, structures and other improvements.
g. The location of all areas to be conveyed, dedicated, or reserved as common open spaces, parks, recreation areas, and similar uses.
h. The existing and proposed road right-of-ways, parking areas if applicable and sidewalks or walkways for pedestrian traffic.
i. All properties, subdivisions, streets, easements, zoning classifications and public facilities adjacent to the proposed area for the PUD shall be indicated.
j. The proposed treatment of the perimeter of the PUD including materials and techniques used such as screens, walls and fences.

SECTION 4. FILING FEE:

At the time of filing for a PUD application with development plan, the application must be accompanied by the appropriate fees as are determined by the Planning Commission Board from time to time pursuant to I.C. 36-7-4-400 et seq.

SECTION 5. NOTICE OF PUBLIC HEARING:

If the Executive Director is satisfied that the standards of this Article have been met, the Plan Commission shall set a date for public hearing before the Commission, giving written notification in the same manner as provided for a rezoning petition.

SECTION 6. AREA PLAN COMMISSION ACTION:

A. The preliminary development plan and rezoning petition shall be considered.
B. The Area Plan Commission may: approve the preliminary development plan and petition, amend and approve the preliminary plan or disapprove the preliminary development plan and petition. The Plan Commission may approve the preliminary development plan with conditions or limitations necessary to ensure that the development will conform to the purposes of this Article.

SECTION 7. COUNTY COMMISSIONERS ACTION:

A preliminary development plan and petition approved or disapproved by the Area Plan Commission shall be forwarded to the County Commissioners for consideration in the same manner as any petition for amendment to the zoning maps..

SECTION 8. SUBMISSION OF SUBDIVISION PLAT

After receiving approval by the County Commissioners on the preliminary development plan and rezoning petition the applicant may submit a Primary Plat which shall substantially conform to the approved preliminary plan.

A. Form of Submission – Primary Plat:

The Primary Plat shall conform to the requirements set forth in the Subdivision Control Ordinance. Once the primary plat has received Plat approval, drainage plan approval and street construction approval as set for in the Subdivision Control Ordinance a Final Plat shall be submitted.

B. Form of Submission – Final Plat

The Final Plat shall conform to the requirements set forth in the Subdivision Control Ordinance. The Executive Director shall examine the Final Plat to determine it conforms to the Primary Plat and meets all requirements of the Subdivision Control Ordinance for Final Plat approval.

C. Recording of Final Plat:

The final plat must be recorded within one (1) year from the date of approval. If not recorded within this time limit, the plat shall be considered null and void.

D. Staging and Plan Changes:

Any Plat which requires more than thirty-six (36) months to complete may be constructed in phases with the final development plat being submitted for approval by sections. If the PUD is phased and the final detailed development plat is submitted in sections, it is expected that changes in the approved final plat will be required from time to time. In order to preserve the flexibilities which are fundamental to a development plan, changes are permitted subject to the limitations listed below:

(a) The changed plan must meet the basic objectives and all regulations and requirements of this Article.
(b) The Executive Director of the Warrick County Area Plan Commission may approve minor changes regarding building sizes and building locations which do not substantially change or more permissive or less restrictive than the primary plat which was approved by the Area Plan Commission.
(c) Any major plat change must be submitted to the Area Plan Commission for re-approval.

E. Final Plat Approval:

(1) Detailed plat review and approval under the provisions of this Article shall be considered and reviewed by the Warrick County Area Plan Commission in the same manner as any subdivision under the Warrick County Subdivision Control Ordinance.

(2) Applicant shall be required to post letters of credit prior to completion of required infrastructure and other required and/or mandated improvements in the same manner as prescribed by the Subdivision Control Ordinance.

(3) Plan Commission shall be permitted to charge fees for the following services and applications: Said fees shall be set from time to time by the Warrick County Area Plan Commission pursuant to I.C. 36-7-4-411. A schedule of all fees shall be maintained in the office of the Warrick County Area Plan Commission and shall be posted in a manner conspicuous to the public for review.

ARTICLE XII (C) DEVELOPMENT PLANS

SECTION 1 INTENTION OF ARTICLE

The purpose of this Article is to promote quality development and effective utilization of land by providing specific criteria for uses that utilize significant area of land involving the establishment of buildings and other related structures requiring effective utilization of existing public infrastructure and/or modifications or expansion of public infrastructure.

SECTION 2 DESIGNATION OF DISTRICTS REQUIRING DEVELOPMENT PLANS

Any proposed use of five (5) acres or more shall require the submission of a development plan or the issuance of any improvement location permit within the following districts:

(a) R-2B

(b) R-3

(c) R-0

(d) C-1

(e) C-2

(f) C-3

(g) C-4

(h) W-R

(i) W-I

(j) M-1

(k) M-2

(l) M-3

A development plan shall also be required prior to any use in the R-MH district.

SECTION 3 PROCEDURE

The Plan Commission shall establish a technical review committee consisting of the following members: The director of the plan commission, the county engineer, the county surveyor, the director of the county health department, and the designated plan commission member. Upon submission of an application for a improvement location permit said technical review committee shall first determine whether the submission of a development plan shall be required. When a plan is required, the technical review committee shall review said plan and submit its recommendations to the Plan Commission. Following the submission of said recommendations by the technical review committee, the Executive Director of the Plan Commission shall take action consistent with the recommendations of the technical review committee in conjunction with the issuance of the improvement location permit.

SECTION 4 STANDARD OF REVIEW

A review of a development plan shall be limited to the determination as to whether said plan adequately addresses the development standards set forth in Section 5 of this Article. A decision by the technical review committee and the Executive Director pursuant to Section 3 of this Article may be appealed to the Plan Commission. The Plan Commission's decision shall be a final decision, pursuant to the provisions of I.C. §36-7-4-1016.

SECTION 5 DEVELOPMENT STANDARDS

A development plan shall address all of the following criteria:

(a) Proof of the availability and coordination of adequate water, sanitary sewer, storm sewers, water, drainage and other necessary utilities.

(b) Management of traffic to be generated by the proposed development that includes the design and location of proposed streets and highways access points. The plan must be specific in regards to the management of traffic and must address the design location of the proposed street and highway access points noting features to minimize safety hazards and congestion and confirming under appropriate accepted standards that the capacity of adjacent streets and highways will be sufficient to safely and efficiently accept traffic generated by the proposed development.

(c) Identifying of existing and proposed primary structures; accessory structures and the location of all proposed signage.

(d) Management of erosion and sediment control in compliance with all applicable governmental rules and regulations, and also in a manner that minimizes damage to adjacent property, drainage channels, roads and other sensitive areas.

(e) Storm water management plan showing compliance with all applicable local, state and federal standards, other necessary specifications to protect adjacent down-stream areas from damage due to additional water run-off, drainage or flooding. The Technical Review Committee may, where appropriate, require obtaining drainage approval from the County Drainage Board prior to the issuance of any improvement location permits.

(f) Proof that any outdoor illumination will not create a nuisance or interfere with the use and/or quiet enjoyment of surrounding properties, based upon generally accepted engineering and design guidelines.

SECTION 6 APPLICATION TO SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS

The requirements of this Article shall be in addition to any other development requirements applicable pursuant to the provisions of the Subdivision Control Article and/or Article XII(C) Planned Unit Development.

SECTION 7 VOLUNTARY UTILIZATION OF DEVELOPMENT PLANS IN CONJUNCTION WITH APPLICATIONS FOR AMENDMENT OF THE ZONING MAPS (REZONINGS)

(1) A petitioner submitting an application for an amendment to the zoning maps of Warrick County (rezoning) may, at applicant's option, submit a development plan and may incorporate said plan in a use and development commitment as provided for under I.C. §36-7-4-613.

(2) A use and development commitment in conjunction with an application for rezoning shall become part of any article adopted to rezone the subject real estate shall run with the land and shall be enforceable by the Plan Commission and/or any landowner within one mile of the subject real estate.

ARTICLE XIII NEIGHBORHOOD COMMERCIAL – "C-1" DISTRICT

SECTION 1 INTENTION OF DISTRICT

The "C-1" neighborhood business district is intended primarily for professional office use; personal service uses and retail service uses which dispense convenience goods and services directly to consumers on the premises. The district is designed to serve residential neighborhood with highly varied groupings of indoor business services short of the single unit heavy traffic generator.

SECTION 2 ESTABLISHMENT AND CONDUCT OF USES

(1) The conduct of permitted uses in a "C-1" district shall be within completely enclosed buildings except for accessory off-street parking and loading facilities and drive-in convenience service windows.

(2) Outside storage and the display of merchandise for sale to the public is not permitted.

SECTION 3 PERMITTED USES ~ *Amended 1-24-07; 2-20-2008 & 8-31-09*

No building or structure, or part thereof, shall be erected, altered or used, or land or water used in whole or in part for other than one or more of the following specified uses in accordance with the limitations herein specified:

(1) Accessory uses which are incidental to and maintained on the same lot in common which are associated with the operations of the permitted use.

(2) Any use permitted in the "R-2B" district subject to the area, yard, lot coverage and minimum floor area regulations specified in said district. *Amended 2/20/2008.*

(3) Business service uses including banks and financial institutions.

(4) Broadcasting offices and studios.

(5) Commercial Child Care Center where there are thirteen (13) or more children not related to the provider. *Amended 8-31-09.*

(6) Clothing service uses including dry cleaner and laundry receiving stations, Laundromats, dress making, milliner, tailoring and shoe repair shops.

(7) Convenient stores and fueling facilities which do not offer automotive service or repair.

(8) Drug stores, variety stores, book and stationery stores, newsstands, candy and ice cream stores, florist, gift, antique, art, music, toy and hobby shops, paint and wall paper stores, jewelry and leather stores. *Amended 4/11/16.*

(9) Electrical and household appliance store, audio and video equipment sales and repairs, sporting goods and hardware.

(10) Food service uses including grocery, meat and fish markets, delicatessens, eating places and bakeries.

(11) Interior decorating and retail facilities.

(12) Professional offices for the conduct of real estate, mortgage financing, insurance, architects, attorney, accountants, tax consultants, engineers, medical, optometric and dental (including clinics). *Amended 9/12/2016.*

(13) Restaurant

(14) Retail furniture and office furniture and equipment.

(15) Other uses comparable and compatible to those set forth in this section.

SECTION 4 SPECIAL USES

The special uses permitted in "C-1" district are set forth in Article V.

SECTION 5 LOT SIZE

The minimum lot size in the "C-1" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 6 SET BACK REQUIREMENTS

The minimum set back requirements in the "C-1" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 BUILDING HEIGHT

The maximum building height permitted in the "C-1" district shall be determined pursuant to the provisions of Article XXI.

SECTION 8 FLOOR AREA

The total floor area of any building in the “C-1” district shall be determined pursuant to the provisions of Article XXI.

SECTION 9 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “C-1” district shall be determined pursuant to the provisions of Article XXII.

SECTION 10 SIGNS

Any signs which may be permitted in the “C-1” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XIV COMMUNITY COMMERCIAL – "C-2" DISTRICT

SECTION 1 INTENTION OF DISTRICT

The "C-2" community commercial district is intended to provide for the specialized types of service business and commercial enterprises which due to their function and method of operations require the capability of providing a wide latitude of shopper and comparison goods as well as an assortment of services to the community in general.

SECTION 2 ESTABLISHMENT AND CONDUCT OF USES

The conduct of permitted uses shall be within completely enclosed buildings. Businesses, which have as their principal use a drive in type of operation, are not permitted. Outside storage and the display of merchandise for sale to the public is not permitted.

SECTION 3 PERMITTED USES

No building or structure, or part thereof, shall be erected, altered or used or land or water used in whole or in part for other than one or more of the following specified uses in accordance with the limitations herein specified:

(1) Any use permitted in the "C-1" district subject to the area, yard, height, lot coverage and minimum floor area regulations specified for the "C-1" district.

(2) Accessory uses including drive in services which are incidental to and maintained on the same lot and commonly associated with the operation of the permitted use.

(3) Automobile service station excluding facilities which perform automobile body repair.

(4) Hotels/motels.

(5) Indoor recreational uses including auditorium, theaters, bowling alleys, billiard rooms, dance studios and music facilities.

(6) Bus, police and fire stations and post offices. *~ Amended 1-24-07*

(7) Retail facilities including department stores, furniture, carpet, interior upholstering and other similar retail facilities.

(8) Supermarkets.

(9) Taverns, bars, nightclubs and restaurants serving alcoholic beverages consumed on premises and package liquor stores. *Amended 4/11/16.*

(10) Other uses comparable and compatible to those uses set forth in this section.

SECTION 4 SPECIAL USES

The special uses permitted in "C-2" district are set forth in Article V.

SECTION 5 LOT SIZE

The minimum lot size in the "C-2" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 6 SET BACK REQUIREMENTS

The minimum set back requirements in the "C-2" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 BUILDING HEIGHT

The maximum building height permitted in the "C-2" district shall be determined pursuant to the provisions of Article XXI.

SECTION 8 FLOOR AREA

The total floor area of any building in the "C-2" district shall be determined pursuant to the provisions of Article XXI.

SECTION 9 OFF STREET PARKING

Any off street parking and/or loading space requirements for the "C-2" district shall be determined pursuant to the provisions of Article XXII.

SECTION 10 SIGNS

Any signs which may be permitted in the "C-2" district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XV HIGHWAY COMMERCIAL – "C-3" DISTRICT

SECTION 1 INTENTION OF DISTRICT

The "C-3" highway business district is intended to provide for highway orientated business uses offering accommodations, supplies and services to the general public and which are ordinarily located along highways designated as major arterial.

SECTION 2 ESTABLISHMENT AND CONDUCT OF USES *Amended 9/14/09*

1. Open storage of materials and equipment shall be permitted in conjunction with any of the permitted uses pursuant to the following limitations:

   a. Such storage is located on the rear half of the lot;

   b. That the storage area is enclosed by a solid wall or opaque fence not less than six (6) feet in height;

   c. That no equipment or material is stored having a height greater than that of the wall or opaque fence enclosure; and

   d. That the storage area does not exceed fifty percent (50%) of the lot area.

2. Inside storage of merchandise and/or materials (limited warehousing) shall be permitted in conjunction with the operation of any permitted use set forth herein provided that the storage/limited warehousing area does not exceed seventy-five percent (75%) of the total floor area of the building or structure.

3. Open air sales of new or used automobiles, trailers, or trucks, located on land adjacent (either abutting or separated by an alley) to an "R" (Residential) district, shall be separated from the land in the "R" district by a solid wall or opaque fence at least six (6) feet in height.

SECTION 3 PERMITTED USES

No building or structure, or part thereof, shall be erected, altered or used or land or water used in whole or in part for other than one or more of the following specified uses in accordance with the limitations herein specified:

(1) Any use permitted in "C-2" district subject to the area, yard, height, lot coverage, and minimum floor area regulations specified for the "C-2" district.

(2) Ambulance service.

(3) Automotive retail and wholesale parts and equipment.

(4) Automobile, truck and trailer rentals.

(***5***) ***Automobile, trucks, motorcycle and trailer sales, new and used; repair and service garages.***

(***6***) Automobile washing establishment.

(***7***) Feed stores.

(***8***) ***Firewood sales ready for use.***

(***9***) ***Fireworks sales.***

(***10***) Food locker and/or plants.

(***11***) Greenhouse and/or nursery.

(11a) Landscaping Business *Added 5/9/11*

(***12***) Monuments (sale and display only).

(***13***) Mortuary, undertaker, crematoria or embalming establishment, and funeral home.

(***14***) Pawn shop.

(***15***) Pest control agency.

(***16***) Photographic development laboratory.

(***17***) Research and testing laboratory.

(***18***) Restaurant and hotel supplies and equipment sales and service.

(***19***) Sale and service of electrical and plumbing fixtures.

(***20***) Sales and service of industrial equipment.

(***21***) Sales and vending preparation operations.

(***22***) Self Storage Warehouse Facilities (also required to have a "Special Use Permit" ***if have outside storage)***

(***23***) Sharpening and grinding shop.

(***24***) Swimming pool supplies and equipment sales and service.

(***25***) Taxidermist.

(***26***) Trade associations and Union Halls.

(***27***) Veterinary and veterinary clinic.

(***28***) Wholesale merchandise broker.

(***29***) Wholesale produce storage.

(***30***) ***Commercial Woodworking shops.***

(***31***) Accessory uses which are incidental to and maintained on the same lot and commonly associated with the operation of the permitted use.

(***32***) Other uses comparable and compatible to those set forth in this section.

SECTION 4 SPECIAL USES

The special uses permitted in "C-3" district are set forth in Article V.

SECTION 5 LOT SIZE

The minimum lot size in the "C-3" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 6 SET BACK REQUIREMENTS

The minimum set back requirements in the "C-3" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 BUILDING HEIGHT

The maximum building height permitted in the "C-3" district shall be determined pursuant to the provisions of Article XXI.

SECTION 8 FLOOR AREA

The total floor area of any building in the "C-3" district where applicable shall be determined pursuant to the provisions of Article XXI.

SECTION 9 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “C-3” district shall be determined pursuant to the provisions of Article XXII.

SECTION 10 SIGNS

Any signs which may be permitted in the “C-3” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XVI GENERAL COMMERCIAL "C-4" District

SECTION 1 INTENTION OF DISTRICT

The "C-4" general commercial district is intended primarily for the distribution of goods and the furnishing of major services which uses require large tracts and highly accessible locations.

SECTION 2 ESTABLISHMENT AND CONDUCT OF USES

1. Open storage of materials and equipment shall be permitted in conjunction with any of the permitted uses pursuant to the following limitations:

    a. Such storage is located on the rear half of the lot;

    b. That the storage area is enclosed by a solid wall or opaque fence not less than six (6) feet in height;

    c. That no equipment or material is stored having a height greater than that of the wall or opaque fence enclosure; and

    d. That the storage area does not exceed fifty percent (50%) of the lot area.

2. Inside storage of merchandise and/or materials (limited warehousing) shall be permitted in conjunction with the operation of any permitted use set forth herein provided that the storage/limited warehousing area does not exceed seventy-five percent (75%) of the total floor area of the building or structure.

3. Open air sales of new or used automobiles, trailers, or trucks, located on land adjacent (either abutting or separated by an alley) to an "R" (Residential) district, shall be separated from the land in the "R" district by a solid wall or opaque fence at least six (6) feet in height.

SECTION 3 PERMITTED USES ~ *Amended 1-24-07*

No building or structure, or part thereof, shall be erected, altered or used or land or water used in whole or in part for other than one or more of the following specified uses in accordance with the limitations herein specified:

(1) Any use permitted in the "C-3" district subject to the area, yard, height, lot coverage, and minimum floor area regulations specified for the "C-3" district.

(2) Accessory uses which are incidental to and maintained on the same lot and commonly associated with the operations of the permitted use.

(3) Blue Printing and Photostatting, job printing and publishing.

(4) Building materials sales yard, including the sale of lumber, rock, sand and gravel but excluding concrete mixing.

(5) Contractor equipment sales and service.

(6) Freight or truck yard or terminal.

(7) Industrial equipment rental facilities.

(8) Nursing homes, convalescent or custodial care centers.

(9) Trade School operated as a commercial enterprise.

(10) Welding supplies and equipment sales and service.

(11) Wholesale warehouse and storage uses.

(12) Other uses comparable and compatible to those set forth in this section.

SECTION 4 SPECIAL USES

The special uses permitted in "C-4" district are set forth in Article V.

SECTION 5 LOT SIZE

The minimum lot size in the "C-4" district for its permitted uses shall be determined pursuant to the provisions of Article XXI where applicable.

SECTION 6 SET BACK REQUIREMENTS

The minimum set back requirements in the "C-4" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 BUILDING HEIGHT

The maximum building height permitted in the "C-4" district shall be determined pursuant to the provisions of Article XXI.

SECTION 8 FLOOR AREA

The total floor area of any building in the “C-4” district shall be determined pursuant to the provisions of Article XXI.

SECTION 9 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “C-4” district shall be determined pursuant to the provisions of Article XXII.

SECTION 10 SIGNS

Any signs which may be permitted in the “C-4” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XVII WATERFRONT RECREATIONAL – "W-R" DISTRICT

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or part, for other than one or more of the following specified permitted uses which said use shall also require the obtaining of a special use permit from the Board of Zoning Appeals:

SECTION 1 USE REGULATIONS

(1) Accessory uses and structures, including one (1) dwelling unit.

(2) Boat Docks, Slips, Piers, Wharves, Anchorage, and Moorages for Yachts and Pleasure Boats.

(3) Boat Rentals, Boat Livery, and Boats for Hire.

(4) Boat and Marine Motor, Sales and Display, Yacht Broker, Marine Insurance Broker.

(5) Boat and Marine Motor, Service and Repair while boats are in the water.

(6) Heliports.

(7) Retail sale of boating, fishing, diving and bathing supplies and equipment.

(8) Restaurants and refreshments stands.

(9) Yacht Clubs.

SECTION 2 SPECIAL USES

The special uses permitted in "W-R" district are set forth in Article V other than the special uses listed in section 1.

SECTION 3 LOT SIZE

The minimum lot size in the "W-R" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the "W-R" district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the “W-R” district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the “W-R” district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “W-R” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “W-R” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XVIII WATERFRONT INDUSTRIAL – "W-I" DISTRICT

The following regulations shall apply in all "W-I" districts.

SECTION 1 USE REGULATIONS

No building or structure or part thereof shall be erected, altered or used, or land water used, in whole or in part, for other than one or more of the following specified uses in accordance with the limitations hereafter specified:

(1) Accessory uses and structures. *Amended 8-31-09.*

(2) Boat Docks, Slips, Piers, Wharves, Anchorage, and Moorages for Yachts and Pleasure Boats.

(3) Boat Rentals, Boat Livery, and Boats for Hire.

(4) Boat and Marine Motor, Sales and Display, Yacht Broker, Marine Insurance Broker.

(5) Boat and Marine Motor, Service and Repair while boats are in the water.

(6) Commercial Fishing Boats.

(7) Dry docks and Shipyards.

(8) Fish Houses, Canning, Smoking or Curing of Fish.

(9) Heliports.

(10) Marine Warehouse or Freight Terminal.

(11) Restaurants and refreshments stands.

(12) Retail sale of boating, fishing, diving and bathing supplies and equipment.

(13) Wholesale or retail sale of fish and seafood.

(14) Yacht Clubs.

SECTION 2 SPECIAL USES

The special uses permitted in "W-I" district are set forth in Article V.

SECTION 3 LOT SIZE

The minimum lot size in the “W-I” district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the “W-I” district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the “W-I” district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the “W-I” district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “W-I” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “W-I” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XIX LIGHT INDUSTRIAL "M-1" DISTRICT

The following regulations shall apply in all "M-1" districts.

SECTION 1 USE REGULATIONS

All uses in the "M-1" district shall be conducted wholly within a completely enclosed building except for on-site parking and other uses which are incidental thereto. No building or structure or part thereof shall be erected, altered, or land or water used in whole or in part for other than one or more of the following uses: USES to be conducted wholly within a completely enclosed building, except for on site parking or delivery vehicles which are incidental thereto.

(A) Any commercial use permitted in a "C-4" Commercial district, but excluding use for dwelling purposes, subject to the use regulations specified in said district.

(B) The manufacture, processing, compounding, assembling, treatment or use of the following:

(1) Accessory Uses and Structures.

(2) Awnings, metals.

(3) Beverage (non-alcoholic) manufacture and blending.

(4) Blacksmith.

(5) Broom and Brush.

(6) Buttons except button blanks from shell.

(7) Carbon paper and ink ribbons.

(8) Carpentry products, cabinet making and pattern shops.

(9) Chemicals (packaging only).

(10) Clay products of handicraft nature, including ceramics, pottery, tile (glazed), or similar products.

(11) Cleaning and dyeing of garments, hats and rugs.

(12) Clocks and watches.

(13) Cloth products, including canvas, clothing, garments.

(14) Cosmetics or toiletries.

(15) Electrical appliance and apparatus assembly (small) including fans, fixtures, hot plates, irons, mixers, motion picture equipment (home), phonographs, radios, television sets, toasters, toys, or similar products, but not including electrical machinery.

(16) Electrical supplies, including cable or wire assemblies, batteries (dry cell), insulation, lamps, switches, or similar supplies.

(17) Flowers, artificial.

(18) Food processing, including creamery and dairy bakery products (wholesale), candy manufacture, coffee, tea, and spices (processing and packaging), ice cream manufacture, macaroni and noodle manufacture, oleomargarine (compounding and packaging only).

(19) Fur finishing and fur goods, not including tanning or dyeing.

(20) Grain elevator and grain storage.

(21) Glass products from previously manufactured glass.

(22) Greenhouses, wholesale.

(23) Hair, felt, or feather products.

(24) Hat finishing and millinery from straw and other fibers.

(25) Ink or ink ribbon, packaging.

(26) Jewelry.

(27) Laboratories, research experimental or testing but not including combustion type motor testing.

(28) Leather products (no tanning operation), including shoes, machine belting, or similar products.

(29) Luggage.

(30) Machine shops.

(31) Machines, business, including accounting machines, calculators, card-counting equipment, typewriters, or similar products.

(32) Medical appliances, including braces, limbs, stretchers, supports, or similar appliances.

(33) Motion picture production.

(34) Musical instruments (including pianos and organs).

(35) Novelty products (from prepared materials).

(36) Optical equipment.

(37) Paper products, including bags, boxes, bulk goods, containers (shipping) envelopes, interior packaging components, stationery, tubes, wallpaper, or similar products.

(38) Pharmaceutical products (compounding only).

(39) Photographic equipment.

(40) Plastic products, including tableware, phonograph records, and similar products.

(41) Precision instruments.

(42) Printing, publishing, engraving, including photo-engraving.

(43) Scenery construction.

(44) Sheet metal shops.

(45) Signs and displays (non-metal).

(46) Soaps or detergents, including washing or cleaning powder or soda, packaging only.

(47) Statuary and art goods, other than stone and concrete including church art, figurines, mannequins, religious art, (excluding foundry operations).

(48) Stamps (hand), stencils, and brands.

(49) Toys and games.

(50) Trade and business schools.

(51) Umbrellas and parasols.

(52) Upholstery and furniture shops, wholesale.

(53) Vehicles, children's, including baby carriages, bicycles, scooters, wagons, or similar vehicles.

(54) Window shades, venation blinds, awnings, tarpaulin, and canvas specialties.

(55) Wood products including furniture, baskets, boxes, crates, or similar products, and cooperage works.

(56) Other Uses not prohibited by law, not specifically permitted by this Article and which are found to be similar in character to a USE specifically permitted.

SECTION 2 SPECIAL USES

The special uses permitted in "M-1" district are set forth in Article V.

SECTION 3 LOT SIZE

The minimum lot size in the "M-1" district uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the "M-1" district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the "M-1" district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the "M-1" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “M-1” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “M-1” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XX GENERAL INDUSTRIAL "M-2" DISTRICT

The following regulations shall apply in all "M-2" districts.

SECTION 1 PRINCIPAL PERMITTED USES

No building or structure or part thereof shall be erected, altered or used, or land or water used, in whole or in part, for other than one or more of the following specified uses.

A. Any Use permitted in an "M-1" district or a "W-I" district.

B. The manufacture, processing, compounding, assembling, treatment or use of the following:

(1) Accessory Uses and structures.

(2) Air conditioners.

(3) Aircraft and aircraft parts.

(4) Aluminum, extrusion, rolling, fabrication.

(5) Aluminum powder and paint.

(6) Apparel or other textile products from textiles or other materials, including hat bodies of fur, wool, felt, or similar products.

(7) Assembly of automobile, carriage, engine (rebuilt), motorcycle, trailer, truck, wagon, including parts.

(8) Asphalt and bituminous materials.

(9) Athletic or sports equipment, including balls, baskets, bats, cues, racquets, rods or similar products.

(10) Baskets and hampers (wood, reed, rattan, and the like).

(11) Battery, storage (wet cell).

(12) Bedding (mattress, pillow, quilt), including rebuilding or renovating.

(13) Boat manufacture of vessels less than five tons, and boat building or repair of boats, less than 100 feet in length.

(14) Boilers.

(15) Boxes and crates.

(16) Brick, firebrick, tile, clay products, including refectories.

(17) Building materials (cement, lime, sand, gravel, lumber, and the like).

(18) Carpets, rugs, mats.

(19) Chemical manufacturing.

(20) Cider and vinegar.

(21) Coal and coke, storage and sales.

(22) Concrete products including central mixing and proportioning plants.

(23) Cooperage works (cooperage stock mill).

(24) Distilleries (alcoholic), breweries and alcoholic spirits (non-industrial).

(25) Electric power and steam generating plants.

(26) Exposition building or center.

(27) Firearms.

(28) Food processing, including chewing gum; chocolate, cocoa and cocoa products; condensed and evaporated milk, processing and canning; flour, feed, grain, food products including slaughtering of meat or preparation of fish for packing; fruit and vegetable processing (including canning, preserving, drying, and freezing); gelatin products; glucose and dextrin; malt products; meat products, packing and processing yeast.

(29) Foundry products.

(30) Furniture.

(31) Glass and glass products, including structural or plate glass or similar products.

(32) Grain blending, packaging and milling.

(33) Hardware products or tools, including bolts, brads, cutlery, door knobs, drills, hinges, household items, locks, metal casting (non-ferrous), nails, needles and pins, nuts, plumbing appliances, rivets, screws, spikes, staples, tools (hand), or similar products.

(34) Hair, felt, feathers, shoddy, bulk processing, washing, curing, dyeing.

(35) Heating, ventilating, cooking, and refrigerating supplies and appliances.

(36) Hosiery.

(37) Household appliances, electrical and gas, including stoves, refrigerators, washing machines, clothes dryers, and similar products.

(38) Ice, dry or natural.

(39) Implements, agricultural.

(40) Ink.

(41) Insecticides, fungicides, disinfectants, and related industrial and household chemical compounds.

(42) Iron or steel (ornamental), miscellaneous, fabrication or assembly, including steel cabinets, doors, fencing, metal furniture, or similar products; cleaning, grinding, heat treatment, metal finishing, plating, polishing, rust proofing, sharpening, or similar processes.

(43) Junk, salvage yard provided the entire operation is enclosed within a solid fence at least eight (8) feet high.

(44) Jute, hemp, sisal, or oakum products.

(45) Lead oxide.

(46) Linoleum and other hard surfaced floor covering (except wood), oil cloth, oil treated products or artificial leather.

(47) Lumber sawmill.

(48) Machine tools, including metal lathes, metal presses, metal-stamping machines, wood-working machines or the like.

(49) Machinery, heavy including electrical, construction, mining or agricultural.

(50) Metal and metal ores, reduction, refining, smelting, alloying, including blast furnaces, cupolas and blooming mills.

(51) Metal alloys or foil, miscellaneous including solder, pewter, brasses, bronzes or tin, lead, gold foils or similar products.

(52) Metal casting or foundry products, heavy, including ornamental iron work or similar products.

(53) Metal or metal products, treatment or processing, including enameling, japanning, lacquering, galvanizing and (hot dip) plating.

(54) Mill work and planning.

(55) Molasses.

(56) Minerals and earths (including sand-lime products), grinding, crushing, processing.

(57) Monument and architectural stone, monument works.

(58) Motor testing (internal combustion motors).

(59) Motion picture equipment commercial.

(60) Paint, lacquer, shellac and varnish, including calcimine, casein, colors and pigment, thinners and removers.

(61) Paper, paper board and pulp.

(62) Petroleum or petroleum products, refining, including gasoline or other petroleum products.

(63) Petroleum tank farm, commercial bulk storage of petroleum products.

(64) Pottery and porcelain products.

(65) Pencils.

(66) Perfumes or perfumed soaps, compounding only.

(67) Plating, electrolytic process.

(68) Plumbing supplies.

(69) Pulp goods, pressed or molded (including paper products).

(70) Railroads, freight terminals, repair shops, yards or appurtenances, or facilities or services used or required in railroad operations.

(71) Roofing material, building, paper and felt.

(72) Rubber and synthetic-treated fabric products (excluding all rubber or synthetic processing), such as washers, gloves, footwear, bathing caps, atomizers, or similar products.

(73) Safes and vaults.

(74) Sheet metal products from metal stamping or extrusion, including containers, costume jewelry, razor blades, bottle caps, buttons, kitchen utensils or similar products.

(75) Steel works and rolling mills (ferrous) for steel, structural iron and steel fabrication and structural products, including bars, cables, girders, rails, wire rope or similar products.

(76) Stone products.

(77) Slaughtering of animals and poultry.

(78) Stock yards and feed lots.

(79) Shipping containers (corrugated board, fiber, or wire bound).

(80) Silverware, plate or sterling.

(81) Storage yard and contractor's shop.

(82) Sugar Refining.

(83) Textiles and fibers into fabric goods; spinning, weaving, knitting, manufacturing, dyeing, printing and finishing of goods, yarns, knit goods.

(84) Tire rethreading and vulcanizing shop.

(85) Tobacco (including curing) or tobacco products.

(86) Training schools (industrial vocational) including internal combustion engines schools.

(87) Truck or transfer terminal. Freight and motor freight stations.

(88) Vitreous enamel products.

(89) Waterfront shipping.

(90) Wholesale markets (goods not contained in totally enclosed building).

(91) Wood products.

(92) Other uses not prohibited by law not specifically permitted by this Article and which are found to be similar in character to a USE specifically permitted.

SECTION 2 SPECIAL USES

The special uses permitted in "M-2" district are set forth in Article V.

SECTION 3 LOT SIZE

The minimum lot size in the "M-2" district for its permitted uses shall be determined pursuant to the provisions of Article XXI.

SECTION 4 SET BACK REQUIREMENTS

The minimum set back requirements in the "M-2" district shall be determined pursuant to the provisions of Article XXI.

SECTION 5 BUILDING HEIGHT

The maximum building height permitted in the "M-2" district shall be determined pursuant to the provisions of Article XXI.

SECTION 6 FLOOR AREA

The total floor area of any building in the "M-2" district shall be determined pursuant to the provisions of Article XXI.

SECTION 7 OFF STREET PARKING

Any off street parking and/or loading space requirements for the “M-2” district shall be determined pursuant to the provisions of Article XXII.

SECTION 8 SIGNS

Any signs which may be permitted in the “M-2” district shall be pursuant to Article XXVI (A) and Article XXVI (B).

ARTICLE XX (A) SOLID WASTE DISPOSAL FACILITY "M-3" DISTRICT

SECTION 1 USE REGULATIONS

No building or structure or part thereof shall be erected, altered or used, or land or water used, in whole or in part, for other than one or more of the following specified uses. All uses set forth shall be subject to all other applicable local, state, and federal regulations and any required permit pertaining to the operation of the proposed facility. Copies of permits must be furnished to the Area Plan Commission office in conjunction with the approved development plan prior to commencement of operations.

(1) Solid Waste Disposal Facilities.

(2) Hazardous Waste Disposal Facilities which shall also require a Special Use as approved by the Board of Zoning of Appeals.

(3) Accessory uses and structures.

(4) Other uses permitted by law but not specifically permitted by this article and which are found to be similar in character to those uses specifically set forth herein.

SECTION 2 SPECIAL USES

The special uses permitted in "M-3" district are set forth in Article V.

SECTION 3 AREA

There shall be no required area or width of lot unless otherwise required through the state and federal permitting procedure as set forth in Article V.

SECTION 4 YARDS

There shall be no required yard for any structure except where the side of a lot in an "M-3" district abuts upon a lot in an "R" (Residential) district, a side yard at least fifty (50) feet in width shall be provided in the side of the lot adjacent to the "R" district unless otherwise required through the state and federal permitting procedure as set forth in Article V.

SECTION 5 HEIGHT

Forty-five (45) feet within one hundred and fifty (150) feet of an "R" district, otherwise no limit.

SECTION 6 DEFINITIONS

1. SOLID WASTE DISPOSAL FACILITIES

Any facility or operation involving the handling, storage, and processing of solid waste including the following:

(a) Sanitary landfills.

(b) Recycling facilities.

(1) Exclusions:

a. Any transport vehicle or collection bin used for collection by a non-profit organization at any commercially zoned property.

b. Curb-side collections.

c. On-call collections.

d. Any processing and/or marketing of a recyclable material already separated from the general waste stream, provided no permit for the operation is required from the Indiana Department of Environmental Management and written verification is submitted by the land owner to the Area Plan Commission of the same prior to the start of operation. These uses shall be allowed under the County's "M-1" Light Industrial and "M-2" General Industrial zoning districts.

(c) Composting facilities.

(1) Exclusion:

The packaging and marketing of the soil conditioner produced by a composting facility, provided no permit is needed from the Indiana Department of Environmental Management and written verification is submitted by the land owner to the Area Plan Commission of the same prior to the start of operation. These shall be allowed under the County's "M-1" Light Industrial and "M-2" General Industrial zoning districts.

(d) Solid waste transfer station including separation and/or compaction facilities which may include collection facilities.

(e) Incineration facilities including Resource Recovery and/or Conversion facilities.

(f) Sludge or by-products generated from the operation of a municipal sewage treatment plant and to be used on, or applied to, agricultural real estate for fertilization purposes.

2. SOLID WASTE

Any of a wide variety of solid materials, as well as some containerized liquids, which are discarded including agricultural, commercial, construction, demolition, hazardous, industrial, municipal, and residential wastes. Classifications of wastes are as follows:

(a) AGRICULTURAL SOLID WASTES

Wastes, including manure, plant stalks, hulls, and leaves, produced from farming.

(b) BULKY WASTES

Large wastes, such as furniture, appliances, tires, branches, stumps, and trees.

(c) COMMERCIAL SOLID WASTES

Wastes that originate in wholesale, retail, or service businesses.

(d) CONSTRUCTION WASTES

Wastes produced in building homes, offices, industrial plants, etc. The materials usually include lumber, miscellaneous metal parts, packaging materials, etc.

(e) DEMOLITION WASTES

Bulky wastes produced from the destruction of buildings, roads, sidewalks, etc. These wastes usually include large, broken pieces of concrete; miscellaneous construction metals; bricks; and glass.

(f) FOOD WASTES

Animal and vegetable wastes resulting from the preparation, cooking, and serving of foods; commonly called garbage.

(g) HAZARDOUS WASTE

Wastes that are inherently dangerous to handle, treat, and dispose of. These wastes – usually generated by a variety of manufacturing, chemical or service industries – include radioactive substances, toxic chemicals, biological wastes, flammable wastes, and explosives.

(h) INDUSTRIAL WASTES

Wastes discarded from industrial operations or manufacturing processes. Most industrial wastes can be classified as either scrap (those materials which can be recycled at a profit) or solid wastes (those that cannot be reclaimed and recycled).

(i) MUNICIPAL WASTES

The combined residential and selected commercial solid wastes generated in a given municipality.

(j) RESIDENTIAL WASTES

Wastes generated in homes generally consisting of consumer goods wastes, including newspaper; cardboard; beverage and food cans; plastics; glass; and food, garden, and lawn wastes.

3. COLLECTION

The process of picking up wastes – at homes, businesses, and other locations – loading them into an enclosed collection vehicle, and hauling for final disposal.

4. COMPACTOR

Any power-driven equipment designed to reduce the volume of wastes by compressing.

5. COMPOST

A mixture of organic wastes aerobically decomposed to an intermediate state. Compost can be used as a soil conditioner. This definition includes the recycling of sludge from wastewater treatment plants for uses as compost products as soil conditioners.

6. CONVERSION

The transformation of wastes into other forms, such as steam, gas, or oil. Transformation is usually accomplished by burning or pyrolysis.

7. FACILITY

Any assemblage of equipment used in the collection, storage, conversion, or disposal of solid waste. Usually refers to a transfer facility, recycling facility, or energy recovery plant.

8. INCINERATION

The process by which solid, liquid, or gaseous combustible wastes are burned and changed into gaseous by-products and residue (referred to as ash).

9. PROCESSING

Any means designated to change the physical form or chemical content of solid wastes.

10. RECYCLING

The separation, processing, and marketing of a waste material (e.g., glass, aluminum) from the waste stream so that it can be reused.

11. RESOURCE RECOVERY

A concept involving the extraction of economically usable materials or energy from wastes. It may involve recycling or physical/chemical conversion to various end products.

12. SANITARY LANDFILL

A land area where solid wastes are disposed of under regulatory control.

13. SEPARATION FACILITY

Division of wastes, either manually or mechanically, into groups of similar materials, such as paper, glass or metal. Also used to describe the further sorting of materials into more specific categories such as clear glass/dark glass, aluminum, copper, newspaper/cardboard/office paper.

14. TRANSFER STATION

A facility where wastes are removed from small collection vehicles (e.g., compactor trucks) and loaded onto larger transport vehicles (e.g., tractor trailers)for transport to disposal areas. Compaction or separation may occur prior to loading.

SECTION 7 APPLICATION PROCEDURE

A rezoning petition for a solid waste disposal facility/M-3 district must include specific information as to the type of facility to be established, and must be accompanied by a development plan in the manner prescribed by Article XXII (D).

SECTION 8 NON CHANGING OR USAGE, ABANDONMENT AND EXPIRATION *Amended 8/12/13*

(1) The specified type of facility and development plan cannot be changed from one designated approved use to any other listed permitted use under this ordinance.

(2) The specific use approved must be in operation according to the approved development plan within one (1) year from the zoning change so enacted and development plan approval.

If upon the expiration of one (1) year from the zoning change so enacted and approval of said development plan the Solid Waste Disposal Facility is not in operation, the land involved shall revert to its former zoning district classification. The Plan Commission, upon application and public notice as required by law, may grant one extension of one (1) year upon an application being filed with said Plan Commission. In the event of reversions to former zoning as provided herein, the land and structures thereon shall be subject to all regulations and limitations of the zoning district then applicable

(3) If any Solid Waste Disposal Facility is approved and in operation with the operation ceasing for any reason for a period of more than three (3) consecutive months or the subject property changes ownership and/or applicant, the land involved in the zoning change so enacted and development plan approved shall revert to its former zoning district as provided herein unless and new application is filed with public notice given as required by law and approved by the Plan Commission, the land and structures thereon shall be subject to all regulations and limitations of the zoning district.

ARTICLE XXI DEVELOPMENT REGULATIONS *~Amended 5-25-05, 9/12/07 , 12/14/09, 11/8/10, 1/9/12& 4/13/15*

SECTION 1 BASIC STANDARDS

Every lot shall front and have ingress and egress to and from the proposed building site from a dedicated street or right of way maintained by the County or other participating jurisdiction unless the lot is subject to any of the following:

(a) Recorded lots on non-maintained dedicated County or other participating jurisdiction street or right of way.

(b) Where a lot fronts and has ingress and egress to and from the proposed building site from a dedicated street or right of way which has not been accepted for maintenance by the County or other participating jurisdiction and was a lot record prior to the effective date of this Article said lot shall qualify for an Improvement Location Permit.

(c) In no case shall there be more than one (1) residential **dwelling** and its accessory **structures** on one (1) lot. **In no case shall there be an accessory structure on property without the residential dwelling in a "residentially zoned district" unless a Variance is obtained.** *Amended 12/14/09.*

(d) In no case shall any structure be located in or over any easement. *Added 9/12/2007.*

(e) Non Residential lots located within a subdivision plat in a "C-1" Neighborhood Commercial zoning district that do not front and have direct ingress and egress to and from the proposed building site from a dedicated street or right-of-way maintained by the county or other participating jurisdiction, shall be properly demonstrated to the Commission as to adequate ingress and egress for each use/structure. This must be clearly documented as an egress/ingress easement on the plat. *Amended 1/9/12*

The easement must have only one way in and out and shall not be a connector between two (2) roadways. The easement shall be designed and built to the same standards as a private street as described in the Subdivision Control Ordinance. Said easement shall be given a "street name" for addressing purposes if necessary.

SECTION 2 STANDARDS FOR CONSTRUCTION OF IMPROVEMENTS

Standards for the construction of improvements pertaining to maximum height, minimum lot size, minimum width, minimum front yard, minimum side yard, minimum lot coverage, green space requirements more particularly set forth in Table "B" which is made a part of this Article and referred to as Article XXI Section 2 Table B.

SECTION 3 FRONT YARD (Additional requirements)

(1) Setback – Every lot shall have a front yard between the building line and the right-of-way line of streets not less than forty percent (40%) of the width of the right-of-way, but in no case less than twenty-five (25) feet.

(2) Front Yard on Through lot – At each end of a through lot there shall be a front yard of a depth required by this Article for the district in which each street frontage is located, and one of such front yards may serve as a required rear yard.

(3) Front Yard – Between Projected Buildings
Where a lot is situated between two lots, each of which has a main building projecting beyond the established front yard line and was so maintained when this Article became effective, the front yard requirements on such lot may, except on major highways and thoroughfares, be the average of the front yards of said existing building, provided, however, the front yard of such lot shall not be less than ten (10) feet.

(4) Front Yard – Adjoining Projecting Building – Where a lot adjoins only one lot having a main building which projects beyond the established front yard line and has been so maintained since this Article became effective, the front yard requirements on such lot may be the average of the front yard of the existing building and the established front yard line, provided, however, the front yard of such lot shall be not less than ten (10) feet.

(5) Front Yard – Sloping Lot.
Where the elevation of the ground at a point fifty (50) feet from the front line of the lot and midway between the sides lines, differs ten (10) feet or more from the curb level or where the slope (measured in the general direction of the side lot lines) is twenty percent (20%) or more on at least one-forth (1/4) the depth of the lot, the front yard shall be at least fifty percent (50%) of that required in the district, provided the required front yard of such lot shall be not less than ten (10) feet.

(6) Front Yard – Between Buildings in Block
Where twenty-five percent (25%) or more of the lots on the same street within a block occupied by buildings on the effective date of this article, no building or other structure shall be erected, reconstructed, altered or moved so as to project closer to the right of way line of the street on which it faces than the average building setback line established by such buildings. Where no front yard has been thus established the front yard requirements contained herein shall be applicable.

(7) Accessory Building – Accessory Buildings may be located on two and one-half (2 ½) acre parcels in such front yard provided every portion of the accessory building is at least twenty-five (25) feet from the front lot line and

that no accessory building shall be closer than ten (10) feet to a side lot line. This distance between the accessory building and the principle dwelling shall be not less than ten (10) feet.

SECTION 4 SIDE YARDS (Additional Requirements)

(1) There shall be two side yards for each lot. The minimum width of each side yard shall be as follows:

All districts permitting Residential Use shall have a side yard on each side, each of which shall be at least six (6) feet.

(2) Side Yard – Corner Lot
A side yard at least fifteen (15) feet in width shall be provided on the side of the lot abutting on the side street.

(3) Side Yards Waived
For the purpose of the side yard regulations, the following dwellings with common party walls shall be considered as one building occupying one lot: semi-detached dwellings; row dwellings; and group dwellings.

SECTION 5 REAR YARD (Additional Requirements) *Amended 4/9/12*

Rear Yard – Accessory Structure

An accessory structure, not exceeding the maximum feet in height of the zoning district in which it is located (see Table B this Article) , provided that no accessory structure(s) shall be closer than three (3) feet to a side lot line.

The distance between the rear of the principal dwelling and the front of the accessory structure shall be not less than ten (10) feet. **There shall be ten (10) feet between all structures.**

SECTION 6 ADDITIONAL PROVISIONS AND MODIFICATIONS TO YARD REQUIREMENTS

(1) Yards apply to only one building – No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this Article shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected.

(2) Projection into yards.

(a) Cornice, sill, or chimney – A cornice, eave belt course, sill, canopy or other similar architectural feature (not including bay window or other vertical projection) may extend or project into a required side yard not more than two inches for each one foot of width of such side yard and may extend or project into a required front, side or rear yard not more than 30 inches. Chimneys may project into a required front, side or rear yard not more than one foot, provided the width of such yard is not reduced to less than three (3) feet.

(b) Fire Escape – A fire escape may extend or project into any front, side or rear yard not more than four (4) feet.

(c) Open Stairway and Balcony – An open unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required rear yard not more than four (4) feet, and such balcony may extend into a required front yard not more than thirty (30) inches.

(d) Open Porch – An open, unenclosed porch, platform or landing place not covered by a roof or canopy, which does not extend above the level of the first floor of the building, may extend or project into any required side or rear yard not more than four (4) feet.

(e) Fences, Walls and Hedges – Fences or walls may be erected placed or maintained along a lot line on residential zoned property or adjacent thereto, to a height not to exceed six (6) feet above the ground, except that no such fence, wall, hedge or shrubbery located in a required front or street side yard shall not exceed a height of four (4) feet. Where such lot line is adjacent to non-residential zoned property fences or walls may be maintained at a height not exceeding eight (8) feet. *Amended 8/31/2009.*

ARTICLE XXII OFF STREET PARKING AND LOADING

SECTION 1 PURPOSE

The following off-street parking spaces shall be provided and satisfactorily maintained, by the owner of the property for each building which is hereafter erected, enlarged or altered for use for any of the following purposes:

SECTION 2 AMOUNT OF OFF STREET PARKING

(1) Dwellings: At least two (2) parking spaces for each dwelling unit in the building or buildings.

(2) For any general auditorium, gymnasium, or theatre; high school or college, or university auditorium or stadium; or other place of public assembly, there shall be provided at least one (1) parking space for each six (6) seats provided for its patrons, based on the maximum seating capacity, including fixed and movable seats. For any church, only permanent seats shall be counted in computing required off-street parking spaces, and the use of joint parking facilities in connection with any building or use not normally open, used or operated during the principal operating hours of a church shall be allowed, providing a properly drawn legal instrument is executed by the parties concerned for the joint use of such off-street parking facilities, which instrument, duly approved as to form by the Commission Attorney, shall be filed with the application, for a permit.

(3) For any hotel, apartment hotel, club house, dormitory, fraternity house or any other similar use or establishment there shall be provided at least one parking space for each two (2) guest sleeping rooms.

(4) For any dancing, exhibitions, labor temple, lodge hall, skating rink or other assembly hall without fixed seats, there shall be provided not less than one (1) parking space for each one hundred twenty (120) square feet of floor area thereof.

(5) For any bank, clinic, funeral home, office building, professional office, welfare institution or any other similar use or establishment, there shall be provided not less than one (1) parking space for each 400 square feet of gross floor area.

(6) For any hospital, sanitarium, convalescent home or any other similar use or establishment, there shall be provided not less than one (1) parking space for each three (3) beds or any portion thereof.

(7) For any eating or drinking establishment or any similar use, there shall be provided not less than one parking space for each two hundred (200) square feet of gross floor area thereof.

(8) For any retail store, except a food market, there shall be provided not less than one parking space for each four hundred (400) square feet of gross floor area thereof.

(9) For any food market, or any similar use, there shall be provided one parking space for each one hundred (100) square feet of gross floor area in excess of five hundred (500) square feet.

(10) For any manufacturing, processing, wholesaling, or any other industrial use or establishment including any printing or engraving establishment or any warehouse or storage building, there shall be provided one parking space for each five hundred (500) square feet of gross floor area thereof.

(11) For any launderette, laundromat, self-service laundry, washateria, or any similar use or establishment under a different name, there shall be provided one parking space for two washing or drying machines.

(12) For any bowling alley, there shall be provided four (4) parking spaces for each alley thereof.

(13) For any motel, tourist court, or similar use or establishment, there shall be provided one parking space in the same parcel of land for each individual sleeping or living unit.

(14) For any trailer coach park there shall be provided not less than one parking space on the same parcel of land for each individual house trailer.

(15) For any Supermarket there shall be provided not less than one (1) parking space for each one hundred (100) square ft. floor area in excess of two thousand (2,000) square feet of floor area.

SECTION 3 DIMENSIONS OF PARKING SPACES

A parking space shall be eighteen (18) feet in depth and nine (9) feet in width.

SECTION 4 MIXED USES

In the case of any use not listed herein, the number of parking spaces required for such use shall be the same as for a similar use which is listed. In the case of mixed uses in the same building or structure, the total requirement of off-street parking facilities shall be the sum of the requirement of various uses computed separately

from the item set out in this section and off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified for collective use.

SECTION 5 COLLECTIVE PARKING FACILITIES

Nothing in this section shall be constructed to prevent the provision of any off-street parking facility for one or more buildings or uses, provided, however, that the total number of off-street parking spaces shall not be less than the sum of requirements for the various individual uses computed separately in accordance with the item set out in this section. All parking spaces provided pursuant to this section shall be on the same lot with the building, except that the Commission may permit the parking spaces to be on any properly zoned lot within three hundred (300) feet of the building; provided that the requirements of Section 2 (13) and (14) shall not be waived.

Distance Measurements – The distance to any parking space areas as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building said parking area or facility is to serve.

SECTION 6 OFF STREET LOADING

On the same premises with every building, structure, or part thereof, hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, mortuary, laundry, dry cleaning or other uses, involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley.

SECTION 7 OFF STREET PARKING LOTS IN RESIDENTIAL DISTRICTS

(1) SEPARATE ACCESSORY PARKING LOTS:

Open parking lots for the parking of self-propelled passenger vehicles accessory to a permitted use located in a lot separate from the lot occupied by the main use and approved by the Commission shall be arranged, maintained and used in accordance with these requirements:

(a) The lot shall front onto a dedicated street and have a front yard not less than twenty-five (25) feet in depth. Corner lots shall provide a side yard not less than fifteen (15) feet in depth.

(b) A solid/louvered masonry wall and/or durable fence not more than five (5) feet and not less than three (3) feet in height shall be placed between the parking area and the required front yard and on the

side and rear lot lines with only such openings as may be required for ingress and egress.

(c) The required front yard shall be planted and kept in lawn that is maintained so as to present a healthy, neat and orderly appearance. The required yard shall be kept free from refuse and debris.

(d) No signs shall be permitted other than unlighted entrance and exit markers not exceeding two (2) square feet in area located within the parking area.

(e) The parking area shall be paved with an asphalt or Portland cement binder and graded so as to prevent dust and surface water accumulation.

(f) If lighting is provided for the parking area, all lights shall be deflected, shaded and focused away from all residentially zoned property.

(g) No charge shall be made for parking.

(2) BUSINESS PARKING LOTS:

Open parking lots located in residential districts for the parking of automobiles incidental to a commercial zoned area adjacent thereto and approved by the Commission shall be designed, maintained and used in accordance with the following requirements.

(a) LIMITATIONS OF USE: Parking area shall be used only for the parking of private passenger vehicles of customers, clients, patrons, visitors, employee in the business area. No charge shall be made for parking. No business of any kind, including repair, service, washing, sale, display or storage shall be conducted on or from the lot. No structures, other than those specifically permitted or required, shall be erected on the premises. No advertising signs shall be erected on the premises, except that not more than one directional sign at each point of ingress and egress may be erected which may also bear the name of the operator of the parking area and the enterprise it is intended to serve. Such sign shall not exceed twenty (20) square feet in area nor extend to a greater height than six (6) feet above the ground and shall be erected within the parking area. Such transitional use shall not extend more than one hundred (100) feet from the boundary of the less restricted zone.

(b) ACCESS: Ingress and egress for parking area shall be over business zoned property or from a public alley lying between the business and residential-zoned property. There shall be no vehicular access to such parking area through or across any yard required under this Section, provided: The Commission may, after investigation and Public Hearing, authorize not more than one driveway not over ten (10) feet in width, over or through a required yard in cases where it finds that public convenience, relief of street congestion and peculiar circumstances required such action that the spirit and purpose of the Zoning Article will be promoted and that the surrounding neighborhood will not be unduly affected in connection with authorizing such a driveway; the Commission may impose any conditions or requirements reasonable necessary to effectuate the objective of this Article.

(c) PROTECTIVE WALL: The parking area shall be provided with a continuous louvered wall not over five (5) feet in height and not less than three (3) feet in height located on the perimeter of the parking area and next to the yards required in this Section. Provided: any opening in said wall shall be not more than ten (10) feet in width and subject to conditions in this Article.

(d) YARDS: The lot shall provide a front yard not less than twenty-five (25) feet in depth or less than the front yard of any existing residential structure immediately adjacent and on either side of the lot. The space or yards between the parking area and residential lot lines or building lines shall not be used or occupied for any purpose except as permitted or required in this Article.

(e) LANDSCAPING: All yards and spaces between the walls required by this Section and residentially-zoned property or building lines shall be planted and kept in lawn that is maintained so as to present a healthy, neat, and orderly appearance. The required yard shall be kept free from refuse and debris.

(f) SURFACING: The parking area shall be paved with an asphaltic or Portland cement binder and graded so as to prevent dust and surface water accumulations.

(g) LIGHTING: If lighting is provided for the parking area, all lights shall be deflected, shaded and focused away from all residentially zoned property.

ARTICLE XXIII NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND, NON-CONFORMING STRUCTURES AND NON-FORMING USES OF STRUCTURES AND PREMISES.

SECTION 1 NON-CONFORMING LOTS OF RECORD

Where a lot has less width or less area than herein required and was a lot of record, such lot may be occupied by any residential use permitted in said Residential district.

SECTION 2 LEGAL NON-CONFORMING USES OF LAND

If at the effective date of June 13, 1964, lawful use of land exists that is made no longer permissible under the terms of this Article as enacted or amended, such use may be continued subject to the following provisions:

(1) No legal non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Article.

(2) No legal non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Article.

(3) If any legal non-conforming use of land ceases for any reason for a period of more than six (6) consecutive months, any subsequent use of land shall conform to regulations specified by this Article for the district in which the land is located, except that a twelve (12) month period of discontinuance shall apply to uses which are dependent upon seasonal trade and which are customarily closed for the greater portion of the year's time.

SECTION 3 LEGAL NON-CONFORMING STRUCTURES

If a lawful structure exists prior to June 13, 1964, that could not be built under the terms of this Article by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued subject to the following provisions:

(1) No non-conforming structure may be enlarged or altered in a way which increases its non-conformity.

(2) If a non-conforming structure is destroyed by any means to an extent of more than sixty percent (60%) of its replacement cost at time of destruction, it may not be reconstructed except in conformity with the provisions of this Article.

(3) If a non-conforming structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 4 LEGAL NON-CONFORMING USES OF STRUCTURES

If a lawful use of structure, or of structure and premises in combination, exists at the effective date of June 13, 1964 that would not be allowed in the district under the terms of this Article, that use may be continued subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this Article in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of June 13, 1964, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alternations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided the proposed use is equally appropriate to the district than the existing non-conforming use.

(4) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

(5) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(6) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

SECTION 5 REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any non-conforming use, work may be done provided that the cubic content of the building as it existed at time of passage or amendment of this Article shall not be increased.

Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 6 USES UNDER SPECIAL USE PROVISIONS NOT NON-CONFORMING USES

Any use for which a special use is permitted as provided in this Article shall not be deemed a legal non-conforming use, but shall without further action be deemed a conforming use in such district.

ARTICLE XXIV ADMINISTRATION

SECTION 1 ENFORCEMENT

The Commission through its Executive Director shall enforce the provisions of the Comprehensive Zoning Article.

SECTION 2 IMPROVEMENT LOCATION PERMIT

No building or structure except facilities of government agencies, government owned and/or operated utilities, and buildings whose primary use is in conjunction with the production of agricultural crops and livestock and fowl other than residences, may be erected, moved, added to or structurally altered, unless an Improvement Location Permit has been issued as provided for in I.C. 36-7-4-800 et seq. and pursuant to the provisions of this article Notwithstanding the use of the structure or building and/or its ownership, an Improvement Location Permit shall be required of any buildings or structures located within a flood plain area. *Amended 1/9/12*

SECTION 3 APPLICATION FOR IMPROVEMENT LOCATION PERMIT

Application for Improvement Location Permit must be made in duplicate on a form prescribed by the Warrick County Area Plan Commission and accompanied by a scale drawing, showing the dimensions and the shape of the lot to be built upon; the size and location of existing buildings; and the location and dimensions of the proposed building or alternation. The application must include any other information that is required by the Commission and is necessary for the administration and enforcement of this Article, including but not limited to existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; and conditions existing on the lot. Sewer Permit and water certificate from the appropriate sewer/water companies, municipalities or the Warrick County Health Department must accompany this application.

If application for an Improvement Location Permit is being sought for non-residential zoned property, the property owner/developing engineer must meet with the Non-Residential Site Review Committee prior to the issuance of said Improvement Location Permit. No Improvement Location Permit for a non-residential building shall be issued prior to the approval of the Commercial Driveway Permit by the County Highway Engineer and Drainage Plan Approval by the Drainage Board, if applicable.

One copy of the application shall be returned to the applicant by the Executive Director of the Commission after they have indicated their approval or disapproval of the application. The second copy similarly marked, shall be retained by the

Commission. If any application is not approved, the Executive Director of the Commission shall state the reasons for their action of the application.

When permits are issued for lots in subdivisions for which the streets have not been accepted for maintenance by the Warrick County Commissioners, the Executive Director of the Commission shall cause to be imprinted in bold letters on the face of the Permit the following:

"The streets in your subdivision have not been accepted for maintenance by Warrick County".

After a permit is issued and construction has commenced it shall be unlawful to bury any construction debris during or at completion of any improvement made on a parcel of real estate. The Executive Director shall cause to be imprinted in bold letters on the face of the permit the following:

"The burying of construction debris during or at completion of construction of any improvement is prohibited and subject to a violation fee."

SECTION 4 EXPIRATION OF IMPROVEMENT LOCATION PERMITS

If the work described in any Improvement Location Permit has not been substantially completed within two (2) years of the date it was issued, the permit shall expire and written notice thereof shall be given to the persons affected, together with notice that all work shall cease until a new permit has been obtained.

SECTION 5 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS

Improvement location permits issued on the basis of plans and applications approved by the Commission authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use arrangement, or construction.

SECTION 6 FEES AND EXPENSES FOR NOTICE *Amended 9-14-09.*

Fees for any Permits shall be issued by the Warrick County Area Plan Commission except ***for governmental agencies located in Warrick County and*** shall be as set from time to time by the Warrick County Area Plan Commission pursuant to I.C. 36-7-4-411.

ARTICLE XXV AMENDMENTS

SECTION 1 GENERAL

Whenever the public necessity, convenience, general welfare or good zoning practice require the amendment, supplement or change in the regulations, district boundaries or reclassification of property, now or hereafter established by this Article or amendments thereto, the amendment may be proposed by:

(1) A member of a participating legislative body, to that body;

(2) The County Area Plan Commission to a participating legislative body in the county; or

(3) By petition of the owners of property of fifty percent or more of the area involved in the petition either to the body having legislative authority over the land or to the County Area Plan Commission.

Any proposed Article for the amendment, supplement, change or repeal of the Zoning Article shall be referred to the Commission for consideration and report before any final action is taken by a legislative body.

SECTION 2 AREA FOR REZONING

In case of a petition for a change in the zoning of property, the Commission may consider whether the area described in the original petition should be enlarged, reduced or modified in order to reflect the interests of the Community and to correspond with the Warrick Comprehensive Master Plan. The Commission may recommend to the Board of County Commissioners or any participating city or town such enlargement, reduction or modification if any, as it may deem desirable, provided the Commission property notifies any and all persons affected by such enlargement, reduction or modification.

SECTION 3 PLAN COMMISSION INITIATION

The Commission shall carry on a continual study of zoning, zoning techniques and the relation of zoning to private developments and public improvements and the Comprehensive Master Plan for the orderly growth of the County and may from time to time submit recommendations on the amendment of this Article to the Board of County Commissioners and any participating city or town.

SECTION 4 BASIS FOR RECOMMENDATIONS

In reviewing and formulating recommendations to the Board of County Commissioners or any participating city or town on requested or proposed changes in

the Zoning Article, the Commission shall consider and evaluate the change in relation to the following aspect of the Comprehensive Master Plan:

(1) The land use pattern of the GENERALIZED LAND USE PLAN OF WARRICK COUNTY.

(2) The TRANSPORTATION PLAN OF WARRICK COUNTY.

(3) Other pertinent parts of the Comprehensive Master Plan.

(4) Whether there have been substantial changes in the character, development of areas in or near the area under consideration.

(5) The purposes and objectives of this Article as outlined in Article I.

SECTION 5 CONDITIONAL REZONING

No amendment to the Zoning Article to rezone property shall contain conditions, limitations or requirements not applicable to all other property in the zoning district to which the particular property is rezoned except as provided for in Article XII (D).

SECTION 6 TIME LIMIT ON PETITIONS

The following time limitations shall apply to petitions for rezoning or variances:

(1) Whenever the County Area Plan Commission has taken action to recommend denial of a petition for rezoning of property, the Commission shall not consider any further petition for the same rezoning of any part of the same property for a period of six (6) months from the date of such action.

(2) Whenever the Board of Zoning Appeals has taken action to recommend denial of a petition for a variance on any property, the Board shall not consider a petition for a variance on any part of the same property for a period of six (6) months from the date of such action.

(3) Whenever the Board of County Commissioners has changed the zoning of property by an amendatory Article, the Board of County Commissioners shall not consider any petition for rezoning of any part of the same property for a period of six (6) months from the effective date of the amendatory Article.

ARTICLE XXV (A) COMMITMENTS; ENFORCEMENT

1. (a) As a condition to the:

(1) Adoption of rezoning proposal;
(2) Primary approval of a proposed subdivision plat or development plan;
(3) Approval of a vacation of all or part of the plat; or
(4) Approval of an application for a:
(a) special use;
(b) variance

the owner of a parcel of real property may be required or allowed to make a commitment to the commission or board of zoning appeals; as applicable, concerning the use or development of that parcel.

(b) Commitments are subject to the following provisions:

(1) A commitment must be in writing.

(2) Unless the written commitment is modified or terminated in accordance with this subsection, a written commitment is binding on the owner of the parcel.

(3) A commitment shall be recorded in the office of the county recorder. After a commitment is recorded, it is binding on a subsequent owner or any other person who acquires an interest in the parcel. However, a commitment is binding on the owner who makes the commitment even if the commitment is unrecorded. An unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment.

(4) A commitment may contain terms providing for its own expiration. A commitment may also contain terms providing that the commitment automatically terminates:

(a) If the zoning district or classification applicable to the parcel is changed;

(b) if the land use to which the commitment relates is changed; or

(c) otherwise in accordance with the rules of the commission or board of zoning appeals to which the commitment is made.

(5) Except for a commitment that expires or automatically terminates under subsection (4), a commitment may be modified or terminated only by a decision of the commission or board of zoning appeals to which the commitment was made. The decision must be made at a public hearing after notice of the hearing has been provided under the rules of the commission or board of zoning appeals, as the case may be.

(6) During the time a rezoning proposal is being considered by the legislative body containing a use and development commitment, the owner may make a new commitment to the plan commission or modify the terms of a commitment that was made when the proposal was being considered by the commission.

(7) No further action of the commission is required under subsection (6):

(8) If a commitment is modified under subsection (6):

(a) no further action is required by the commission for the commitment to be effective if the effect of the modification is to make the commitment more stringent; or

(b) the modified commitment must be ratified by the commission if the effect of the modification is to make the commitment less stringent.

(9) Requiring or allowing a commitment to be made does not obligate the commission, board of zoning appeals, or legislative body, as applicable, to adopt, approve, or favorably recommend the proposal or application to which the commitment relates.

(10) the following types of conditions are not considered commitments:

(a) a condition imposed on primary plat approval that must be met prior to secondary approval of the plat

(b) a condition imposed upon an approval of a special use or variance or development plan prior to an improvement location permit being issued

ARTICLE XXVI VARIANCES

SECTION 1 BOARD OF ZONING APPEALS

There is hereby created a Warrick County Area Board of Zoning Appeals who shall be appointed and serve in accordance with I.C. §36-7-4-900 et seq. and all acts amendatory thereto.

SECTION 2 REQUIREMENTS FOR VARIANCES

No recommendation shall be made by the Area Board of Zoning Appeals for a Variance in the provisions or requirements of this Article unless the Board of Zoning Appeals finds that the following facts and conditions exist.

(1) That VARIANCE is a means of relief which is available only when some peculiar circumstances as to SIZE OR SHAPE of the parcel of land (and sometimes its LOCATION) is such that the literal application of the provisions of the Article would impair the owner's rights to some reasonable use of the property. A VARIANCE shall not be granted unless, in the first place, there are such peculiar circumstances.

(2) That the circumstances which cause the HARDSHIP must be peculiar to the property in question, or to such a small number of properties that they clearly constitute marked exceptions to the property in the neighborhood. If the circumstances citied as a basis for applying for the Variance are common to the property in the neighborhood the VARIANCE shall be granted.

(3) That after establishing the peculiar circumstance applying to the property in question, it is next necessary to show that the VARIANCE is required in order to preserve a substantial property right of the petitioner. It is of no moment whatever that the denial of the Variance might deny to the property owner some opportunity to use his property in a more profitable way or to sell it at a greater profit than is possible under the terms of the Article. The owner is entitled only to a reasonable use of his property.

(4) That any alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of this Article.

(5) That the regulations to which the Variance is sought shall be modified as little as possible so that the substantial intent and purpose of the regulations shall be preserved. The granting of the variance should be made subject to such conditions as will constitute to this end.

(6) That the VARIANCE will not result in substantial detriment to adjacent property or the surrounding neighborhood, and will not be materially detrimental to the public welfare.

SECTION 3 GRANT OF VARIANCE (See Amending Article 1984-10, page 118)

The grant of a Variance by the Board of Zoning Appeals in a proper case where practical difficulty and unnecessary hardship shall have been found shall be by RESOLUTION. The granting of a VARIANCE SHALL NOT BE BY AN ARTICLE amending the Comprehensive Zoning Article.

SECTION 4 CONDITIONS AND LIMITATIONS

In connection with any recommendation by the Board of Zoning Appeals for the granting of a VARIANCE, The Board shall include any conditions, requirements or limitations to be attached to the VARIANCE, which the Board may believe to be necessary and desirable to protect adjacent properties and the surrounding neighborhood, and to carry out the purposes and objectives of this ARTICLE. The board shall incorporate such conditions, requirements and limitations in any grant of a VARIANCE which the Board in its judgment deems reasonable and appropriate to effectuate the principles and purposes of the Comprehensive Zoning Article.

SECTION 5 TIME LIMIT

Any VARIANCE granted by the Board of Zoning Appeals shall expire six (6) months after the effective date of such action by the Board, unless a permit based upon and incorporating the VARIANCE is obtained within the aforesaid six (6) months period, or unless the provisions of the VARIANCE are adhered to within the aforesaid six (6) months period. However, upon application, the Secretary of the Commission may renew said VARIANCE for one additional period of six (6) months, provided good cause is shown, and the application for extension shall be filed with the Secretary two weeks prior to the expiration of the aforesaid six (6) months period.

ARTICLE XXVI (A) ON-PREMISE SIGNS

SECTION 1 PURPOSE

This subchapter is intended to provide reasonable standards for signs utilized for identification of an owner's business or industry while discouraging their proliferation, disrepair or garishness.

SECTION 2 PLACEMENT

A. A sign means an identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly on a building or land and which directs attention to product, person, business, or service associated or offered as the primary use, business, or activity on the premises. This shall include the use of semi trailers for signage.

B. A sign may not be erected or placed in any district with the exception of those signs listed in Section 3 until an Improvement Location Permit has been issued by the Area Plan Commission. Those items necessary for an Improvement Location Permit for a sign are as follows:

1. Plot plan showing the exact location of the sign.

2. Frontal elevation showing size of sign and height above street elevation.

3. Each sign requiring a Improvement Location Permit shall display the permit number.

SECTION 3 EXEMPTIONS

A. The following signs are exempt from the requirements of this chapter.

1. Signs not exceeding two (2) square feet in area which identify the names and addresses of occupants but do not denote commercial activity.

2. Flags and insignias of a governmental unit, church, or organization except on connection with a commercial promotion.

3. Legal notices, identification, informational, warning, trespassing, or directional or architectural features of building.

4. Memorial plaques and historical markers.

5. Integral decorative or architectural features of building.

6. One real estate sign for each frontage, not exceeding six (6) square feet, indicating the sale, rental or lease of the premises. These signs shall be removed within two (2) weeks after the sale, rental, or lease.

7. Traffic or directional signs placed by a municipality of state.

8. Subdivision signs –may be placed by a developer.

9. Temporary political signs.

B. An exempt sign may be illuminated but may not be flashing or animated.

SECTION 4 MAINTENANCE AND REMOVAL

A. When the product, person, business or service that is advertised on a sign is abandoned or altered, the sign must be removed within sixty (60) days or altered to depict an existing product, business, or service on the premises. The owner and tenant of the land are equally responsible for removal or alteration of the sign.

B. A sign is considered not to be functional when its essential elements are no longer readable, when it is materially obstructed from view, or when a condition of dilapidation exists.

C. The building inspector has the right of entry to inspect to determine whether they are functional. If the commissioner determines that a sign is not functional, he shall send written notice to the owner of the sign to remove, alter, or repair the sign. If the owner does not comply within sixty (60) days, the inspector shall order removal of the sign at the owner's expense.

SECTION 5 TEMPORARY SIGN PERMITS

A. The following signs are permitted only with the issuance of a temporary sign permit:

1. Signs and business advertising a special event, exclusive of those used by theaters, as regulated. Issuance of the permit shall be for a maximum of ten days.

2. One sign for each street frontage of premises of building which are being constructed, demolished, or removed to announce the character of the building enterprise. This sign may not exceed sixty-four (64) square feet in area. Issuance of the permit shall be for period of construction, demolition or remodeling.

3. One sign for each street entrance to a subdivision to advertise the sale, rental, or lease of real property only.

4. One sign not to exceed six (6) feet in area for each model home, temporary office, or model apartment in subdivision. The sign must be solely for direction or for promotion of the use. Issuance of a permit shall be for six months with renewal by the Area Plan Commission for a three month period.

5. Portable, folding or moving signs. Issuance of the permit shall be for a maximum of thirty (30) days. A portable sign may not be placed closer than ten feet to a street or highway right-of-way or where it blocks traffic vision.

B. All temporary signs must conform to the requirements of this chapter and are subject to the inspection, removal and penalties provided by this chapter.

SECTION 6 PROHIBITED SIGNS

The following signs are prohibited:

a. Signs or posters affixed to telephone and utility poles, trees or other structures on public right-of-ways.

b. A sign placed over or in a public street or highway right-of-way.

c. A sign erected at a location where it may interfere with, obstruct the view of, or be confused with a traffic or railroad sign or signal, or oncoming traffic, or where it would present a traffic hazard.

d. Display lights resembling danger or emergency lights.

e. Use of words, “stop”, “danger”, “look”, or any other word which would confuse traffic.

f. Rotating or revolving beams of light.

g. Placement or projection of a sign nearer than twenty-four (24) inches to a street or highway right-of-way line.

h. Strobe lights.

SECTION 7 PROVISIONS FOR THEATERS

A. Attraction boards located on the premises of a theater are not part of the fifty percent (50%) maximum coverage area set forth in Table “C”.

B. Use of the words “stop”, “danger”, and “look”, may be issued only when they are part of attraction title, but may not be used in such a way that simulate official traffic warnings.

SECTION 8 PERMITTED USES BY DISTRICT

A. In any district, a sign conveying only instructions related to the premises on which it is maintained may be erected so long as the area of the sign does not exceed three (3) square feet and the sign is located at least six (6) feet from any curb, and they must not be creating a traffic hazard.

B. In all districts, identification and instructional signs may not be erected or maintained unless they conform to the requirements shown on the following chart.

C. All on-premise signs must be in compliance with Table “C”. Signage is to be allowed within the building setback line of any recorded subdivision as long as it meets the setback requirements of that zoning classification in which it is to be located. *Amended 6-10-13*

ARTICLE XXVI (B) OUTDOOR ADVERTISING DISPLAYS/OFF – PREMISE SIGNS/BILLBOARDS

SECTION 1 PURPOSE

This subchapter is intended to provide reasonable standards for outdoor advertising while discouraging their proliferation, disrepair, or garishness.

SECTION 2 PLACEMENT

A. An outdoor advertising display means an identification, description, or illustration which directs attention to a product, person, business, or service not offered or sold as the primary use, business, or activity on the premise where it is located. This shall include the use of semi trailers for signage.

B. An outdoor advertising display may not be erected or placed on any district until an improvement location permit has been issued by the Area Plan Commission and written consent has been obtained from the owner or lessee of the premises on which the display is located. Items needed for an improvement location permit include a plot plan showing the exact location of the display, and a frontal elevation showing size and height above street level.

SECTION 3 MAINTENANCE AND REMOVAL

A. When the product, person, business, or service that is advertised on an outdoor advertising display is abandoned or altered, the display must be removed or altered within sixty (60) days to depict an existing product, person, business, or service. The owner and tenant of the land are equally responsible for removal or alteration of the sign.

B. An outdoor advertising display is considered not functional when any of the following conditions exist:

1. Its essential elements are no longer readable.

2. It is materially obstructed from view.

3. A condition of substantial disrepair exists.

4. The area that is leased for display or within twenty- five (25) feet of a display on an undeveloped property is not kept free of weeds, debris, or refuse.

C. The inspector has the right of entry to inspect outdoor advertising displays to determine whether they are functional. If the inspector determines that a display is not functional, he shall send written notice to the owner of the display to remove,

alter, or repair the display or area of undeveloped property on which the display is located. If the owner does not comply within sixty (60) days, the inspector shall order removal of the sign at the owner's expense.

SECTION 4 PROHIBITIONS

The following are prohibited in connection with any outdoor advertising display.

A. Placement over or in a street, highway, right-of-way, or sidewalk.

B. Placement or installation where the display or its illumination may interfere with, obstruct the view of, or be confused with traffic or railroad signs or signals or oncoming traffic, or where said illumination and lighting would interfere with the quiet enjoyment of adjacent properties and/or where said lighting or proposed illumination would present a traffic hazard as determined by the appropriate governmental agency.

C. Lights resembling danger or emergency light.

D. Flashing, moving or intermittent lights, except white.

E. Rotating or resolving beams of light.

SECTION 5 PERMITTED SIGNS BY DISTRICT

A. An outdoor advertising display may be erected or placed in those districts indicated in the Off-Premises Advertising Sign Chart/Table D.

B. A double-faced display whose two (2) faces are not more than ten (10) feet apart, and back-to-back whose faces are not more than fifteen (15) feet apart is considered to be one display. A V-type display whose three (3) faces are not more than fifteen (15) feet apart is considered to be one display.

ARTICLE XXVII MINIMUM RESIDENTIAL FLOOR AREA – SPECIFIED DISTRICTS

No building or structure shall be erected, enlarged or reconstructed for residential purposes having a total floor area, exclusive of unenclosed porches, terraces, breezeways and garages, of less than the minimum established for the district wherein such building or structure is located as follows:

SECTION 1 MINIMUM FLOOR AREA

The minimum floor area for a one-family, two family or town house and multiple dwelling unit shall be seven hundred and twenty (720) square feet; six hundred and fifty (650) square feet and five hundred and fifty (550) square feet per dwelling unit respectively.

ARTICLE XXVIII INTERPRETATION, PURPOSE AND CONFLICT

In interpreting and applying the provisions of this ARTICLE, ARTICLE shall be construed to promote health, safety, morals and general welfare of the community. It is not intended by this Article to interfere with and/or abrogate any easements, covenants or agreements between parties and/or land owners provided however, that where the regulations of this ARTICLE are more restrictive than regulations on the same point, as contained in any other law or ARTICLE, or restrictions by deed or subdivision in "R" (Residential) districts, the provisions of this ARTICLE shall govern.

ARTICLE XXIX VALIDITY

Should any Article, Sections, Paragraph, Sentence, Clause, Phrase or other part of this ARTICLE be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ARTICLE as a whole, or any part thereof.

ARTICLE XXX SAVING CLAUSE

Any prosecution arising from violation of any ARTICLE repealed by this Comprehensive Zoning Article, which prosecution may be pending at the time this Article becomes effective or any prosecution which may be started within one (1) year after the effective date of this Article in consequence of any violation of any violation of any Article repealed herein, which violation was committed prior to the effective date of this Article, shall be tried and determined exactly as if such Article had not been repealed.

ARTICLE XXXI REPEALS

All other Articles or Laws in conflict with the provisions of this COMPREHENSIVE ZONING ARTICLE or inconsistent with the provisions of this ARTICLE, ARE HEREBY REPEALED to the extent necessary to give this COMPREHENSIVE ZONING ARTICLE FULL FORCE AND EFFECT.

ARTICLE XXXII VIOLATIONS AND PENALTIES

SECTION 1 VIOLATIONS

(1) Any person, firm or corporation, or anyone acting in behalf thereof who shall violate or fail to comply with any of the provisions of this Article by the erection, construction, enlargement, conversion, moving or maintenance of any building which is continued, operated or maintained, or land or water used in whole or in part, contrary to any of the provisions of this Article is hereby declared to be in violation of this Article and a common nuisance and the owner of the structure, land or premises shall be liable for maintaining a common nuisance.

(2) The Area Plan Commission or the Board of Zoning Appeals nay request the County Prosecutor for Warrick County to take appropriate actions in any case involving the violation of this Article, or of a regulation adopted pursuant to it. The County Prosecutor shall act promptly when such action is filed.

(3) In civil actions for the enforcement of this Article or a part thereof, an attorney appointed by the Plan Commission may bring an action in the name of the Commission.

SECTION 2 INJUNCTION

The Area Planning Commission, the Board of Zoning Appeals, or any designated official, may institute a suit for injunction in the Superior and/or Circuit Courts of Warrick County, to restrain an individual or a governmental unit from violating the provisions of this act or of an Article enacted pursuant to its provisions. The Plan Commission, or the Board of Zoning Appeals, may also institute a suit for a mandatory injunction, directing an individual or a governmental unit to remove a structure, erected in violation of the provision of this Article or of an Article enacted pursuant to its provisions. If the Plan Commission or the Board of Zoning Appeals is successful in its suit, the respondent shall bear the cost of the action. A change of venue from the county shall not be granted in such a case.

SECTION 3 DAMAGES

In an action or proceeding by Warrick County or any participating city or town for the taking, appropriation, or condemnation of land, or in an action against Warrick County or any participating city or town no compensation or damages shall be awarded for the taking of or injury to any structure erected in violation of the provisions of this Article.

SECTION 4 PENALTY

Any person, firm or corporation, or anyone acting on behalf thereof who violates a provision of this Article or regulation enacted under its authority, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars ($10.00) and not more than three hundred dollars ($300.00) for each day's violation.

SECTION 5 APPOINTMENT OF HEARING OFFICER

The Executive Director of the Area Plan Commission is hereby appointed as Hearing Officer to approve certain variances provided the applicant submits in conjunction with its application written consents of all adjoining property owners to the proposed variance request and provided that the granting of such proposed request meets all other requirements of the Comprehensive Zoning Article as if such application had been presented to and been granted by the Board of Zoning Appeals.

The Hearing Officer shall maintain minutes and records of all proceedings held under this alternate procedure and shall file the same as public records.

If, in the opinion of the Hearing Officer, the Public health, safety, morals, and general welfare of the community may be adversely affected, even though consents of all adjoining property owners have been obtained, the application may be transferred to the Board of Zoning Appeals for hearing and determination. Any decision made by the Hearing Officer may be appealed to the Board of Zoning Appeals.

ARTICLE XXXIII ENACTMENT

This Article shall be in full force and effect from and after its passage by the Board of County Commissioners of the County of Warrick, State of Indiana.