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Preamble

The Board of Commissioners of Jefferson County, Indiana, in order to secure adequate light, air, convenience of access and safety from fire, flood and other dangers, to lessen or avoid congestion on public highways, and to promote the public health, safety, comfort, morals, convenience and general welfare of the residents of Jefferson County, Indiana, finds that it is necessary to establish districts

creating standards as to how real property is to be developed, maintained and used in Jefferson County, Indiana, and accordingly, adopts the following Zoning Ordinance, incorporating therein maps creating the zoning districts.

Article 1: General Provision

§ 28-1-1 TITLE.

This chapter shall be known and may be cited as the “Jefferson County, Indiana, Zoning Ordinance”.
(Ord. 2004-10, passed 12-30-2004)

§ 28-1-2 PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare throughout the county. Wherever the requirements of this chapter are at variance or in any other way in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or those imposing the higher standards, shall govern.

(Ord. 2004-10, passed 12-30-2004)

§ 28-1-3 SEVERABILITY CLAUSE.

Should any section, subsection, paragraph, subparagraph, clause, word or provision of this chapter be declared by the courts to be unconstitutional or invalid, the decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 2004-10, passed 12-30-2004)

§ 28-1-4 DEFINITIONS.

(A) *Application and interpretation.*

(1) For the purpose of these regulations, certain numbers, abbreviations, terms, words and phrases used herein shall be used, interpreted and defined as set forth in this article.

(2) Whenever any words and phrases used herein are not defined herein, but are defined in the state laws regulating the creation and function of various planning agencies, any such definition therein

shall be deemed to apply to the words and phrases used herein, except when the context otherwise requires.

(3) For the purpose of these regulations, certain words and phrases used herein shall be interpreted as follows.

(a) The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation or any other legal entity.

(b) The masculine includes the feminine.

(c) The present tense includes the past and future tenses; the singular number includes the plural.

(d) The word “shall” is a mandatory requirement; the word “may” is a permissive requirement; and the word “should” is a preferred requirement.

(e) The words “used” or “occupied” include the words “intended, arranged or designed to be used or occupied”.

(f) The word “lot” includes the words “plot”, “parcel” and “tract”.

(4) If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

(B) *Words and phrases defined.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A building or use subordinate to another structure or use detached from but located on the same lot and which does not change or alter the character of the premises and which is not used for human occupancy.

ADVERTISING SIGN. Any structure, object or device erected, maintained, or used for advertising purposes, related to the permitted principal use of the premises upon which it is located. This definition does not include the term “billboard”.

AGRICULTURE.

(a) The art or science of cultivating the ground, and raising and harvesting crops. Also often includes feeding, breeding and management of livestock; tillage; husbandry; farming; and, in a broader sense, the production of plants and animals useful to humans, including, to a variable extent, the preparation of those products for human's use and their disposal by marketing or other means of distribution. This includes the use of land for farming, dairying, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, aquaculture, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing produce; provided, however, that:

1. The operation of any accessory uses shall be secondary to that of normal agricultural activities; or
2. The above uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within 100 feet of any residential district.

(b) The term ***AGRICULTURE*** does not include the operation or maintenance of a commercial stockyard.

AIRPORT. Any location, either on land or water, or structure that is designed or used for the landing and taking-off of aircraft, including all necessary buildings and facilities, if any.

ALLEY. See ***STREET.***

ALTERATION. Any change, addition or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams or girders.

APARTMENT. A room or suite of rooms in a multiple dwelling or where more than one living unit is established in any building intended, designed, used or suitable for use by one or more persons as a place of residence with kitchen facilities.

APPLICANT. A person or entity having an ownership interest in land for the use of which approval is sought from the County Plan Commission or the County Board of Zoning Appeals. The term includes a contract buyer whose accepted offer to purchase is contingent upon approval of the Plan Commission or Board of Zoning Appeals.

ARTERIAL. See ***STREET.***

AUCTION USE. A building or any specific closed or open area where merchandise is assembled and sold by a form of sale called an auction.

AUTOMOTIVE, MOBILE HOME, TRAVEL TRAILER, FARM IMPLEMENT, AND CONSTRUCTION MACHINERY SALES. The sale or rental of new or used motor vehicles, mobile

homes, travel trailers, farm implements and construction machinery, but not including major repair work except warranty and incidental repair of same, to be displayed and sold on the premises.

AUTOMOBILE SALES ROOM. The use of all or part of a building for the display and sale of new or used automobiles.

AUTOMOBILE SERVICE STATION. A building designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhaul.

BASEMENT. A portion of the building having more than half its clear height below the average grade of the adjoining ground.

BASEMENT, EXPOSED. A portion of the building having less than half its clear height below the average grade of the adjoining ground.

BED AND BREAKFAST. A property occupied by an owner and/or operator, providing overnight accommodations to guests with or without meals for hire or pay, for traveling or vacationing public. It does not include boarding house, rooming house, domiciliary hostel, group home, hotel or motel.

BILLBOARD. Any structure, object, or device erected, maintained or used for advertising purposes not related to a principal use of the premises upon which it is located.

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

BOARD. Board of Zoning Appeals.

BOARDING AND LODGING HOUSE. A building where, for compensation, lodging, or lodging and meals are provided for three or more persons, not including members of the keeper's immediate family, for prearrangement for definite periods.

BOND. Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Plan Commission.

BUILDING. Any roofed structure designed and built for the support, shelter enclosure or protection of persons, animals, chattels or movable property of any kind.

BUILDING AREA. The maximum horizontal projected area of the principal and accessory buildings, excluding open steps or terraces, unenclosed porches or architectural appurtenances projected not more than two feet.

BUILDING CODE. The county ordinance or group of ordinances establishing and controlling the standards for constructing buildings, utilities, mechanical equipment and all forms of structures and

permanent installations and related matters, within the county. Also referred to herein as the *COUNTY BUILDING CODE*.

BUILDING, DETACHED. A building having no structural connection with another building.

BUILDING, FRONT LINE OF. The line of the face of the building nearest the front lot line.

BUILDING, HEIGHT OF. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

BUILDING LINE. The line that established the minimum permitted distance on a lot between the front line of a building and the street right-of-way line. A building shall not extend beyond the *BUILDING LINE* unless varied according to procedures in this chapter.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which the building is situated.

BUILDING SITE. An area proposed or provided and improved by grading, filling, excavation or other means for erecting pads or foundations for buildings.

BUSINESS, CONVENIENCE. Commercial establishments which cater to and can be located in close proximity to or within residential districts without creating excessive congestion, noise or other objectionable influences. *CONVENIENCE USES* include, but need not be limited to, drugstores, beauty salons, barbershops, carryouts, dry cleaning and laundry facilities, and small grocery stores, if the aggregate total floor area of such facilities does not exceed 10,000 square feet. Uses in this classification tend to serve the day-to-day needs of the neighborhood.

BUSINESS, GENERAL. Commercial uses which generally require locations on or near major arterials and/or their intersections, and which tend, in addition to serving day-to-day needs of the neighborhood, to also supply the more durable and permanent needs of the whole community. *GENERAL BUSINESS USES* include, but need not be limited to, such activities as major supermarkets; stores that sell hardware, apparel, footwear, appliances and furniture; and various department and discount stores. Also included here may be drive-in banks.

BUSINESS, HIGHWAY. Commercial uses which generally require locations on or near major arterials and/or their intersections, and which tend to serve the motoring public. *HIGHWAY BUSINESS USES* include, but need not be limited to, such activities as filling stations, automotive sales and service, restaurants and motels and commercial recreation.

BUSINESS, OFFICE TYPE. Quasi-commercial uses which may often be transitional between retail business and/or industrial and residential uses. *OFFICE BUSINESS* generally accommodates such

occupations as administrative, executive, professional, accounting, clerical and drafting. Institutional offices of a charitable, philanthropic, religious or educational nature are included here.

BUSINESS SERVICES. Any activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in businesses and homes.

BUSINESS, WHOLESALE. Business establishments that generally sell commodities and materials in large quantities or by the piece to retailers, jobbers or other wholesale establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

CAMP, PUBLIC. Any area or tract of land used or designed to accommodate two or more automobile house trailers, recreational vehicles, mobile homes or two or more camping parties, including cabins, tents or other camping outfits.

CAPITAL IMPROVEMENTS PROGRAM. A proposed schedule for all future projects in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction or replacement of the physical assets for the community are included.

CARPORT. A structure with a roof supported by columns and/or one or more solid walls for the shelter of an automobile(s).

CELLULAR ANTENNA TOWER. A tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services.

CEMETERY. Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries if operated in connection with and within the boundaries of such cemetery for which perpetual care and maintenance are provided.

CENTRAL SEWERAGE SYSTEM. A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying or generally rural area.

CENTRAL WATER SYSTEM. A private water company formed by a developer to serve a new community development in an outlying or generally rural area. It includes water treatment and distribution facilities.

CHANNEL. A natural or artificial watercourse, with definite bed and banks to confine and conduct continuously or periodically flowing water.

CHARACTERISTICS OF USE. The use that is characteristic or the principal use of an area of land, a building or structure.

CLASSIFICATION OF STREETS.

(a) For the purpose of providing for the development of the streets, highways, roads and rights-of-way in the governmental unit, and for their future improvement, reconstruction, realignment and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road and right-of-way and those located on approved and filed plats, have been designated in the Transportation Plan within the Comprehensive Plan and classified therein. The **CLASSIFICATION** of each street, highway, road and right-of-way is based upon its location in the respective zoning districts, its present and estimated future traffic volume, and its relative importance and function as specified in the County Comprehensive Plan. The required improvements shall be measured as set forth for each street classification in the Transportation Plan.

(b) **FUNCTIONAL CLASSIFICATION** is defined as the process by which streets and roads are grouped into classes, or systems, according to the character of service they are intended to provide.

(c) Functional classification can be applied in planning street and road system development, determining the jurisdictional responsibility for particular systems, and in fiscal planning. Three main classes are generally accepted under the functional classification scheme: arterials, collectors and locals.

CLINIC. A building used for the care, diagnosis and treatment of sick, ailing, infirm or injured persons, and those who are in need of medical and surgical attention, but which building does not provide board, room or regular hospital care and services.

CLUB. Buildings and facilities, owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, to which membership is required for participation, and not operated primarily for profit or to render a service which is customarily carried on as a business.

COLLECTOR. See **STREET**.

COMMERCIAL ENTERTAINMENT FACILITY. Any activity that is generally related to the entertainment field, such as a motion picture theater, carnival, cocktail lounge, nightclub and similar entertainment activities.

COMMISSION. The Plan Commission, appointed in accordance with I.C. 36-7-1.

COMPREHENSIVE (DEVELOPMENT) PLAN. A plan, or any portion thereof, adopted by the Plan Commission and the legislative authority of the county, showing the general location and extent of present and proposed physical, social and economic plans and policies in graphic and verbal statement forms for the development of the county, including housing, industrial and commercial uses, parks, schools and transportation and other community facilities.

COMPREHENSIVE PLAN. Inclusive physical, social and economic plans and policies in graphic and verbal statement forms for the development of the county prepared and adopted by the Commission pursuant to the State Acts, and including any part of the plan and/or policies separately adopted and any amendment to the plan and/or policies, or parts thereof.

CONDITIONAL USE. A special use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals. ***CONDITIONAL USES*** permitted in each district are listed in the Official Schedule of District Regulations or special exceptions.

CONDITIONAL USE PERMIT. A permit issued by the Zoning Inspector upon approval by the Board of Zoning Appeals to allow a use other than a principally permitted use to be established within the district.

CONDOMINIUM. An estate consisting of an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof, together with a separate interest in real property, in an interest or interests in real property or in any combination thereof.

CONFINEMENT FEEDING. The confined feeding of animals for food, fur or pleasure purposes in lots, pens, ponds, sheds, barn buildings, or any other structure where food is supplied to the animals only by means other than grazing. The term means the feeding of 300 or more cattle, 600 or more swine or sheep or 30,000 or more fowl that are housed (or penned) in a confined area.

CONSTRUCTION PLAN. The maps, drawings and textual descriptions accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Commission as a condition of the approval of the plat.

CONSTRUCTION STANDARDS. The county construction standards for development and public improvements, as adopted and amended.

COUNTY ATTORNEY. The licensed attorney designated by the legally authorized body to furnish legal assistance for the administration of these regulations in lieu of the Commission having its own attorney.

COUNTY ENGINEER. The licensed engineer designated by the county to furnish engineering assistance in the administration of these regulations.

COVENANT. A written promise or pledge.

CUL-DE-SAC. See **STREET**.

CULVERT. A drain that channels water under a bridge, street or driveway.

DEAD-END STREET. See **STREET**.

DEDICATION. The setting apart of land or interests in land for use by the public by ordinance, resolution or entry in the official minutes as by the recording of a plat.

DENSITY. A unit of measurement of the number of dwelling units per acre of land.

(a) **GROSS DENSITY.** The number of dwelling units per acre of the total land to be developed, including public right-of-way.

(b) **NET DENSITY.** The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public right-of-way.

DEVELOPER. Authorized agent(s) of a subdivider or the subdivider himself or herself. The **DEVELOPER** may be the owner of land proposed to be subdivided or his or her representative, the subdivider.

DISTRICT. A part of the county wherein restrictions of this chapter are uniform.

DRIVE-IN BUSINESS. An establishment with facilities for attracting and servicing prospective customers traveling in motor vehicles which are driven onto the site where such business is carried on, where normally the customer remains in the vehicle for service, but shall not include car washing establishments, drive-in theaters or service stations.

DRIVES, PRIVATE (DRIVEWAY). Vehicular streets and driveways, which have been graded and graveled or surfaced with concrete, asphalt, crushed stone or other hard surfaces and dustless material, which are wholly within private property, except where they intersect with other streets within public rights-of-way.

DUMP. A lot of land or part thereof used for the disposal by abandonment, dumping, burial and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part thereof, or waste material of any kind.

DWELLING. A fixed structure or building containing one or more dwelling units.

DWELLING, INDUSTRIALIZED UNIT. A manufactured assembly of building materials and products that is self-sufficient or substantially self-sufficient to constitute a dwelling unit which is

intended to be moved to and installed on a building site, including modular or section units, but no mobile homes.

DWELLING, MULTI-FAMILY. A dwelling consisting of three or more dwelling units with varying arrangements of entrances and party walls, including condominiums, apartments, town homes and patio homes.

DWELLING, SEASONAL. A single detached dwelling used essentially for recreation, rest or relaxation from time to time, throughout any season of the year, by any person or persons, but not intended to be used continually in excess of five months or as a permanent residence.

DWELLING, SINGLE-FAMILY. A dwelling consisting of a single dwelling unit, only separated from other dwelling units by open space.

DWELLING, TWO-FAMILY. A dwelling consisting of two dwelling units which may be attached either side by side or one above the other, and each unit having a separate or combined entrances or entrance. Commonly referred to as ***DUPLEX.***

DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family and its household employees, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes, but shall not include travel trailers or recreational vehicles.

EASEMENT. An authorization grant by a property owner for the use by another of any designated part of his or her property for a clearly specified purpose(s).

ESCROW. A deposit of cash with the Commission in lieu of an amount required and still in force on a performance or maintenance bond. The County Treasurer shall hold the escrow funds.

ESSENTIAL SERVICES.

(a) The erection, construction, alteration or maintenance of gas, electrical, or communication facilities; steam, fuel or water transmission or distribution systems; or collection, supply or disposal systems.

(b) The systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include buildings which are necessary for the furnishing of the services.

FAMILY. One or more persons occupying premises and living as one housekeeping unit using one kitchen and distinguished from a group occupying a boarding house, lodging house, fraternity or sorority house, a club or a hotel.

FARM. An area used for agricultural operations including truck gardening, forestry, crop production, aquaculture, the operation of a tree or plant nursery or the production of livestock and poultry.

FARM VACATION ENTERPRISES (PROFIT OR NON-PROFIT). Farms adapted for use as vacation farms; picnicking and sports areas; fishing waters; camping, scenery and nature recreation areas; hunting areas; hunting preserves; and watershed projects.

FENCE. A structure, including entrance and exit gates, designed and constructed for enclosure or screening.

FILLING STATION. Premises or the portion thereof used or intended to be used for the servicing and repairing of motor vehicles and for the sale of fuel, oils and accessories for motor vehicles.

FINAL PLAT APPROVAL. The stage of application for formal Plan Commission approval of a final plat of a subdivision the construction of which has been completed or substantially completed or guaranteed by the posting of a bond, which, if approved and signed by the designated officials, may be submitted to the County Recorder for filing.

FLEXIBLE ZONING. Zoning which permits uses of land and density of buildings and structures different from those that are allowed within the zoning district in which the land is situated. ***FLEXIBLE ZONING APPLICATIONS*** shall include, but not be limited to, all special permits and special uses, group housing projects and planned unit developments (PUDs).

FLOOD or ***FLOOD WATER.*** The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of water.

FLOOD CONTROL. The prevention of floods; the control, regulation, diversion or confinement of floodwater or flood flow; and the protection there from, according to sound and accepted engineering practice, to minimize the extent of floods and the death, damage and destruction caused thereby, and all things incidental thereto or connected therewith.

FLOOD HAZARD AREA. A flood plain, or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs or other works approved by the State Department of Natural Resources.

FLOOD PLAIN. The relatively flat area or low land adjoining the channel of a river or stream that has been or may be covered by floodwater. The flood plain includes the channel, floodway and floodway fringe.

FLOOD PROTECTION GRADE. The elevation of the lowest point around the perimeter of a building at which floodwaters may enter the interior of the building.

FLOOD, REGULATORY (OR REGIONAL). A flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the State Department of Natural Resources. The ***100-YEAR FREQUENCY FLOOD*** is equivalent to a flood having a probability of occurrence of 1% in any given year (a flood magnitude that has a 1% chance of being equaled or exceeded in any given year).

FLOODWAY FRINGE. Those portions of the flood hazard areas lying outside the floodway.

FLOODWAY, REGULATORY. The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream shown on the floodway boundary maps of the Federal Emergency Management Agency.

FLOOR AREA, GROSS. The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls. It includes the total of all space on all floors of a building. It does not include porches, garages or space in a basement or cellar when the basement or cellar space is used for storage or other incidental uses.

FLOOR AREA, NET. The floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, fitting rooms and the like in a nonresidential building. The net area is used in calculating parking requirements.

FLOOR AREA RATIO. The floor area of the building divided by the area of the lot on which the building is located.

FLOOR AREA, USABLE. Same as ***FLOOR AREA, GROSS.***

FOOD PROCESSING. The preparation, storage or processing of food products. Examples of these activities include bakeries, dairies, canneries and the like.

FOUNDATION. The supporting member of a wall or structure.

FRONTAGE. The length along the street right-of-way line of a single lot, tract or development area between the side lot lines of the property. It is that side of a lot abutting a street and ordinarily regarded as the front of the lot.

GARAGE, PRIVATE. An accessory building, or an accessory portion of the principal building, used for storing or parking of automobiles, recreational vehicles and/or boats of the occupants of the premises and wherein not more than one space is rented for parking to a person not resident of the premises.

GARAGE, PUBLIC. A principal or accessory building other than a private or storage garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

GARAGE, STORAGE. Any building or premises used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

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

HEALTH DEPARTMENT and ***HEALTH OFFICER.*** The agency and person designated by the county to administer the health regulations within the county's jurisdiction.

HOTEL OR MOTEL AND APARTMENT HOTEL. A building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a rooming house, boarding house, lodging house or dormitory, which is herein separately defined.

IMPROVEMENT. Any alteration to the land or other physical constructions associated with subdivision and building site development.

IMPROVEMENT LOCATION PERMIT. A permit stating that the proposed erection, construction, enlargement or moving of a building or structure referred to therein complies with the provisions of the County Comprehensive Plan and the regulations contained in this chapter.

IMPROVEMENT, LOT. Any building, structure, place, work of art or other object, or improvement of the land on which it is situated constituting a physical betterment of real property or any part of the betterment. Certain ***LOT IMPROVEMENTS*** shall be properly bonded as provided in these regulations.

IMPROVEMENT, PUBLIC. Any drainage ditch, roadway, sidewalk, tree, lawn, off-street parking area, lot improvement or other facility for which the local or state government may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement for which local or state government responsibility is established. All such improvements shall be properly bonded.

IMPROVEMENT, TEMPORARY. Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

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

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.

INDUSTRIAL, HEAVY. Industrial processing, assembling, storing, testing and similar manufacturing uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, and ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond the district boundary.

INDUSTRIAL, LIGHT. Industrial or other manufacturing uses which are usually controlled operations; relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operating and storing within enclosed structures; and generating little industrial traffic and not nuisances.

INFRASTRUCTURE. The fixed public works and facilities necessary in a community, such as sewers, water systems, storm and drainage systems and streets.

INSTITUTION. Building(s) and/or land designed to aid individuals in need of mental, therapeutic or rehabilitative counseling, or other correctional services.

INTERESTED PARTIES. Those persons as defined by the rules of the County Plan Commission or the County Board of Zoning Appeals who are to be given notice of an application.

JUNK. Old and dilapidated modes of conveyance such as automobiles, trucks, tractors, watercraft and other vehicles and parts thereof; wagons and other kinds of vehicles and parts thereof; household appliances, scrap building material, scrap contractors' equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron machinery, rags, paper, excelsior, hair, mattresses, beds and bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed.

JUNK YARD. A lot, land or structure, or part thereof at which property is or may be salvaged for reuse, resale, reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including, but not limited to, used or salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which are used, owned, or possessed for the purposes of wrecking or salvaging the parts.

JURISDICTION. Jurisdiction of local government means all land within its boundaries and any land outside its boundaries over which it is authorized to exercise powers under these regulations.

KENNEL.

(a) Any premises where for a fee, or sold, and which may offer provisions for minor medical treatment, four or more animals over four months of age are:

1. Housed;
2. Groomed;
3. Bred;
4. Boarded; or
5. Trained.

(b) No more than four or more animals over four months of age shall be housed or boarded within a dwelling unit.

LAND. The earth, water and air above, below or on the surface, and includes any improvements or structures customarily regarded as land.

LAND USE. Activity conducted on real estate under the jurisdiction of the County Plan Commission or the County Board of Zoning Appeals.

LIVESTOCK. Any animal which has been domesticated primarily for agricultural purposes, but not including, animals usually considered house pets such as dogs, cats, canaries or any other similar animal or fowl.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to the vehicles when required off-street parking spaces are filled. Required **OFF-STREET LOADING SPACE** is not to be included as off-street parking space in computation of required off-street parking space. All **OFF-STREET LOADING SPACES** shall be located totally outside of any street or alley right-of-way.

LOCAL STREET. See **STREET**.

LOT. (Zoning Ordinance.) For the purposes of this chapter, a **LOT** is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other spaces as are herein required. The **LOT** shall have frontage on an improved public street, or on an approved private street, and may consist of:

- (a) A single lot of record;
- (b) A portion of a lot of record; and/or
- (c) A combination of complete lots of record, or of complete lots of record and portions of lots of record, or of portions of lots of record.

LOT AREA. The geometric, horizontal area contained within the boundaries of a lot.

LOT COVERAGE. The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

LOT DEPTH. The mean distance from the front lot line to the rear lot line, measured at the side lot lines.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under “yards” in this section.

LOT LINE, FRONT. Lot line(s) bounding a lot as follows:

(a) **INTERIOR LOT.** The line separating the lot from the street right-of-way.

(b) **CORNER OR THROUGH LOT.** The line separating the lot from either street right-of-way.

(c) In those cases where there is no record of right-of-way and the front property line is defined by deed as the centerline of the street, the front lot line shall be defined as being 16.5 feet (one rod) from the centerline of the street, or the line determined by the county through adverse possession by continuous maintenance of the street.

LOT LINE, REAR. The boundary of a lot that is most distant from and is, or is most nearly parallel to, the front lot line. In the case of a triangular or irregular-shaped lot, an imaginary line between the side lot lines parallel to the front lot line, ten feet long, lying farthest from the front lot line. On a corner lot, the **REAR LOT LINE** shall be opposite the front lot line of least dimension.

LOT LINE, SIDE. Any boundary of a lot that is not a front lot line or rear lot line.

LOT, MEASUREMENT OF. A lot shall be measured as follows.

(a) **DEPTH.** The average distance of the side lot lines.

(b) **WIDTH.** The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line.

LOT OF RECORD. A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of the county or a parcel of land, not exceeding one acre in area, the deed of which was recorded in the office of the Recorder of the county, prior to the effective date of these regulations.

LOT TYPES. Terminology used in this chapter with reference to different types of lots is as follows.

(a) **CORNER LOT.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a **CORNER LOT** if tangent projections of the front lot lines drawn perpendicular at the side lot lines meet at an interior angle of less than 135 degrees in front of the lot.

(b) **INTERIOR LOT.** A lot with only one frontage on a street.

(c) **REVERSED FRONTAGE LOT.** A lot on which frontage is at right angles to the general pattern in the area. A **REVERSED FRONTAGE LOT** may be a corner lot.

(d) **THROUGH LOT.** A lot other than a corner lot with frontage on more than one street. **THROUGH LOTS** abutting two streets may be referred to as double frontage lots.

LOT WIDTH. The distance between the side property lines as measured across the minimum front yard setback line.

MAINTENANCE AND STORAGE FACILITIES. Land, buildings and structures devoted primarily to the maintenance and storage of construction equipment and material.

MANUFACTURING, EXTRACTIVE. Any mining, quarrying, excavating, processing, storing, separating, cleaning or marketing of any mineral natural resource.

MOBILE HOME. Any vehicle originally constructed or designed for mobility, and in a manner to permit the occupancy thereof as a dwelling or sleeping place, either self-propelled or non-self-propelled, shall be considered **MOBILE** and not a permanent structure or building although the means or devices for mobility have been removed there from and their function replaced by a permanent type of foundation or anchorage to the land, and further shall be required to conform to the regulations and restrictions for the district in which so located.

MOBILE HOME PARK. An area of land upon which five or more mobile homes are harbored for the purpose of being occupied as principal residences and includes all real and personal property used in the operation of the mobile home park. An area of land that is subdivided and contains individual lots that are leased or otherwise contracted for is a **MOBILE HOME PARK** if five or more mobile homes are harbored there for the purpose of being occupied as principal residences.

MODEL HOME. A dwelling unit, used initially for display purposes, which typifies the type of units that will be constructed in the subdivision. The dwelling units may be erected, at the discretion of the Plan Commission, by permitting a portion of a major subdivision involving no more than three lots to be created.

MONUMENT. Any permanent marker either of concrete, galvanized iron pipe or iron or steel rods, used to identify any tract, parcel, lot or street lines.

MOTEL. See **HOTEL.**

NON-CONFORMING USE. A building, structure or use of land existing at the time of enactment of this chapter, and which does not conform to the regulations of the district in which it is situated.

NONRESIDENTIAL SUBDIVISION. A subdivision whose intended use is other than residential, such as commercial or industrial.

NURSERY, NURSING HOME. A home or facility for the care and treatment of babies, children, pensioners or elderly people.

NURSERY, PLOT MATERIALS. Land, buildings, structures or combination thereof for the storage, cultivation or transplanting of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening and landscaping.

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

OPEN SPACE. A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. The area may include natural environment features, water areas, swimming pools, tennis courts and other recreational facilities that the County Plan Commission deems of the same character. Streets, parking areas, structures for habitation and the like shall not be included in open space area calculations.

ORDINANCE. Any legislative action, however denominated, of a local government, which has the force of law, including any amendment or repeal of any ordinance.

OWNER. Any person, firm, association, syndicate, partnership, corporation or any other legal entity having legal title to or sufficient proprietary interest in the land.

PARCEL. A tract of land assigned a separate tax identification number by the county taxing authorities; however, parcels in different sections, townships or ranges, included in one legal description, are to be considered one parcel even though they have separate tax identification numbers.

PARKING SPACE, OFF-STREET. For the purposes of this chapter, an **OFF-STREET PARKING SPACE** shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally off the public right-of-way.

PARKING STALL. The area required for parking one automobile, with its attendant maneuvering room. The area required for a parked car is to be ten feet wide and 22 feet long.

PARTY WALL. A wall, starting from the foundation and extending continuously through all stories to or above the roof, which separates one building from another and is in joint use by each building.

PERFORMANCE BOND or ***SURETY BOND.*** An agreement by a subdivider or developer of the county for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivided agreement.

PERSONAL SERVICES. Any enterprise conducted for gain, which primarily offers services to the general public such as shoe repair, watch repair, barbershops, beauty parlors and similar activities.

PLAN COMMISSION. The county's planning body as established in accordance with state law, often referred to herein simply as the Commission.

PLANNED UNIT DEVELOPMENT (PUD). An area of land in which a variety of residential, commercial and industrial uses are planned and developed as a whole according to comprehensive and detailed plans with more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations.

PLAT. The drawing, map or plan of a subdivision or other tract of land or a replat of such including certification, descriptions and approval.

PLAT, FINAL. The final and formal presentation of the map, plan or record of a subdivision and any accompanying material, as described in these regulations.

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

PLAT, SKETCH. A sketch preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the Commission as to the form of the plat and the objectives of these regulations.

PRELIMINARY PLAT APPROVAL. An approval (or approval with conditions imposed) granted to a subdivision by the Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in this chapter (per I.C. 36-7-700 series: Subdivision Control).

PREMISES. One or more lots that are in the same ownership and are contiguous or separated only by a road or water body, including all buildings, structures and improvements.

PRINCIPAL BUILDING. The building in which the principal use of the lot is conducted.

PRINCIPAL USE. The primary use to which the premises is devoted, and the main purpose for which the premises exists.

PRIVATE SCHOOL. Private pre-primary, primary, grade, high or preparatory school or academy.

PROFESSIONAL ACTIVITIES. The use of offices and related spaces for professional services as are provided by medical practitioners, lawyers, architects, engineers and similar professions.

PROHIBITED USE. A use marked as prohibited for a certain district in the schedule of uses is not to be allowed to locate in the district, except as specified under non-conforming uses.

PUBLIC RIGHT-OF-WAY. A general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to a transportation facility.

PUBLIC SERVICE FACILITY. The erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility; by a railroad, whether publicly or privately owned; or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communications, water and sewerage services.

PUBLIC USES. Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

PUBLIC UTILITY. Any person, firm or corporation duly authorized to furnish cable television, electricity, gas and steam, telephone, telegraph, water or sewerage systems to the public under public regulation.

QUASI-PUBLIC USES. Churches, Sunday schools, parochial schools, colleges, hospitals and other facilities of an educational, religious, charitable, philanthropic or non-profit nature.

RECREATION CAMPGROUND. An area of land on which two or more recreational vehicles, including campers, tents or other similar temporary recreational structures, are regularly accommodated with or without charge, including any building, structure or fixture of equipment that is used or intended to be used in connection with providing the accommodations.

RECREATIONAL EQUIPMENT, MAJOR. Equipment which must be hauled on a trailer with two or more wheels or which has two or more wheels attached, or which is self-propelled with wheels, including boats, trailers and recreational vehicles.

RECREATIONAL FACILITIES. Public or private facilities that may be classified as either “extensive” or “intensive” depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to, hunting, fishing and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadiums and bowling alleys.

RECREATIONAL VEHICLE (RV). A vehicle primarily designed as a temporary living quarters for recreation, camping or travel, either with its own motor power or mounted on or towed by another powered vehicle.

REGISTERED LAND SURVEYOR. A land surveyor properly licensed and registered or through reciprocity permitted to practice in the state.

REGISTERED PROFESSIONAL ENGINEER. An engineer properly licensed and registered in the state or permitted to practice in the state through reciprocity.

REGULATORY (OR REGIONAL) FLOOD. See *FLOOD, REGULATORY.*

REGULATORY FLOOD ELEVATION. The maximum elevation, as established by the State Department of Natural Resources, reached by the regulatory flood at the locations in question relevant to approval of a given subdivision under consideration.

REPLACEMENT COST. The sum of money that would be required to re-erect a structure identical to the one in question.

RESEARCH ACTIVITIES. Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering. All research, testing and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration or odor shall be detected outside of the buildings.

RESERVE STRIP. A strip of land between a partial street and adjacent property, which is reserved or held in public ownership for future street extension or widening.

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

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by transportation facilities, public utilities or other special public uses. ***RIGHT-OF-WAY*** intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which the right-of-way is established.

ROADSIDE STAND. A temporary structure designed or used for the display or sale of agricultural and related products or novelties and other items of interest to the motoring public.

ROOMING HOUSE (DORMITORY). A dwelling or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in the individual rooms.

SALE or LEASE. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, interstate succession or transfer, of an interest in a subdivision or part thereof, whether by deed, metes and bounds, contract or other written instrument.

SANTARY LANDFILL. An operation permitted by the State Department of Environmental Management in which garbage and/or refuse is deposited by a plan on a specified portion of land, is compacted by force applied by mechanical equipment and immediately covered by suitable covering material.

SCREENING. A structure erected or vegetation planted for concealing an area from view.

SEAT. For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews or space for loose chairs.

SETBACK. A line parallel to the relevant lot line (front, back, side) between which no buildings or structures may be erected as prescribed in the County Zoning Ordinance.

SETBACK LINE. A line established by the Zoning Ordinance, generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in the ordinance.

SEWERAGE SYSTEM, CENTRAL OR GROUP. An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

SEWERS, ON-SITE. A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

SIDEWALK. The portion of the road right-of-way outside the roadway that is improved for the use of pedestrian traffic.

SIGN. An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, service, person, institution or business.

SIGN, ILLUMINATED. Any sign illuminated by electricity, gas or other artificial light including reflecting or phosphorescent light.

SIGN LIGHTING DEVICE. Any light, string of lights or group of lights located or arranged so as to cast illumination on a sign.

SIGN, OFF-PREMISES. Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where the sign is located. Can also be called an ***ADVERTISING SIGN.***

SIGN, ON-PREMISES. Any sign related to a business or profession conducted, or to a commodity or service sold or offered upon the premises where the sign is located. Can also be called a ***BUSINESS SIGN.***

SIGN, PROJECTING. Any sign which projects from the exterior of a building.

SPECIAL EXCEPTION. A use or structure allowed in a district for which the Board of Zoning Appeals grants a permit because of its unusual nature.

STATE. The State of Indiana.

STORY. The part of a building between the surface of a floor and the ceiling immediately above; or if there is a floor above, the portion of a building between the surface of any floor and the surface of the floor next above. An exposed basement shall be counted as a ***STORY***, and a basement or cellar shall not be counted as a ***STORY***.

STREET. A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way. The term ***STREET*** also includes the terms “highway”, “parkway”, “road”, “thoroughfare”, “avenue”, “boulevard”, “lane”, “court”, “place” and other such terms. The recommended usage is: ***HIGHWAY*** or ***STREET*** in urban areas; ***HIGHWAY*** or ***ROAD*** in rural areas.

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

(b) ***ARTERIAL.*** A system of streets and roads that form an integrated network of continuous routes primarily for through traffic. The ***ARTERIAL*** system is stratified into “principal” (or major) and

“minor” categories.

1. **MINOR.** Links other cities, large towns, and traffic generators, and provides a substantial amount of interstate and intercounty service in rural areas; or interconnects and augments with the principal arterials to provide service to trips of moderate length for intracommunity continuity in urban areas.

2. **PRINCIPAL.** Serves corridor traffic movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel, or connects major population centers in rural areas; or serves major centers of activity and highest traffic volume corridors with the longest trip desires in urban areas.

(c) **COLLECTOR.** A street or road that generally serves travel of primarily intra-area and intracounty importance with approximately equal emphasis to traffic circulation and land access service. The **COLLECTOR** street is generally further stratified into “major” and “minor” categories. The **COLLECTOR STREET** collects and distributes traffic between the arterial and local systems and should be designed so that no residential properties face onto it and no driveway access to it is permitted unless the property is to be in multi-family use for four or more dwelling units.

(d) **CUL-DE-SAC.** A local street with only one outlet and having an appropriate circular turnaround for the safe and convenient reversal of traffic movement including public safety vehicles.

(e) **DEAD-END.** A street or a portion of a street with only one vehicular traffic outlet and no turnaround at the terminal end.

(f) **FRONTAGE.** A local street or road auxiliary to and located on the side of an arterial for service to abutting property and adjacent areas and for control of access. (Sometimes also called a **MARGINAL ACCESS STREET.**)

(g) **HIGHWAY.** A term applied to streets and roads that are under the jurisdiction of the State Department of Transportation (INDOT).

(h) **LOCAL.** A system of streets and roads that primarily provides land access service and access from individual properties and provides right-of-way beneath for sewer, water and storm drainage pipes.

(i) **LOOP.** A local street with both terminal points on the same street of origin.

(j) **PARTIAL.** A dedicated right-of-way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.

(k) **PERIMETER.** Any existing street to which the parcel of land to be subdivided abuts on only one side.

(l) **PRIVATE.** A local street that is not accepted for public use or maintenance, and that provides vehicular and pedestrian access.

(m) **PUBLIC.** A street under the control of and kept by the public, established by regular governmental proceedings for the purpose, or dedicated by the owner of the land and accepted by the proper authorities, and for the maintenance of which they are responsible.

STREET LINE. The limit of the street or road allowance and the dividing line between a lot and street or road.

STREET RIGHT-OF-WAY WIDTH. The distance between property lines measured at right angles to the centerline of the street.

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

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, **STRUCTURES** include buildings, walls, fences and signs.

SUBDIVIDER. The individual firm, corporation, partnership, association, syndicate, trust or other legal entity that executes the application and initiates proceedings for the subdivision of land in accordance with the provisions of this chapter. The **SUBDIVIDER** need not be the owner of the property; however, he or she shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.

SUBDIVISION. Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. **SUBDIVISION** includes the division or development of residential- and nonresidential-zoned land, whether by deed, metes and bounds description, or other recorded instrument. However, this chapter shall not apply to any of the following:

(a) An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth or building, setback, lines of each building site below the minimum zoning requirements, and does not change the original number of lots in any block of the recorded plat;

(b) An allocation of land in the settlement of an estate or a decedent or a court decree for the distribution or sale of property;

(c) The unwilling sale of land as a result of legal condemnation as defined and allowed in the state law;

(d) Widening of existing streets to conform to the Comprehensive Plan;

(e) The acquisition of street rights-of-way by a public agency in conformance with the Comprehensive Plan;

(f) The exchange of land for the purpose of straightening property boundaries, which does not result in the change of the present land usage; and

(g) A division of land creating only two parts (i.e., a new parcel and a remainder parcel); provided that, all of the following requirements are met.

1. Each new parcel and the remainder from which it is split must contain sufficient square feet, frontage on a public road, minimum lot width and minimum lot depth to qualify to build a single-family residence for its zoning district. However, if the new parcel is conveyed to an adjoining owner and the two tracts are combined into one tax identification number, the new parcel does not have to meet the requirements to build a single-family residence for its zoning district in order to be created; the remainder parcel will still have to meet those requirements.

2. No street is created or extended.

3. Three hundred sixty-five days have elapsed since the last time the parcel was split from another tract or had a parcel split from it; however, this requirement shall not apply to the remainder parcel if the new parcel is conveyed to an adjoining owner and tax identification numbers are merged.

4. A plat creating the new parcel must be recorded. The plat shall be an original, reproducible tracing with permanent ink on Mylar linen (no tracing paper). Plats shall be 18 inches by 24 inches. All survey work shall conform to the minimum standards established by Title 865 of the Indiana Administrative Code including, but not limited to, a description of the land being surveyed by bearings and distances. Monuments shall be minimum five-eighths inch rebar, 24 inches long, with surveyor identification. Bearing shall be related by true north by astronomic observance or to state public land corners. Road right-of-way dedication shall conform to master thoroughfare plan. Plats shall be certified by a land surveyor licensed in accordance with Indiana law, and shall provide required recording forms. The plats must contain a certificate of ownership and dedication, names of adjoining property owners and deed records and page numbers/instrument numbers where their deeds are recorded, surveyor's certificate, north point and scale, Plan Commission staff certificate, a dedication of one-half of any 80 foot right-of-way (if the parcel is located on a public county road), utility easements, and latitude and longitude readings of the point at which centerlines of roads intersect.

5. A Plan Commission representative must certify on the plat that the division of land conforms to the requirements of the County Zoning Ordinance and this exemption from the definition of a subdivision.

SUBDIVISION REGULATIONS or ***SUBDIVISION CONTROL ORDINANCE***. An ordinance for ensuring the orderly development of land by requiring coordination of new public facilities with existing facilities; and providing standards for lot layout, street design, utilities and easements to assure compatibility with the long-range Comprehensive Plan.

SUPPLY YARD. A commercial establishment storing and offering for sale building supplies, steel, coal, heavy equipment, feed and grain and similar goods.

SWIMMING POOL. A pool, pond, lake or open tank containing at least 18 inches of water at any point and maintained by the owner or manager.

SWIMMING POOL, COMMUNITY. A swimming pool for the benefit of the general public, operated with a charge for admission; a principal use.

SWIMMING POOL, PRIVATE. A swimming pool used exclusively without paying an additional charge for admission by the residents and guests of a single household, a multi-family development, a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.

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

TERRACE. A natural or artificial embankment between a building and its lot lines.

TERRACE, HEIGHT OF. The difference in elevation between the curb level and the top of the terrace at the center of the building wall.

TERRAIN CLASSIFICATION. For purposes of these regulations and to guide the application of geometric design criteria, terrain has been classified as follows.

(a) ***HILLY***. The condition where longitudinal and transverse changes in the elevation of the ground with respect to a street are abrupt and where the roadbed is obtained by fragment benching or side hill excavation.

(b) ***LEVEL***. The condition where street sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made to be so without construction difficulty or major expense.

(c) ***ROLLING***. The condition where the natural slopes consistently rise above and fall below the street grade line and where occasional steep slopes offer some restriction to normal street horizontal and vertical alignment.

THEATER. A building or part of a building that is:

(a) Devoted to showing motion pictures, or for dramatic, musical or live performances;
and/or

(b) Used for the commercial showing of films or presentation of live entertainment.

THEATER, DRIVE-IN. An open lot with its appurtenant facilities devoted to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

THOROUGHFARE PLAN. The portion of the Comprehensive Plan adopted by the County Plan Commission indicating the general location recommended for arterial, collector and local streets and roads within the appropriate jurisdiction.

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

TRACT. A parcel of real estate.

TRADE OR BUSINESS SCHOOL. Secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for teaching industrial or technical arts.

TRANSFER STATION. A facility at which solid waste is transferred from a vehicle or a container to another vehicle or container for transportation. The term does not include:

(a) A facility where the solid waste has been generated by the facility; and

(b) A recycling facility.

TRAVEL TRAILER. A vehicle or other portable structure designed to move on the highway, not under its own power, and designed or used as a temporary dwelling.

USE. The specific purposes for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

USE, NON-CONFORMING. See ***NON-CONFORMING USE.***

UTILITIES. Installations for transmission of water, sewage, gas, electricity, telecommunications and storm water, and similar facilities providing service to and used by the public.

VARIANCE. A modification granted by the Board of Zoning Appeals of the strict terms of the relevant regulations of this chapter.

VETERINARY ANIMAL HOSPITAL OR CLINIC. A place used for the care, diagnosis, and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation and/or recuperation. It may also include boarding that is incidental to the principal activity or use.

VICINITY MAP. A drawing, located on the plat, that sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.

VISION CLEARANCE ON CORNER LOTS. A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of three and 12 feet above established grade, determined by a diagonal line connecting two points measured 15 feet equidistant from the street corner along each lot line.

WALKWAY. A public way four feet or more in width, for pedestrian use only, whether along the side of a street or not.

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

YARD, FRONT. A yard across the full width of the lot extending from the front line of the principal building to the front lot line.

YARD, REAR. A yard extending the full width of the lot between a principal building and the rear lot line or lines.

YARD, SIDE. A yard between the principal building and side lot line and extending from the front yard line to the rear yard line.

ZONING. The division of an area into districts and the public regulation of the character and intensity of the use of the land, and of the buildings and structures which may be located thereon, in accordance with the Comprehensive Plan.

ZONING DISTRICT. Any area of the county within which the zoning regulations are uniform.

ZONING DISTRICT MAP. The map setting forth the boundaries of the zoning districts of the county, which map is part of these regulations.

ZONING ORDINANCE. A legal tool for accomplishing the objectives of a land use plan. It is an effective regulatory measure designed to encourage high standards of development by regulating the character and intensity of the use of land, the area of building coverage, and the height of structures.

ZONING PERMIT. A document issued by the Zoning Inspector authorizing the use of lots, structures, uses of land and buildings and the characteristics of the uses.
(Ord. 2004-10, passed 12-30-2004; Ord. 2006-3, passed 9-1-2006; Ord. 2007-8, passed 12-7-2007; Ord. 2009-1, passed 1-9-2009)

Article 2: Provisions for Official Zoning Map

§ 28-2-1 OFFICIAL ZONING MAP.

The county is hereby divided into zones, or districts, as shown on the official zoning map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

(Ord. 2004-10, passed 12-30-2004)

§ 28-2-2 IDENTIFICATION OF THE OFFICIAL ZONING MAP.

The official zoning map shall be identified by certification and bear the seal of the county under the following words: “This is to certify that this is the Official Zoning Map referred to in Ordinance Number 2004-10 of Jefferson County, State of Indiana”, together with the date of adoption of this chapter. Certification should be by the signature of the President of the County Commissioners and attested by the County Auditor.

(Ord. 2004-10, passed 12-30-2004)

§ 28-2-3 MAINTENANCE OF THE OFFICIAL ZONING MAP.

If, in accordance with the provisions of this chapter and Chapter 178, Acts of 1979, as amended for cities and towns, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the County Plan Commission with an entry on the official zoning map as follows: “On (day, month and year) by the official action of the County Plan Commission, the following changes were made on the Official Zoning Map: _____” which entry shall be signed by the President of the County Commissioners and attested by the County Auditor. No changes of any nature shall be made on the official zoning map or matter shown thereon, except in conformity with the procedures set forth in

this chapter. Any unauthorized change of any kind by a person or persons shall be considered a violation of this chapter and punishable as provided under § 28-8-23 of this chapter.
(Ord. 2004-10, passed 12-30-2004)

§ 28-2-4 LOCATION OF OFFICIAL ZONING MAP.

Regardless of the existence of purported copies of the official zoning map, which from time to time may be published, the official zoning map shall be located in the office of the County Plan Commission. It shall be the authority as to the current zoning status of land and water areas in the county.
(Ord. 2004-10, passed 12-30-2004)

§ 28-2-5 REPLACEMENT OF THE OFFICIAL ZONING MAP.

(A) In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the County Plan Commission may by resolution adopt a new official zoning map, which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The official zoning map shall be identified by the signature of the President of the County Commissioners, attested by the County Auditor and bearing the seal of the county under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted _____ , as part of Ordinance Number 2004-10 of Jefferson County, Indiana."

(B) Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment in the office of the Plan Commission.
(Ord. 2004-10, passed 12-30-2004)

§ 28-2-6 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of districts as shown, on the official zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of thoroughfares or highways, street lines or highway right-of-way lines or alleys shall be construed to follow the centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot line.

(C) Boundaries indicated as approximately following town limits shall be construed as following the town limits.

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow the centerlines.

(F) Boundaries indicated as approximately following flood plain lines shall be construed to follow the contour lines. (In addition to the boundaries shown on the zoning map, the boundary of minor ditches and streams shall be designated as being at least five vertical feet or 100 horizontal feet from the edge of the water, whichever is the greater distance. In this case, a stream, river or creek shall be defined as one, which flows at least 180 days of the year. Further, it is advised that the banks and at least ten feet beyond be left in as natural a state as possible.)

(G) Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (F) above shall be so controlled. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(H) Where physical or cultural features existing on the ground are at variance with those shown as the official zoning map, or in other circumstances not covered by subsections (A) through (E) above, the Board of Zoning Appeals shall interpret the boundaries.

(I) Where a district boundary line divides a lot, which was in single ownership at the time of passage of this chapter, the Board of Zoning Appeals may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Ord. 2004-10, passed 12-30-2004)

Article 3: Establishment and Purpose of Districts

The following zoning districts are hereby established for the county. For the interpretation of this chapter, the zoning districts have been formulated to realize the general purposes as set forth in the preamble of this chapter. In addition, the specific purpose of each zoning district shall be as stated.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-1 RESIDENTIAL DISTRICTS.

These districts are established to meet the purposes identified in §§ 28-3-2 through 28-3-5 inclusive. Specific provisions for residential districts are set forth in §§ 28-5-1 through 28-5-5 inclusive.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-2 LOW DENSITY RESIDENTIAL DISTRICT (R-4).

The purpose of this district is to encourage a low-density residential single- and two-family dwelling, but a gross density not to exceed four dwelling units per acre. Centralized water and sewer facilities are required. Specific provisions for this district are set forth in § 28-5-2.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-3 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-6).

The purpose of this district is to permit the establishment of a medium density multiple-family dwelling with a gross density not to exceed six dwelling units per acre. Specific provisions for this district are set forth in § 28-5-3.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-4 HIGH DENSITY RESIDENTIAL DISTRICT (R-20).

The purpose of this district is to allow high-density residential apartment buildings. The major restriction is that the gross density shall not be more than 20 dwelling units per acre and that certain restricted commercial uses are permitted. It must abut a collector or arterial street as specified by the Board of Public Works and Safety of the town or the State Department of Transportation (INDOT). Centralized water and sewer facilities are required. Specific provisions for this district are set forth in § 28-5-4.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-5 RESIDENTIAL MOBILE HOME PARK DISTRICT (RMH).

The purpose of this district is to encourage the development of well-planned mobile home parks. The districts shall abut upon an arterial or collector street. Mobile home parks shall comply with all state regulations, as well as those regulations specified in Article 5 of this chapter. Specific provisions for this district are set forth in § 28-5-5.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-6 BUSINESS DISTRICTS.

Business Districts are established to meet the purposes identified in §§ 28-5-6 through 28-5-9 inclusive. Specific provisions for Business Districts are set forth in § 28-5-7 through 28-5-9 inclusive.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-7 LOCAL/NEIGHBORHOOD BUSINESS DISTRICT (LB/NB).

The purpose of this district is to encourage the establishment of areas for convenience business uses, which tend to meet the daily requirements of the residents of an immediate neighborhood. This district will be very carefully and strategically located. Allowing specialized business in this district would defeat the purpose. Specific provisions for this district are set forth in § 28-5-7.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-8 GENERAL BUSINESS DISTRICT (GB).

The purpose of this district is to encourage the establishment of areas for general business uses to meet the needs of a regional market area. Activities would include large space uses such as department stores, service stations, specialty stores and the like. Shopping centers are good examples of types of uses in this district. Due to the scale, it is absolutely necessary that this district be located on an arterial or a collector street as specified by the County Roads Engineer or the INDOT. Specific provisions for this district are set forth in § 28-5-8.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-9 HIGHWAY BUSINESS DISTRICT (HB).

The purpose of this district is primarily for the conduct of retail trade catering to the motoring public. Since it is intended that these districts be located on thoroughfares, and each such district will require ingress or egress to the thoroughfare, the location of these districts must be carefully determined. In no case is this district intended to “strip” thoroughfares in the county; rather, it is to be used at certain major intersections where access can be best controlled. Specific provisions for this district are set forth in § 28-5-9.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-10 INDUSTRIAL DISTRICTS.

These districts are established to meet the purposes identified in §§ 28-5-11 and 28-5-12. Specific provisions for industrial districts are set forth in §§ 28-5-11 and 28-5-12 inclusive.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-11 LIGHT INDUSTRIAL DISTRICT (I-1).

The purpose of this district is to encourage the development of manufacturing and wholesale business establishments which are clean, quiet, free of hazardous or objectionable elements, operate entirely within enclosed structures and generate little industrial traffic. This district is further designed

to act as a transitional use between heavy industrial uses and less intensive uses such as business or residential. Specific provisions for this district are set forth in § 28-5-11.
(Ord. 2004-10, passed 12-30-2004)

§ 28-3-12 HEAVY INDUSTRIAL DISTRICT (I-2).

The purpose of this district is to encourage the development of major manufacturing, processing, warehousing and major research and testing operations. These activities require extensive community facilities and reasonably good access to an arterial street. They may also have extensive open storage and service areas and may generate heavy industrial-type traffic. Specific provisions for this district are set forth in § 28-5-12.
(Ord. 2004-10, passed 12-30-2004)

§ 28-3-13 ENVIRONMENTAL DISTRICTS.

These districts are established to meet the purposes identified in §§ 28-5-14 through 28-5-17 inclusive. Specific provisions for the environmental districts are set forth in §§ 28-5-14 through 28-5-17 inclusive.
(Ord. 2004-10, passed 12-30-2004)

§ 28-3-14 AGRICULTURAL DISTRICT (AG).

The purpose of this district is to preserve and protect prime agricultural land by controlling the indiscriminate infiltration of urban development into agricultural areas. Specific provisions for this district are set forth in § 28-5-15.
(Ord. 2004-10, passed 12-30-2004)

§ 28-3-15 RECREATION DISTRICT (G-1).

The purpose of this district is to provide areas for recreation and conservation purposes, and areas suitable for non-commercial recreation. This zone includes the flood hazard areas as delineated in the county by the Department of Housing and Urban Development. Specific provisions for this district are set forth in § 28-5-16.
(Ord. 2004-10, passed 12-30-2004)

§ 28-3-16 QUARRY AND MINING DISTRICT (Q-1).

The purpose of this district is for retaining natural resource areas in the county to the exclusion of other uses, except agriculture and recreation uses, for extracting materials through quarry or mining

operations, which require the removal of overburden. Specific provisions for this district are set forth in § 28-5-17.

(Ord. 2004-10, passed 12-30-2004)

§ 28-3-17 FLOOD HAZARD AREA (FHA).

The purpose of this district is to establish standards for use of land in those areas designated by federal and state regulators as flood hazard areas. Specific provisions for this district are set forth in §§ 28-6-1 through 28-6-15.

(Ord. 2004-10, passed 12-30-2004)

Article 4: Application of District Regulations

§ 28-4-1 GENERAL APPLICATION OF DISTRICT REGULATIONS.

(A) The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

(1) No building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered, except with an approved improved location permit and in conformity with all of the regulations herein specified for the district in which it located.

(2) No building or other structure shall be erected or altered:

(a) To provide for greater height or bulk;

(b) To accommodate or house a greater number of families;

(c) To occupy a greater percentage of lot area, excepting utility structures such as water tanks and towers, which do not require septic, which are exempt from lot size requirements; or

(d) To have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required, or in any other manner be contrary to the provisions of this chapter.

(B) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. However, the requirement that churches have

three acres lot area shall be waived for churches existing prior to 12-7-2007 as long as they can meet all other ordinance requirements. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements set forth herein; except that, all lots located in the original plats of towns or original subdivision plats recorded in the office of the County Recorder prior to the year 2000 need only meet current ordinance requirements. Further, if a house on any such lot is destroyed or removed by fire or an act of God, a new house may be built upon the original foundation; provided that, the house does not exceed the boundaries of the original foundation or contain more floors/stories than the original structure.

(C) For lots created prior to the adoption of the 2004-10 (12-30-2004), lot area, depth and width shall be grandfathered in and shall be acceptable, provided that they meet all other requirements of the current County Zoning Ordinance. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

(Ord. 2004-10, passed 12-30-2004; Ord. 2006-3, passed 9-1-2006; Ord. 2007-8, passed 12-7-2007)

§ 28-4-2 OFFICIAL SCHEDULE OF DISTRICT REGULATIONS ADOPTED.

District regulations shall be as set forth in the official schedule of district regulations hereby adopted and declared to be a part of this chapter. Section 28-5-18, the official schedule of uses table, identifies each land use according to whether it is a permitted use, a conditional use, or a prohibited use within each district. The description of each permitted and/or conditional use in §§ 28-8-5-1 through 28-5-17, the specific application of district regulations, is followed by an identification number(s) (in parentheses) that refers to the corresponding number within § 28-5-18. The conditional uses are of the same general character and will not be detrimental to the district in which they may be located and may be permitted under the provision herein.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-3 EXPLANATION OF THE ORIGIN OF THE OFFICIAL SCHEDULE OF DISTRICT REGULATIONS.

The official schedule of district regulations was prepared using a modified form of the standard system for identifying and coding land use activities.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-4 GENERAL RESTRICTIONS, APPLICATION OF ALL USES IN ALL DISTRICTS.

The restrictions set out herein apply to all uses in all districts.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-5 PROPERTY ACCESS.

Any structure erected or moved for use as a dwelling unit or with a replacement cost in excess of \$2,000 shall be easily accessible to fire and other emergency equipment, and shall be on a lot adjacent to or with access to a public street, or with access to an approved private street.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-6 LAND USE COMPATIBILITY.

Each proposed land use shall not create an adverse effect upon the surrounding land uses, health, safety or general welfare of the county by overburdening the land, existing utilities or the road network. Proposals shall also comply with provisions for lighting, signage, noise and landscaping.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-7 TRAFFIC GENERATION.

Each proposed land use shall not create such a volume of automotive traffic so as to overburden the surrounding road system. A traffic impact analysis to be paid for by applicant should be conducted in each instance of development where the surrounding road system may be overburdened. A traffic impact analysis shall be regulated and defined by each jurisdiction.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-8 TEMPORARY STRUCTURES.

Temporary structures may be erected on a single lot; provided that, a permit has been obtained, approved, and all other requirements of this chapter relevant to temporary structures shall be met for each structure. Temporary buildings incidental to construction work are also permitted but must be removed upon completion of the construction.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-9 ACCESSORY BUILDING.

No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five feet of any other building.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-10 MINIMUM YARD SETBACK.

No structure except fences, mailboxes and signposts shall be erected, placed or moved to within ten feet of any lot line.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-11 SIGNS.

All freestanding billboards or advertising sign boards shall be 15 feet or more from any public right-of-way line to avoid confusion and reduce view obstruction.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-12 HILLSIDE DEVELOPMENT.

Any development on a slope equal to or greater than 20% must be certified by a licensed engineer or licensed surveyor to be safe for anyone in possession of the land and for adjoining land owners.

(Ord. 2004-10, passed 12-30-2004)

§ 28-4-13 OFF-STREET PARKING.

Each proposed land use shall comply with the off-street parking restrictions and regulations found in § 28-5-19 of this chapter.

(Ord. 2004-10, passed 12-30-2004)

Article 5: Specific Application of District Regulations

The restrictions set out herein apply to uses in the individual districts.

§ 28-5-1 RESTRICTIONS - RESIDENTIAL DISTRICTS.

These districts have been created to preserve and enhance a safe, pleasant living environment for the people of the county. It is intended to provide a variety and mix of dwelling types. These districts and their restrictions follow in §§ 28-5-2 through 28-5-5 inclusive.

(A) *Home occupations.* Home occupations shall be governed by the following regulations.

(1) A home occupation is any use conducted entirely within a dwelling and participated in solely by members of the family, when such use is clearly incidental and secondary to the use of the

dwelling for dwelling purposes and in connection with which there is no commodity sold upon the premises except that which is produced thereon.

(2) Permitted home occupations shall not have more than 20% of the net floor area of the dwelling devoted to the occupation and none of the required off-street parking shall be used in the conduct of the home occupation.

(3) Permitted home occupations shall have no mechanical equipment used which makes any electrical interference, loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

(4) In no way shall the appearance of the structure or the conduct of the occupation within the structure be so altered that it may reasonably be recognized as serving a nonresidential purpose (either by color, materials of construction, lighting, sounds, noises or vibrations).

(5) Permitted home occupations shall not include the employment of a person in addition to the occupant of the dwelling unit in performance of such services, and shall not include exterior display or exterior signs, except as such are permitted by the sign regulations for residential districts. There shall be no exterior storage of equipment or materials used in the home operations.

(B) *Signs.*

(1) Real estate signs of a temporary nature shall not exceed two in number per lot.

(2) A sign or signs flat against a building appertaining to a non-conforming use of the premises shall not exceed in the aggregate 50 square feet in area, except as authorized by the Board of Zoning Appeals.

(3) Small announcement or professional signs shall not exceed six square feet in area, except that an announcement or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street or road, may be erected in connection with any authorized special uses or nonresidential use.

(C) *Visibility at intersections.* On a corner lot, nothing shall be erected, placed, planted or allowed to grow in a manner as to materially impede vision between a height of three and 12 feet above the established grade determined by a diagonal line connecting two points measured 15 feet equidistant from the street corner along each lot line.

(D) *Fences, walls and hedges.* Notwithstanding other provisions of this chapter, fences, walls and hedges may be permitted in any required yard or along the edge of any yard, provided that driveway entrances are not shielded by fences, walls and hedges in a way as to obstruct the view of a driver entering a public road from the driveway; and, provided further that, no fence, wall or hedge along the sides or front edge of any front yard shall exceed three feet in height.

(E) *Parking, storage or use of major recreational equipment.*

(1) Recreational equipment parked or stored in residential districts shall be parked in a manner so as not to block pedestrian traffic or interfere with the view of motorists. Recreational equipment will not be used for any purpose other than that intended when manufactured.

(2) No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for the use.

(F) *Parking and storage of certain vehicles.* Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored for more than seven days on any residentially zoned property other than in completely enclosed buildings with the exception of state licensed antique vehicles.

(G) *Parking and storage of certain commercial or industrial trucks.* Trucks which are used for commercial or industrial purposes and which have a weight of 20,000 pounds GVW (gross vehicle weight) or more shall not be parked or stored for more than 12 hours on any residentially zoned property. Refrigerated trucks of all sizes shall not be parked on any residentially zoned property while refrigeration unit is engaged.

(H) *Handicapped parking plan.* Apartment building owners must submit in writing a proposed handicapped-parking plan, to meet the requirements of the Americans with Disabilities Act (ADA), to the Plan Commission of the county for approval at a regularly scheduled Plan Commission meeting.

(I) *Water and sewers.* Centralized water and sewer facilities are required in all residential districts. (Ord. 2004-10, passed 12-30-2004)

§ 28-5-2 LOW DENSITY RESIDENTIAL (R-4).

(A) *General restrictions.*

(1) Front yard (setback) - Not less than 35 feet.

(2) Lot area - Not less than three acres for churches, schools or hospitals, or 10,000 square feet for all other permitted uses.

(3) Lot width - Not less than 100 feet.

(4) Height of buildings - Not more than 35 feet for principal buildings or 15 feet for accessory buildings.

(5) Rear yard depth (setback) - Not less than 15 feet.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

(1) Dwelling Units (110).

(a) Side yards (setbacks) shall in no case be less than ten feet wide in the Low Density Residential District. For exterior lots, the street side yard shall be no less than 20 feet wide.

(b) For all side yards (setbacks), when the structure is in excess of 20 feet in height the side yard shall be increased to 12 feet in width.

(2) Roadways (451, 452, 453, 454, 455, 456, 457).

(a) These uses are permitted in this district provided that the County Plan Commission approves plans for their development and use.

(b) Additional restrictions include:

1. Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners; and

2. At the option of the Plan Commission, at such date as the situation may arise, noise buffers may be required to shield adjacent residences from undue noise pollution. This may be in the form of a tall solid fence or heavy vegetation.

(C) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as appropriate, shall be observed.

(1) Rooming and Boarding Houses (121). These uses are permitted providing the following restrictions are satisfied.

(a) Side yards shall be not less than 30 feet wide.

(b) Parking lots shall be placed behind or alongside the principal buildings.

(2) Various Public and Quasi-Public Utilities and Roadways (459, 460, 476, 479, 481, 482, 483, 484).

(a) No above ground structure shall be placed within 35 feet of any lot line.

(b) All structures erected, placed or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing the construction.

(c) No unsafe, uncomfortable or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

(d) Parking lots shall be placed behind or alongside the principal buildings.

(e) Further, this conditional use should not be allowed in this district if there are other less restrictive districts that could furnish equivalent space with no additional economic expense to the utility. The Board of Zoning Appeals for each request should closely scrutinize this.

(3) Real Estate, Insurance and Investment Offices (614, 615, 616). Providing that the following restrictions are adhered to and upon receiving approval from the Board of Zoning Appeals, this use may be permitted in this district.

(a) Side yards (setbacks) shall in no case be less than ten feet wide in the Low Density Residential District.

(b) For all side yards (setbacks), when the structure is in excess of 20 feet in height the side yard (setbacks) shall be increased to 12 feet in width.

(c) Parking is permitted provided it is located at the side of or behind the main structure.

(d) Structures shall be so designed so as not to destroy the continuity of the district. Plans for structures must be presented to the Board of Zoning Appeals prior to Board action.

(4) Other Miscellaneous Purposes (699). Providing that the following restrictions are adhered to and upon receiving approval from the Board of Zoning Appeals, these uses may be permitted in this district.

(a) Side yards (setbacks) shall be not less than 20 feet wide.

(b) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners.

(c) Parking lots shall be placed behind or alongside the principal buildings.

(5) Protective Functions and Postal Service (672, 673). With the health, safety and well being of the citizens foremost in their minds, the Board of Zoning Appeals and involved protective services should cooperate to determine where best to locate these functions. Should they decide upon a site in this district, the following restrictions must be satisfied.

(a) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require Board of Zoning Appeals approval prior to construction.

(b) No structure shall be placed within 50 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this district.

(6) Schools and Churches (681, 691). School locations should be determined by the School Board of the appropriate school district based on an independent study of demographics of future school age populations.

(a) Minimum yard requirements.

1. Lot size should not be less than three acres.

2. Side yards (setbacks) shall in no case be less than ten feet wide in the Low Density Residential District. For exterior lots the side yard (setbacks) on the street side shall be no less than 20 feet wide.

3. For all side yards (setbacks), when the structure is in excess of 20 feet in height the side yard (setbacks) shall be increased to 12 feet in width.

(b) Parking lots shall be placed behind or alongside the principal buildings.

(7) Cultural, Entertainment and Recreational Activities (711, 722, 723, 742, 743, 761,762, 769). Providing that the following restrictions are adhered to, and upon receiving approval from the Board of Zoning Appeals, these uses may be permitted in this district.

(a) No structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 75 feet from any adjacent property line.

(c) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(d) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require Board of Zoning Appeals approval prior to construction.

(e) No unsafe, uncomfortable or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

(Ord. 2004-10, passed 12-30-2004)

§ 28-5-3 MEDIUM DENSITY RESIDENTIAL (R-6).

(A) *General restrictions.*

(1) Front yard (setback) - Not less than 35 feet.

(2) Lot area - Not less than 8,000 square feet for single-family dwelling units, 3,500 square feet for two-family units, and three acres for churches, schools and hospitals, or 10,000 square feet for all other permitted uses. Other multi-family units are not permitted in this district except for conditional use.

(3) Lot width - Not less than 60 feet for the interior lot and 70 feet for the exterior lot.

(4) Height of buildings - Not more than 35 feet for principal buildings or 15 feet for accessory buildings.

(5) Rear yard depth (setback) - Not less than 15 feet.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply.

(1) Dwelling Units (110).

(a) Side yards (setbacks) shall in no case be less than ten feet wide in the Medium Density Residential District. For exterior lots, the side yard (setback) on the street side shall be no less than 25 feet wide.

(b) For all side yards (setbacks), when the structure is in excess of 20 feet in height the side yard (setback) shall be increased to 12 feet in width.

(2) Transportation Related Uses (451, 452, 453, 454, 455, 456, 457). Any changes or improvements regarding these uses in this district are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(C) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply.

(1) Rooming and Boarding Houses (121).

(a) Side yards (setbacks) shall in no case be less than ten feet wide in the Medium Density Residential District. For exterior lots, the street side yard (setback) shall be no less than 25 feet wide.

(b) For side yards (setbacks) when the structure is in excess of 20 feet in height, the side yard (setbacks) shall be increased to 12 feet in width.

(c) Parking lots shall be placed behind or alongside the principal buildings.

(d) Necessary lighting should not adversely affect any adjacent property. The Board of Zoning Appeals should approve the devices prior to installation.

(2) Transportation Related Uses (459). Any changes or improvements regarding these uses in this district are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(3) Various Public and Quasi-Public Utilities (476, 481, 482, 483, 484). By adhering to the following restrictions, these uses may be permitted in this district.

(a) No above ground structure shall be placed within 35 feet of any lot line.

(b) All structures erected, placed or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing the construction.

(c) No unsafe, uncomfortable or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

(d) Parking lots shall be placed behind or alongside the principal buildings.

(e) Further, this conditional use should not be allowed in this district if there are other less restrictive districts that could furnish equivalent space with no additional economic expense to the utility. This should be closely scrutinized by the Board of Zoning Appeals for each request.

(4) Real Estate Offices (615). Providing that the following restrictions are adhered to, and upon receiving approval from the Board of Zoning Appeals, this use may be permitted in this district.

(a) Side yards (setback) shall in no case be less than ten feet wide in the Medium Density Residential District. For exterior lots, the street side yard (setback) shall be no less than 25 feet wide.

(b) For all side yards (setback), when the structure is in excess of 20 feet in height, the side yard (setback) shall be increased to 12 feet in width.

(c) Structures shall be so designed so as not to destroy the continuity of the district. Plans for structures must be presented to the Board of Zoning Appeals prior to Board action.

(d) Parking is permitted provided it is screened from view and is located at the side of or behind the main structure.

(5) Other Miscellaneous Purposes (699). Providing that the following restrictions are adhered to, and upon receiving approval from the Board of Zoning Appeals, these uses may be permitted in this district.

(a) Setbacks shall not be less than 35 feet from the right-of-way line.

(b) Side yards (setback) shall be not less than 20 feet wide.

(c) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners.

(d) Parking lots shall be placed behind or alongside the principal buildings.

(6) Protective Functions and Postal Service (672, 673). With the health, safety and well being of the citizen foremost in their minds, the Board of Zoning Appeals, Plan Commission and involved protective services should cooperate to determine where best to locate these functions. Should they arrive at a site in this district, the following restrictions must be satisfied.

(a) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require Plan Commission approval prior to construction.

(b) No structure shall be placed within 50 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this district.

(7) Schools and Churches (681, 691). School locations should be determined by the School Board of the appropriate school district based on an independent study of demographics of future school age populations.

(a) Side yards (setback) shall in no case be less than ten feet wide in the Medium Density Residential District. For exterior lots, the street side yard (setback) shall be 25 feet wide.

(b) For all side yards (setback), when the structure is in excess of 20 feet in height, the side yard (setback) shall be increased to 12 feet in width.

(c) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(d) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking areas shall be located within 20 feet of lot lines.

(8) Cultural, Entertainment and Recreational Activities (711, 722). Provided that the following restrictions are adhered to, and upon receiving approval from the Board of Zoning Appeals, these uses may be permitted in this district.

(a) No structure shall be placed within 35 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) Areas for parking shall not be closer than 20 feet from any lot line.

(d) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(e) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require the Board of Zoning Appeals' approval prior to construction.

(9) Parks, Playgrounds, Recreation Areas, Parking Lots (460, 742, 743, 761, 762, 769). These uses are permitted in this district provided that the Board of Zoning Appeals approves plans for their development and use. Additional restrictions include the following.

(a) Lighted areas shall be approved by the Board of Zoning Appeals prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(b) Areas for parking shall not be closer than 20 feet from any lot line.

(c) At the option of the Board of Zoning Appeals at such a date as the situation may arise, noise buffers may be required to shield adjacent residences from undue noise pollution. This may be in the form of a tall solid fence or heavy vegetation.

(Ord. 2004-10, passed 12-30-2004)

§ 28-5-4 HIGH DENSITY-RESIDENTIAL (R-20).

(A) *General restrictions.*

(1) Front yard (setback) - Not less than 35 feet.

(2) Lot area - Not less than 8,000 square feet for single-family dwelling units, 3,500 square feet for duplex dwelling units, or 3,400 square feet per dwelling unit for the first two units and 2,000 square feet per dwelling unit for each additional unit for structures with three or more units. Churches, schools and hospitals shall not be less than three acres. All other permitted uses shall not be less than 10,000 square feet for each additional unit.

(3) Lot width - Not less than 60 feet for an interior lot and 70 feet for an exterior lot.

(4) Height of buildings - 35 feet for principal building, 15 feet for accessory buildings.

(5) Rear yard depth (setback) - Not less than 25 feet, plus one foot for every foot the building exceeds 35 feet in height.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply.

(1) Dwelling Units (110).

(a) Side yards (setbacks) in no case shall be less than ten feet wide in the High Density Residential District. For exterior lots, the side yard (setback) on the street side shall be no less than 25 feet wide.

(b) For side yards (setbacks) where the structure is in excess of 20 feet in height the side yard (setbacks) shall be increased to 12 feet in width.

(2) Transportation Related Uses (451, 452, 453, 454, 455, 456, 457). Any changes or improvements regarding these uses in this district are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(C) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as appropriate, shall be observed.

(1) Residence Halls, Retirement Homes, Apartments, Condominiums (122, 123, 130).

(a) Side yards (setbacks) shall be no less than 15 feet wide. For exterior lots, the side yard (setback) on the street side shall be no less than 25 feet wide.

(b) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 20 feet of surrounding dwelling units.

(c) Lighted areas shall be approved by the Board of Zoning Appeals prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(2) Various Public and Quasi-Public Utilities and Transportation Related Utilities (459, 476, 481, 482, 483, 484). By adhering to the following restrictions, these uses may be permitted in this district.

(a) No above ground structure shall be placed within 35 feet of any lot line.

(b) All structures erected, placed or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing the construction.

(c) No unsafe, uncomfortable or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

(d) Parking lots shall be placed behind or alongside the principal buildings.

(e) Further, this conditional use should not be allowed in this district if there are other less restrictive districts, which could furnish equivalent space with additional economic expense to the utility. This should be closely scrutinized by the Board of Zoning Appeals for each request.

(3) Real Estate (615). These uses are permitted in this district provided the Board of Zoning Appeals gives its approval prior to any action.

(a) Side yards (setbacks) shall in no case be less than 12 feet wide, plus one foot for every foot the building exceeds 35 feet in height. For exterior lots, the side yard (setbacks) on the street side shall be no less than 25 feet wide.

(b) Parking is permitted provided it is screened from view and is located at the side or behind the main structure.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(d) Structures shall be so designed so as not to destroy the continuity of the district. Plans for structures must be presented to the Board of Zoning Appeals prior to Board action.

(4) Medical and Other Health Services, Convalescent Home Services, and Other Miscellaneous Purposes (651, 653, 699). Providing that the following restrictions are adhered to, and upon receiving approval from the Board of Zoning Appeals, these uses may be permitted in this district.

(a) Side yards (setbacks) shall be not less than 20 feet wide. On exterior lots, the street side yard (setback) shall not be less than 25 feet wide.

(b) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 20 feet of lot lines.

(5) Protective Functions and Postal Service (672, 673). With the health, safety and well being of the citizens foremost in their minds, the Board of Zoning Appeals and involved protective services should cooperate to determine where best to locate these functions. Should they arrive at a site in this district, the following restrictions must be followed.

(a) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require Board of Zoning Appeals approval prior to construction.

(b) No structure shall be placed within 50 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this district.

(6) Schools and Churches (681, 691). School locations should be determined by the appropriate school district of the School Board based on an independent study of demographics of future school age populations.

(a) Side yards (setbacks) shall in no case be less than 12 feet wide, plus one foot for every foot the building height exceeds 35 feet in the High Density Residential District.

(b) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking areas shall be located within 20 feet of lot lines.

(7) Cultural, Entertainment, and Recreational Activities (711, 721, 722, 723). Provided that the following restrictions are adhered to, and upon receiving approval from the Board of Zoning Appeals, these uses may be permitted in this district.

(a) No structure shall be placed within 35 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) Areas for parking shall not be closer than 20 feet from any lot line.

(d) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(e) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require Board of Zoning Appeals approval prior to construction.

(f) No unsafe, uncomfortable or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

(8) Parks, Playgrounds, Recreation Areas (742, 743, 761, 762). These uses are permitted in this district provided that the Plan Commission approves plans for their development and use. Additional restrictions include the following.

(a) Lighted areas shall be approved by the Board of Zoning Appeals prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(b) Areas for parking shall not be closer than 40 feet from any lot line.

(c) At the option of the Board of Zoning Appeals at such date as the situation may arise, noise buffers may be required to shield adjacent residences from undue noise pollution. This may be in the form of a tall solid fence or heavy vegetation.

(Ord. 2004-10, passed 12-30-2004)

§ 28-5-5 RESIDENTIAL MOBILE HOME PARK (RMH)/CORPORATE COMMUNITIES.

(A) *General restrictions.*

(1) Mobile home park area - Not less than one acre (43,560 square feet).

(2) Floor area ratio - Not to exceed four-tenths.

(3) Lot area - Not less than 3,000 square feet.

(4) Lot width - Determined by setbacks.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply.

(1) Mobile Home Parks (140).

(a) Each mobile home park shall have a maximum density of eight mobile homes per acre, calculated from the gross acreage included within the boundaries of the proposed mobile home park.

(b) No mobile home may be located closer than 20 feet to any boundary line of the mobile home park.

(c) No mobile home shall be located closer than 20 feet to any permanent structure within the mobile home park.

(d) No mobile home shall be placed closer than ten feet from any lot or site line.

(e) No mobile home shall be located closer than 15 feet to the right-of-way of any mobile home park street.

(f) If the mobile home park is designed to be occupied by ten mobile homes or more, not less than 15% of the gross land area of the park shall be improved for recreational activities for the residents of the park.

(g) No less than five mobile homes shall constitute a mobile home park.

(h) There shall be no mobile home parks located within the county unless the mobile home park is approved by the Plan Commission pursuant to this chapter and requirements of the State Mobile Home Parks Act, as amended, and the State Board of Health Regulations, as amended. For mobile home parks/corporate communities created after 7-1-2009, no mobile home park/corporate community shall be approved by the Plan Commission unless the grounds designated for the mobile home park/corporate community have been platted and approved in accordance with local law.

(i) For existing homes located within mobile home parks/corporate communities which homes were existing prior to the July 2009 ordinance amendments, the homes shall be permitted to be replaced with newer homes; provided that, the homes meet all other ordinance requirements.

(2) Transportation Related Uses (452, 453, 454, 455, 456, 457, 460). Any changes or improvements regarding these uses in this district are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(B) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as appropriate, shall be observed.

Jefferson County - Zoning

(1) Parks, Playgrounds and Recreation Areas (742, 743, 752, 761, 762 769, 790). Provided that the following restrictions are adhered to, and upon receiving approval from the Board of Zoning Appeals, these uses may be permitted in this district.

(a) No structure shall be placed within 30 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners.

(c) Areas for parking shall not be closer than 20 feet from any lot line.

(d) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(e) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require Board of Zoning Appeals approval prior to construction.

(f) No unsafe, uncomfortable or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

(2) Various Public, Quasi-Public Utility Buildings or Facilities, Excluding Transmission Lines and Transportation Related Utilities (451, 459, 471, 472, 476, 481,482, 483, 484). By adhering to the following restrictions, these uses may be permitted in this district.

(a) No structure shall be placed within 25 feet of any lot line.

(b) All structures erected, placed or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing the construction.

(c) No unsafe, uncomfortable or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

(d) Parking lots shall be placed behind or alongside the principal buildings.

(e) Further, this conditional use should not be allowed in this district if there are other less restrictive districts, which could furnish equivalent space with no additional economic expense to the utility. This should be closely scrutinized by the Plan Commission for each request.

(3) Real Estate Offices and Laundering Service (615, 621). Providing that the following restrictions are adhered to, and upon receiving approval from the Board of Zoning Appeals, this use may be permitted in this district.

(a) Setbacks shall in no case be less than 35 feet from right-of-way.

(b) Side yards (setbacks) shall in no case be less than ten feet wide in the Mobile Home Park District. For exterior lots, the street side yard (setback) shall be 20 feet wide.

(c) For all side yards, when the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(d) Parking is permitted provided it is screened from view and is located at the side or behind the main structure. Further, no parking lot shall be located closer than 20 feet from the nearest lot line.

(4) Protective Functions and Postal Service (672, 673). With the health, safety and well being of the citizens foremost in their minds, the Board of Zoning Appeals and involved protective services should cooperate to determine where best to locate these functions. Should they arrive at a site in this district, the following restrictions must be satisfied.

(a) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require Board of Zoning Appeals approval prior to construction.

(b) No structure shall be placed within 50 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this district.
(Ord. 2004-10, passed 12-30-2004; Ord. 2009-3, passed 7-10-2009)

§ 28-5-6 RESTRICTIONS - BUSINESS DISTRICTS.

These districts have been created to provide areas for certain commercial and other service functions necessary in the county and to provide a means of regulating the amount of land coverage and the height of buildings. It is intended to provide these services where they are needed most and to preserve, enhance, and encourage the usefulness and vitality of these areas. These districts and their restrictions follow in §§ 28-5-7 through 28-5-9, inclusive.

(A) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, noise, vibrations, refuse matter or water-carried waste.

(B) In any commercial district where a commercial building is located on a lot that abuts property zoned for residential use, every time it abuts a residential land use. Use opaque fencing. A height of six feet shall be provided along any side and/or rear lot line contiguous to the property zoned for residential use.

(C) No sign shall project beyond a lot line to obstruct in any way a driver's vision of the road, or hinder his or her passage in any way. Further, no sign shall be placed so as to hinder or obstruct any

pedestrian path. In addition, all signs should always be properly maintained. The bottom of a sign over a pedestrian pathway must be ten feet above the path and 15 feet above the street.

(D) On a corner lot, nothing shall be erected, placed, planted or allowed to grow in a manner as to materially impede vision between a height of three to 12 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of the corner lots and the line joining points along the street lines 15 feet from the point of the intersection.

(E) Notwithstanding other provisions of this chapter, fences, walls and hedges may be permitted in any required yard or along the edge of any yard; provided that, driveway entrances are not shielded by fences, walls and hedges in a way as to obstruct the view of a driver entering a public road from the driveway; and, provided further that, no fence, wall or hedge along the sides or front edge of any front yard shall exceed three feet in height.

(F) On the same premises with every building or structure hereafter erected and occupied for uses involving the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of the street or alley. The space, unless otherwise adequately provided for, shall include a ten-foot by 25-foot loading space with a 14-foot height distance.

(G) Residential uses located in all business districts shall have the same front, side and rear yard requirements as those in the R-20 High Density Residential District.
(Ord. 2004-10, passed 12-30-2004)

§ 28-5-7 LOCAL BUSINESS/NEIGHBORHOOD BUSINESS DISTRICT (LB/NB).

(A) *General restrictions.*

(1) Lot area - Not less than one-half acre. If the use lies on a boundary between two districts, the allowed sizes of both lot areas shall be no less than 6,000 square feet per building.

(2) Lot width - Not less than 100 feet.

(3) Height of buildings - Not more than 35 feet for a principal building.

(4) Front yard (setback) - Not less than 25 feet from a right-of-way line or 75 feet from a major highway (arterial or higher).

(5) Side yard width (setback) - Not less than 25 feet for a principal building when abutting a residential district or 20 feet when abutting a nonresidential district.

(6) Rear yard depth (setback) - Not less than 35 feet for a principal building.

(7) Signs intended to be seen outside lot lines. Advertising signs are permitted provided they advertise only the use, service, articles or products offered within the building upon the premises whereon the sign is located, subject to the following requirements.

(a) Billboards are not permitted.

(b) The aggregate area of the signs on any building shall not exceed 25 square feet in area for the first 25 feet of frontage of the building site and one additional square foot of sign area for each additional foot of frontage of the building site.

(c) All signs shall be attached to the main building and shall not project in excess of four feet from the building, nor more than five feet above the roof or corners of the building on the site.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply.

(1) Eating Places (582).

(a) Visual screening - The lot lines immediately bordering residential lots shall be screened completely with a fence, wall or vegetation at least seven feet in height.

(b) Follow all general restrictions for this district.

(2) Banking Services (611).

(a) Visual screening - The lot lines immediately bordering residential lots shall be screened completely with a fence, wall or vegetation at least seven feet in height.

(b) Follow all general restrictions for this district.

(C) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply.

(1) Commutations, Transportation, and Utilities (459, 476, 481, 482, 483, 484). The LB/NB District should be reserved for local business, but when it becomes necessary, the above uses, properly justified and restricted, are permitted. The restrictions will be the same as those presented in each residential district (§§ 28-5-2 through 28-5-5 inclusive) for public and quasi-public utilities. If there is a borderline case, then the more restrictive of the two shall govern. For instance, if the LB/NB District lies between an R-4 and an R-20 District, then the most restrictive (R-4) should be used.

(2) Automobile Repair and Services (641).

(a) Visual screening - The lot lines immediately bordering residential lots shall be screened

completely with a fence, wall or vegetation of at least seven feet in height.

(b) Hours - The hours that the station may remain open shall be restricted to between 6:00 a.m. and 9:00 p.m.

(3) General Merchandise and Other Food Trade (539, 549). At the approval of the Board of Zoning Appeals, this type of facility may be permitted. It shall follow restrictions set out in the section entitled "general restrictions".

(4) Protective Functions and Postal Service (672, 673). These uses are permitted in most districts by special exception; therefore, they should not need to be located in the LB/NB District, which is very small. However, if it is absolutely necessary and the Board of Zoning Appeals gives its approval, then they may be permitted, subject to the restrictions for their particular uses in that particular residential district.

(5) Cultural, Entertainment, and Recreational Activities (721, 722, 723, 762, 769).

(a) No structure shall be placed within 30 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) Areas for parking shall not be closer than 20 feet from any lot line.

(d) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(e) The structure(s) should be designed and landscaped so as not to destroy the continuity of the district. Plans would require Board of Zoning Appeals approval prior to construction.

(f) No unsafe, uncomfortable or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

(Ord. 2004-10, passed 12-30-2004; Ord. 2006-3, passed 9-1-2006)

§ 28-5-8 GENERAL BUSINESS DISTRICT (GB).

(A) *General restrictions.*

(1) Lot area - Not less than 6,000 square feet per building.

(2) Lot width - Not less than 50 feet per building.

(3) Height of buildings - No restriction.

(4) Front yard (setback) - Not less than 25 feet from a major highway (arterial or higher).

(5) Side yard width (setback) - Not less than 25 feet for a principal building when abutting a residential district or 20 feet when abutting a nonresidential district.

(6) Rear yard depth (setback) - Not less than 35 feet for a principal building.

(7) Signs intended to be seen outside lot lines. Advertising signs are permitted provided they advertise only the use, service, articles or products offered within the building upon the premises whereon the sign is located, subject to the following requirements.

(a) Billboards are not permitted.

(b) The aggregate area of such signs shall not exceed 200 square feet in area.

(c) The structures supporting signs not attached to buildings shall be located at least five feet from the front property line and no such self-supporting sign shall project over a street right-of-way.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions.

(C) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. Special restrictions may also be imposed in addition to the general restrictions.
(Ord. 2004-10, passed 12-30-2004)

§ 28-5-9 HIGHWAY BUSINESS DISTRICT (HB).

(A) *General restrictions.*

(1) Lot area - Not less than 10,000 square feet per building.

(2) Lot width - Not less than 100 feet per building.

(3) Height of buildings - No restrictions.

(4) Front yard (setback) - Not less than 25 feet from a right-of-way line or 75 feet from a major highway (arterial or higher).

(5) Side yard width (setback) - Not less than 25 feet to the right-of-way.

(6) Rear yard depth (setback) - Not less than 35 feet.

(7) Signs intended to be seen outside lot lines. Advertising signs are permitted provided they advertise only the use, service, articles or products offered within the building upon the premises whereon the sign is located, subject to the following requirements.

(a) Billboards are not permitted.

(b) The aggregate area of such signs shall not exceed 100 square feet in area.

(c) For the purposes of this district only, *AGGREGATE AREA* shall mean total area of any one sign face, or letter, or monogram, within a total sign.

(d) The structures supporting signs not attached to buildings shall be located at least five feet from the front property line and no such self-supporting sign shall project over a street right-of-way.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, every use in the district shall be subject to review by the Board of Zoning Appeals before a permit is issued for a structure or alteration of any existing structure. The procedures for special uses shall be followed.

(Ord. 2004-10, passed 12-30-2004)

§ 28-5-10 RESTRICTIONS - INDUSTRIAL DISTRICTS.

These districts have been created in order to provide areas where industrial uses efficiently locate with a minimum of adverse effects to other uses in the vicinity. Certain harmful or nuisance pollutants are limited accordingly. These districts and their restrictions follow in §§ 28-5-11 and 28-5-12 inclusive.

(A) No lot, parcel or tract of land shall be used, and no building or structure shall be erected, altered or remodeled for any of the following uses: manufacture or storage of fireworks or explosives; dumping of garbage, dead animals, offal or refuse; ore reduction; manufacture of nitro cellulous; manufacture of sauerkraut; manufacture or treatment of tallow, grease or lard; curing, or storage of rawhides or skins; distillation of tar.

(B) No activities involving the storage, utilization or manufacture of materials or products, which decompose by detonation, shall be permitted, except such as are specifically permitted by the Board of Zoning Appeals. The materials shall include, but shall not be confined to all primary explosives such as lead azide, lead styphnate, fulminates and tetrocene; all high explosives such as TNT, RDX, HMX, PETN and picric acid; propellants and components thereof such as cellulose nitrate of a nitrogen content of 12.5% or greater, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, blasting explosives such as dynamite and nitroglycerine, unstable organic compounds such as acetylides, tetrazoles, perchloric acids; perchlorate hydrogen peroxide in concentrations greater than 35%; and nuclear fuels, fissionable materials, and products and reactor elements such as Uranium 235 and Plutonium 239.

(C) No building, structure, or land within 100 feet of any lot line of a lot located in a residential district or within 15 feet of any lot line of a lot located in a nonresidential district shall be used in connection with the operations of any establishment. Off-street parking and off-street loading spaces may be located within this setback area in accordance with subsection (I) below.

(D) Any use established in an industrial district hereinafter shall be operated in a manner as to comply with applicable performance standards, as hereinafter set forth, governing noise, smoke and particulate matter.

(E) Signs intended to be seen outside the lot lines.

(1) No sign shall project beyond a lot line, obstruct in any way a driver's vision of the road or hinder his or her passage in any way. Further, no sign shall be placed so as to hinder or obstruct any pedestrian path.

(2) Signs should always be properly maintained.

(F) No industrial use structure, except fences and signposts, shall come within 35 feet of any residential district boundary line or within 15 feet of any nonresidential district boundary line.

(G) On a corner lot, nothing shall be erected, placed, planted or allowed to grow in a manner as to materially impede vision between a height of three and 12 feet above the established grade determined by a diagonal line connecting two points measured 15 feet equidistant from the street corner along each lot line.

(H) Notwithstanding other provisions of this chapter, fences, walls and hedges may be permitted in any required yard or along the edge of any yard; providing that, driveway entrances are not shielded by fences, walls and hedges in a way as to obstruct the view of a driver entering a public road from the driveway.

(I) On the same premises with every building or structure hereafter erected and occupied for uses involving the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley. The space, unless otherwise adequately provided for, shall include a ten-foot by 25-foot loading space with a 14-foot height distance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor area or land areas used for the aforementioned purposes.

(J) Owners of industrial business buildings must submit in writing a proposed handicapped-parking plan, to meet the requirements of the Americans with Disabilities Act (ADA), to the Board of Zoning Appeals of the county for approval at a regularly scheduled Board of Zoning Appeals meeting.

(Ord. 2004-10, passed 12-30-2004; Ord. 2006-7, passed 11-9-2006)

§ 28-5-11 LIGHT INDUSTRIAL DISTRICT (I-1).*(A) General restrictions.*

(1) These minimum lot requirements shall not apply to existing structures on property that is subdivided if it is not possible to provide 100-foot lot width. The County Board of Zoning Appeals shall determine the appropriate lot width based upon the location of the existing structures, and may approve a plan with a lot less than 100 feet.

(a) Lot area - Not less than 1.72 acres. Building coverage shall not exceed 30% of the lot area.

(b) Lot width - Not less than 100 feet per building.

(c) If a parcel is being added to an existing parcel but after the addition the parcel will still be less than 100 feet and the parcel is already being used as an industrial site, then that use will continue and the parcel may be added.

(d) Height of buildings - No restriction.

(e) Front yard (setback) - Not be less than 40 feet from the right-of-way line for a principal building, unless there is an existing structure that cannot have a 40-foot front yard.

(f) Side yard width (setback) - Not less than 20 feet when abutting a residential district or 15 feet when abutting a nonresidential district.

(g) Rear yard depth (setback) - Not less than 20 feet in a nonresidential district and 40 feet when abutting a residential district.

(2) Application for a variance from the requirements hereof may be submitted to the Board of Zoning Appeals; provided that, the variance and application therefor conforms to the procedures and requirements hereof.

(B) Restrictions for permitted uses. All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply: signs.

(1) Advertising signs - The aggregate area of the signs shall not exceed 500 square feet in area.

(2) The structures supporting signs not attached to buildings shall be located at least five feet from the front property line and no such self-supporting sign shall project over a street right-of-way.

- (3) Billboards - The aggregate area of such signs shall not exceed 600 square feet in area.
- (4) There shall be at least 500 feet between billboards.

(C) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. Special restrictions may also be imposed in addition to the general restrictions. (Ord. 2004-10, passed 12-30-2004; Ord. 2006-3, passed 9-1-2006; Ord. 2006-7, passed 11-9-2006)

§ 28-5-12 HEAVY INDUSTRIAL DISTRICT (I-2).

(A) *General restrictions.* Application for a variance from the requirements hereof may be submitted to the Board of Zoning Appeals; provided that, the variance and application therefor conforms to the procedures and requirements hereof.

- (1) Lot area - Not less than 1.72 acres. Building coverage shall not exceed 30% of the lot area per building.
- (2) Lot width - Not less than 100 feet per building.
- (3) Height of buildings - No restriction.
- (4) Front yard (setback) - Not less than 40 feet from the right-of-way line for a principal building.
- (5) Side yard width (setback) - Not less than 15 feet when abutting a nonresidential district and not less than 40 feet when abutting a residential district.
- (6) Rear yard depth (setback) - Not less than 20 feet in a nonresidential district and 40 feet when abutting a residential district.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. Special restrictions may also be imposed in addition to the general restrictions.

(C) *Restrictions for conditional uses.*

- (1) All conditional uses listed in § 28-5-18 shall conform to the general restrictions. Special restrictions may also be imposed in addition to the general restrictions.
- (2) Automobile wrecking yards, junk and scrap metal yards. Where land is used for the purposes of an automobile wrecking yard, junk yard, scrap metal yard or similar use, the storage of derelict automobiles, scrap metal, junk or similar materials shall not be carried out in that part of the

land designated herein as the “front yard”, “side yard” or “rear yard,” and a natural or artificial screen or buffer shall be provided to obscure the subject property from the street on which the lands abut and from any opposite or adjoining properties to the side or rear of the subject property. The following restrictions shall apply.

(a) The whole of the storage and wrecking operation shall be surrounded by a solid fence, not less than ten feet and not greater than 15 feet in height, unpierced except for gates necessary for access.

(b) The fence shall be located not closer than ten feet from the front lot line, nor closer than five feet from side and rear lot lines, and the land between the fence and any lot line not required for entrance and exit driveways shall be used for no other purpose than landscaping.

(c) No material shall be piled higher than the height of the surrounding fence and closer to the fence than ten feet.

(Ord. 2004-10, passed 12-30-2004; Ord. 2006-3, passed 9-1-2006; Ord. 2006-7, passed 11-9-2006)

§ 28-5-13 PERFORMANCE STANDARDS.

(A) *General restrictions.* Permitted and conditional uses enumerated in the industrial districts, and uses accessory thereto, are subject to the following performance standards and procedures. Any other use, existing or proposed, which the Building Inspector or Zoning Enforcement Officer or the Plan Commission has reasonable grounds to believe violates performance standards shall also be subject to these performance standards procedures.

(1) *Prior to construction and operation.* Any application for a improvement location permit for a use which shall be subject to performance standards shall be accompanied by a sworn statement by the owner of subject property that the use will be operated in accordance with the performance standards set forth herein.

(2) *Determination of violation.* The Zoning Enforcement Officer shall investigate any purported violation of performance standards and, if there are reasonable grounds for the same, shall notify the Plan Commission of the occurrence or existence of a probable violation thereof. The Commission shall investigate the alleged violation. If, after public hearings, on due notice, the Commission finds that a violation occurred or exists, the violation shall be terminated as provided herein.

(3) *Termination of violation.* All violations, as ascertained in accordance with subsection (A)(2)above, shall be terminated within 30 days of the decision of the Plan Commission or shall be deemed a separate violation for each day following and subject to fines as set forth herein, except that certain uses established before the effective date of this chapter and non-conforming as to performance standards shall be given a reasonable time in which to conform therewith as determined by the Plan Commission.

(4) *Regulations of nuisance elements definition of elements.*

(a) No land or building in any industrial district which shall be used or occupied for manufacturing purposes shall be operated in a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration; smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other substance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as “dangerous or objectionable elements”); provided that, any use permitted by this chapter may be undertaken and maintained in the industrial districts if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

(b) The determination of the existence of any dangerous and objectionable elements shall be made at:

1. The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution; and

2. The property lines of the use creating such elements for this noise, for vibration, for glare and for odors.

(B) *Standards to be enforced.*

(1) *Radioactivity or electrical disturbance.* No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than or the creator of the disturbance. All applicable federal regulations shall be complied with.

(2) *Noise.*

(a) A permitted or conditional use in this district shall not create noise which, when using the “A” scale of the standard noise level meter, exceeds the following decibel limits: on the boundary line when adjoining property zoned residential, 55 db; on the boundary line when adjoining property zoned business, 62 db; and on the boundary line when adjoining property zoned industrial, 69 db. Motor vehicular traffic on property subject to those limitations, including the transportation of goods and processing of products (motorized), shall be exempt.

(b) A standard noise level meter used for the above tests shall have a fast/slow response with a minimum capacity of measuring sound pressure on the “A” weighted scale. Equipment should also include a reliable calibrator for the noise level meter. The above noise levels apply to normal operations on property and do not apply to noise created as a result of an emergency or an unusual event outside of the normal operating routine of the use for the property.

(3) *Smoke, particulate matter and other forms of air pollution.* All permitted and conditional uses shall comply with the air quality standards as set by the appropriate state laws and regulatory agencies. If the standards are exceeded by a permitted or conditional use of property, then the use may be considered in violation of air quality standards in the county and shall be considered a violation of the Zoning Ordinance.

(4) *Fire and explosion hazards.* All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws and regulations shall also apply.

(5) *Toxic or noxious matter.* No use shall, for any period of time, discharge across the boundaries of the lot on which it is located toxic or noxious matter, such as sewage, in concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.

(6) *Odors.* No emission shall be permitted of odorous gasses or other odorous matter in quantities as to be readily detectable without instruments at the property line of the zone lot from which they are emitted.

(7) *Glare.* No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, so as to be visible at the points of measurement specified herein, shall be permitted. This restriction shall not apply to signs otherwise permitted by the provisions of this chapter.

(8) *Violations.* When rough tests by a duly constituted enforcement officer indicate to the Plan Commission a possible violation of the performance standards, the Plan Commission may require the manufacturer to obtain and bear the cost of the appropriate technical assistance to ascertain the exact amount of emissions of noxious effects at the lot lines of the manufacturing property. This technical assistance shall be approved in writing by the Plan Commission before tests are conducted. Results of the tests shall be presented to the Plan Commission in writing. Any test result in excess of the appropriate performance standard shall be considered a violation of this chapter.

(Ord. 2004-10, passed 12-30-2004)

§ 28-5-14 RESTRICTIONS - AGRICULTURAL, RECREATION AND QUARRY DISTRICTS.

These districts have been created to protect and improve upon the agricultural and open space lands within the county planning area and to retain natural resource areas for purposes of extracting materials. These districts and their restrictions follow in §§ 28-5-15 through 28-5-17 inclusive.

(A) No activities will be permitted that are not related to the operation or enhancement of these districts. Allowable uses include park facilities, agriculture and support agricultural uses such as farm homes and outbuildings, and quarry or mining operations.

(B) Energy-related mining operations will be permitted if, under evaluation by the Plan Commission, their operation will not dramatically harm the surrounding environment or if there is an immediate regional need for the energy resource.

(C) When concluded, mining operations will be required to regrade the impacted land back to its original contour, replace topsoil and, in vegetated areas, provide natural vegetation similar to the surrounding area's character. The land reclamation will be monitored by the Plan Commission.

(D) On a corner lot, nothing shall be erected, placed, planted or allowed to grow in a manner as to materially impede vision between a height of three to 12 feet above the established grade determined by a diagonal line connecting two points measured 15 feet equal distant from the street corner along each lot line.

(E) Notwithstanding other provisions of this chapter, fences, walls and hedges may be permitted in any required yard or along the edge of any yard; providing that, driveway entrances are not shielded by fences, walls and hedges in a way as to obstruct the view of a driver entering a public road from the driveway.

(F) Major recreational equipment may be parked or stored anywhere on a lot in this district provided that they do not violate any other sections of this chapter and that not more than three pieces of equipment are present for any period of time in excess of 24 hours. Further, no such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a lot.

(G) Automotive vehicles or trailers of non-agricultural kind or type without current license plates shall not be parked or stored for more than seven days on any environmentally zoned property other than in completely enclosed buildings, with the exception of licensed antique vehicles.

(Ord. 2004-10, passed 12-30-2004)

§ 28-5-15 AGRICULTURAL DISTRICT (AG).

(A) *General restrictions.*

(1) In addition, the requirement for 300 feet of road frontage need not be met if an existing parcel has at least 60 feet of road frontage, but less than 300 feet of road frontage and is divided into two parcels that meet the following subsections.

(a) The new parcel is connected to the public road by an easement that runs over the existing parcel and that is at least 30 feet wide for ingress, egress, drainage and utilities.

(b) The existing parcel contains at least 1.72 acres.

(c) The new parcel contains at least 1.72 acres that are no closer than 250 feet from the middle of the road.

(d) The right to use the easement is only associated with the new and existing parcel; only one division of land and only one easement shall be allowed per existing parcel; and the new parcel shall not be further divided.

(2) For purposes of this section, when an easement is involved, the “existing parcel” shall be the parcel which contains the road frontage.

(a) Lot Area - Not less than 1.72 acres for permitted uses or three acres for churches. However, for a parcel that has at least 180 feet of frontage on a public road built pursuant to an approved subdivision plat and for a parcel located on a cul-de-sac that has at least 60 feet of frontage and 150 feet lot width at the building line, lot area must be not less than 1.03 acres.

(b) Lot width - Not less than 300 feet, continuous and uninterrupted, for single-family dwellings fronting on a public road. Provided, however, that if an existing parcel has at least 300 feet of road frontage, it may be divided into two parcels in which the new parcel need not satisfy the requirement for 300 feet of road frontage if either of the following subsections, including subparts, are met.

1. The existing parcel continues to satisfy the requirement for 300 feet of road frontage.

2. The new parcel is connected to the public road by an easement that runs over the existing parcel and that is at least 30 feet wide for ingress, egress, drainage and utilities.

3. The new parcel contains at least 1.72 acres that are no closer than 250 feet from the middle of the road.

4. The right to use the easement is only associated with the new parcel and the existing parcel.

5. The new parcel and the existing parcel share access to the road at a point located within the public right-of-way.

(3) The existing parcel continues to satisfy the requirement for 300 feet of road frontage.

(a) The owner of the new parcel also owns a strip of land that connects the new parcel to the public road.

(b) The strip of land is either:

1. At least 60 feet wide and 250 feet long as measured from the middle of the road to the rear lot line of the existing parcel when the existing parcel and the new parcel share the strip of land as an access driveway; or

2. At least 30 feet wide and 250 feet long as measured from the middle of the road to the rear lot line of the existing parcel when only the new parcel uses the strip of land as an access driveway.

(c) The front lot line of the new parcel is no closer than 250 feet from the middle of the road.

(d) The new parcel contains at least 1.72 acres not including the strip of land; provided, however, that, the strip of land will be assigned the same tax identification number as the new parcel.

(4) In addition, the requirement for 300 feet of road frontage need not be met if an existing parcel has at least 60 feet of road frontage, but less than 500 feet of road frontage and is divided into two parcels that meet the following subsections.

(a) The new parcel is connected to the public road by an easement that runs over the existing parcel and that is at least 30 feet wide for ingress, egress, drainage and utilities.

(b) The existing parcel contains at least 1.72 acres.

(c) The new parcel contains at least 1.72 acres that are no closer than 250 feet from the middle of the road.

(5) In addition, the requirement for 300 feet of road frontage need not be met if either of the following subsections is met.

(a) The parcel has at least 150 feet of frontage on a public road built pursuant to an approved subdivision plat.

(b) The parcel is located on a cul-de-sac and has at least 60 feet of frontage and 150 feet lot width at the building line.

(c) The parcel is located on a cul-de-sac and has at least 60 feet of frontage and 150 feet lot width at the building line.

(d) Lot depth - Not less than 250 feet for single-family dwellings measured at a right angle to the front lot line. However, in the case of an irregularly shaped lot which is unable to meet this depth

requirement, the depth requirement shall be waived; provided that, the lot contains enough acreage to meet all setback requirements for dwellings or other structures.

(e) Front yard (setback) - For principal buildings and dwellings, and all attachments thereto, not less than 50 feet from the right-of-way of the road or 90 feet from the middle of the road, whichever is greater. There is no front yard restriction for planting crops or grazing animals.

(6) Animal feeding operations (AFO) constituting a CFO or CAFO.

(a) *Standards and definitions.*

1. *Standards.*

a. Waste management systems shall be considered structures.

b. All measurements for setback distances shall be from the closest edge of any structure (excluding fences, silos, structures less than 200 square feet and vehicle fuel storage tanks and apparatus) of the feeding operation to the closest edge of the structure designated: or the boundary designated. The regulations in this subsection are in addition to the promulgated rules from State Department of Environmental Management (IDEM). Environmental Protection Agency (EPA) or any other agency or board designated at the federal, state, or local level to monitor or regulate animal feeding operations either directly or indirect. Any revision to the state or federal rules shall be accepted in these regulations, without an amendment and while printed revisions are updated. In the case of conflicting requirements the more restrictive requirement will prevail.

2. *Definitions.* For the purpose of this subsection, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO). A large or medium confined animal feeding operation and shall have the same meaning and definition as set out in I.C. 13-11-2-38.3.

CONFINED FEEDING. Shall have the same meaning and definition as set out in I.C. 13-11-2-39.

CONFINED FEEDING OPERATION (CFO). Shall have the same meaning and definition as set out in I.C. 13-11-2-40.

(b) *Procedures.* Procedures for plan review shall be as follows:

1. All required IDEM and County Health Department permits including a permit for properly handling and disposing of human waste are to be submitted at the time of local building permit application.

2. All required permits shall be obtained before construction of a CAFO or CFO is commenced.
3. All requirements in this ordinance must be met for an improvement location permit and building permit to be issued.
4. Any applicant(s) who has or have had ownership in an animal feeding operation during the past five years shall not have any outstanding unresolved violations with the State Department of Environmental Management or any other corresponding or comparable local, state or federal regulatory agency. All outstanding violations must be resolved before a permit from the county will be issued. The application shall disclose and list all persons with an ownership interest in the AFO.
5. The applicant shall submit a signed affidavit stating that there are no outstanding violations.
6. Animal feeding operation plan review is hereby established in order to encourage the flexibility in the development of land that may be necessary to permit adjustments to changing public and private needs; to foster the ability to provide development patterns which are more compatible with and effective in meeting those needs. Animal feeding operation development plan review is hereby established in order to promote the more efficient use of land so as to preserve and enhance the natural characteristics and unique features of a property; to improve the design, character and quality of new development; to encourage integrated planning for the economical provision of streets, roads, infrastructures and other utilities to reduce the burden by more efficient development; and to conserve the value of land.

(c) *Setbacks; setback location requirements.*

1. All structures that are part of the animal feeding operation (CFO or CAFO) shall have the following setback requirements.

<i>Table 5-15A: Setbacks</i>	
<i>Distance</i>	<i>Setback</i>
Center of public roadway	140 feet
Property line	140 feet
To a different zoning classification	660 feet
Nearest residence not owned by CFO or CAFO	660 feet
Setbacks to be increased as follows:	
With increased animal unit numbers as stated.*	

<i>Table 5-15A: Setbacks</i>	
<i>Distance</i>	<i>Setback</i>
>2,400 animal units	990 feet
>3,600 animal units	1,320 feet
>10,000 animal units	1,980 feet
All farms, excepting swine and fowl, existing as of the effective date of this chapter expanding to a CFO shall only be required to meet the general setbacks for agricultural buildings.	
* Animal numbers are in animal units per definitions in Table 5-15C: Animal Numbers.	

2. If proven odor reducing technology is implemented the permit applicant may apply to the Planning Commission for reduced setback requirements under the same procedure and standards used for a variance under § 28-6-10.

3. Subsequent uses locating within setbacks. No use for which a setback requirement has been established shall locate within the setback perimeter distances set forth above unless the owner user shall sign a *Notice of Agricultural Activity* and agree to not remonstrate against or otherwise complain about any aspect of the CAFO or CFO which is otherwise in compliance with this Zoning Ordinance.

4. Further setback requirements applicable to hog and fowl operations. All setback distances stated above under subsection (A)(8)(c)1. from residences will be increased for fowl and hog animal feeding operations by 660 feet from the above stated distances.

5. Exhaust fan filter technology requirements. Bio-filters or similar proven odor reducing technology or methods are required for all hog and fowl CFOs or CAFOs as follows:

a. A minimum of 50% of the fan capacity of the animal confinement building will be for pit fans.

b. All pit fans will be equipped with odor reducing filters. When properly installed, maintained and used these filters will reduce total odor emissions by 60% to 90%.

c. All fowl and hog buildings with no pits will be required to have odor reducing technology on the first 50% of fan capacity.

d. CFO or CAFO management will be required to maintain and keep the odor reducing filters in operational condition and provide to the Planning Office certification that the proper maintenance has been performed by qualified personnel and that the filter meets the above standards not less often than every 12 months with the cost attributable to the producer.

e. The applicant can propose other proven technology or methods for odor abatement with demonstrated results similar to those shown above for exhaust filter technology to be approved by the Plan Commission.

6. The Plan Commission may waive the setback distances from residences for an AFO during the development plan review if the petitioner has notarized affidavits from all adjacent property owners stating their endorsement of the decrease in setback distance.

(d) *Odor abatement; odor abatement strategies.*

1. Applicants for building permits for a CFO or CAFO must adopt a minimum of two odor abatement strategies approved by the Plan Commission.

2. Odor abatement strategies may include, but are not limited to, the following:

- a. Biofiltration or other effective filtration of exhaust air;
- b. Vertically directed exhaust (high chimney or fan assist);
- c. Soybean oil spray for dust control;
- d. Electrostatic precipitation;
- e. Ozonation;
- f. Anaerobic digesters;
- g. Diet manipulation;
- h. Manure drying methods;
- i. Aerating the surface of a lagoon;
- j. Windbreak walls;
- k. Odor absorbing evergreen trees at least as tall as the exterior wall height and at least two trees deep around the entire perimeter of lagoon or building;
- l. Chemical treatment of manure to reduce odor; and
- m. Other proven strategies, designs or technologies that reduce odor.

(e) *Odor control for manure application setbacks.* The following setbacks apply to liquid animal waste used as fertilizer from a CFO or CAFO due to the odors generated by the application:

<i>Table 5-15B: Setbacks Applicable to Liquid Animal Waste Used as Fertilizer</i>		
<i>Category</i>	<i>Surface Applied</i>	<i>Injected or Incorporated Within 12 Hours</i>
Public roads	25 feet from R-O-W	10 feet from R-O-W
Residence (other than operator)	200 feet	100 feet

(f) *Bond; bonding required.* The owner or operator a CFO or CAFO shall post a bond of \$5,000 conditioned on the faithful performance of the inspections and maintenance required of an AFO under this subsection. If the owner or operator fails to provide for the required maintenance and certification then the county may arrange for the certification and maintenance by qualified personnel utilizing the bond. The cost of all inspections and certification shall be at the sole expense of the AFO owner or operator.

<i>Table 5-15C: Animal Numbers</i>	
<i>Animal Type</i>	<i>Animal Units</i>
Calves (150—500 lb.)	0.5
Feeder cattle (500—1,200 lb.)	0.75
Beef cows	1
Young dairy stock (500—1,000 lb.)	0.75
Dairy cows	1
Nursery pigs (up to 50 lb.)	0.2
Grower/feeder pigs (50—100 lb.)	0.3
Finishing hogs (100 lb. - market wt.)	0.4
Sows	0.5
Boars	0.5
Sheep	0.5
Turkeys	0.10
Layer chickens	0.01
Broiler chickens	0.01
Ducks	0.01
Horses	1

(7) Signs.

(a) Signs designating type of plant grown or type of fertilizer being used shall not exceed four square feet.

(b) Signs accessory to roadside stands shall be limited to one sign per lot, with no sign being larger than ten square feet in area and set back at least ten feet from any right-of-way.

(c) Real estate signs of a temporary nature shall not exceed two in number per lot.

(d) Small announcement or professional signs shall not exceed six square feet in area, except that an announcement or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street or road, may be erected in connection with any of the permitted principal uses or authorized special uses of a nonresidential nature.

(e) Advertising signs shall not exceed 32 square feet in area and must be set behind any right-of-way.

(f) Billboards are not permitted.

(8) The buildings, waste pits and lagoons used for the control of animal waste of a confined feeding operation may be located no closer than 660 feet from any pre-existing dwelling (other than the residence of the owner, his or her tenant or his or her operator), a pre-existing church, or a pre-existing school; provided that, no improvement location permit shall be issued for any building or structure to be used for a confined feeding operation unless the State Department of Environmental Management has first issued its approval for the operation. Provided further that, nothing herein shall prohibit the application of fertilizer from waste pits or lagoons by methods approved by the State Department of Environmental Management.

(9) All performance standards listed under § 28-5-13 do not apply to farm uses, except in the case of toxic or noxious matter (§ 28-5-13(B)(5)), in which case they do apply.

(10) Setback requirements for all farm structures and accessory buildings shall be the same as for single-family dwellings.

(11) Any parcel of land created prior to 3-9-2001, that would be unable to meet the minimum lot area, minimum lot width and minimum lot depth described above will be governed by the following requirements that were in effect prior to that date:

<i>Table 5-15D: Minimum Lot Area</i>	
Single-family residence	
Minimum lot width	20,000 square feet
Single-family residence	100 feet
Minimum lot depth	200 feet

(12) Except where the Board of Zoning Appeals grants a conditional use for a temporary second dwelling in an agricultural district pursuant to this section, only one dwelling shall be allowed per parcel.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply: Transportation Related Uses (411, 451, 455). Any changes or improvements regarding these uses in this district are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(C) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply.

(1) Transportation and Utility Uses (412, 431, 441, 452, 453, 454, 456, 457, 459, 471, 472, 476, 479, 481, 482, 483, 484, 485, 486, 489, 491). Any transportation and utility uses are subject to Board of Zoning Appeals approval and restriction.

(2) Farm and Garden Supplies (596).

(a) An illuminated, non-flashing sign is permitted subject to other sign restrictions.

(b) Whenever a business comes within 500 feet of any residential district, appropriate screening, such as vegetation, a wall, a uniformly painted fence, or topography, shall be used to visually screen loading docks and parking lots from the surrounding dwelling units.

(3) Temporary Second Dwelling (111). The Board of Zoning Appeals may approve a temporary second dwelling in an agriculture district only if:

(a) The dwelling is needed so that care can be provided to the owner of the real estate or the husband, wife or relative of the owner of the real estate;

(b) The dwelling is on a septic system separate from the first residence and meets all the requirements of the County Board of Health or the dwelling is on a separate tap into a sewer system;

(c) The dwelling will be removed within 30 days after the person needing care no longer physically resides on the real estate; and

(d) The Board of Zoning Appeals may establish conditions to the approval of a conditional use for a temporary second residence that in its opinion are necessary to prevent the conditional use from being a problem for the neighborhood or the general public.

(4) Additional single-family homes. Additional single-family homes may remain in an agricultural district if:

(a) A single family owns a piece of property that, as of 7-1-2009, possessed a single tax identification number;

(b) As of 7-1-2009, there existed upon any such piece of property an existing home or homes;

(c) The owner of the piece of property wishes to replace an existing home or homes with a newer and/or better home;

(d) The new home can meet all other requirements of the County Zoning Ordinance, including septic requirements; and

(e) The piece of property upon which the newer and/or better home is capable of being divided from the original parcel, can be given its own tax identification number and can still meet all requirements of the County Zoning Ordinance, including septic requirements.

(5) No additional dwellings may be added to the original parcel and any parcel newly created under this section will be restricted to one single-family residence.

(6) In the event that the owner of any parcel which uses this provision to replace an existing home with a newer home does, in fact, divide the property, the owner shall ensure that any and all necessary easements are granted to the new parcel.

(Ord. 2004-10, passed 12-30-2004; Ord. 2006-3, passed 9-1-2006; Ord. 2006-7, passed 11-9-2006; Ord. 2007-1, passed 1-24-2007; Ord. 2007-8, passed 12-7-2007; Ord. 2009-1, passed 1-9-2009; Ord. 2009-3, passed 7-10-2009)

§ 28-5-16 RECREATION DISTRICT (G-1).

The recreation district is designed for those areas including areas around public and private water reservoirs, ponds, streams, and lakes in which, exclusively, the owner authorizes recreational activities.

(A) *General restrictions.* Within any recreation district, except for bona fide agricultural uses as defined in § 28-5-15, no building shall be used or arranged, or designed to be used except for one or more of the uses listed in § 28-5-18, which shall be subject to all regulations, and requirements for permit of this chapter.

(B) *Restrictions for permitted uses.* All permitted uses listed in § 28-5-18 shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply.

(1) Except as required, no building shall be erected within 50 feet of the right-of-way of any public street, road or highway; nor within 25 feet, or one foot for each foot of building height, whichever is the greater, of any lot line. The side yard (setback) shall be no less than 25 feet wide, and the rear yard (setback) shall be no less than 35 feet deep.

(2) Any building shall be so placed as to offer the minimum obstruction to the flow of waters and shall be firmly anchored to prevent the building from being moved or destroyed by the flow of water.

(3) Real estate signs of a temporary nature shall not exceed two in number per lot. The signs shall not exceed 20 square feet in area pertaining to a permitted recreation use or authorized special use. The signs shall be set back at least 30 feet from any right-of-way. There shall be a distance of 300 feet between all such signs.

(C) *Restrictions for conditional uses.* All conditional uses listed in § 28-5-18 shall conform to the general restrictions. Special restrictions may also be imposed.

(Ord. 2004-10, passed 12-30-2004)

§ 28-5-17 QUARRY AND MINING DISTRICT (Q-1).

This district is provided for the purpose of retaining natural resource areas in the county to the exclusion of other uses, except agriculture and recreation uses, for the purpose of extracting materials through quarry or mining operations, which require the removal of overburden.

(A) *Permitted uses.* All permitted uses are listed in § 28-5-18 and shall conform to the general restrictions.

(B) *Requirements.*

(1) All proposed quarries and mining operations must be permitted under the applicable requirements of the State Department of Environmental Management.

(2) A plat of the proposed operations shall be submitted showing:

(a) Boundary of entire tract to be operated, including effective operations in contiguous tracts;

(b) Vehicular access routes and surfacing; and

(c) Prevailing wind directions.

(3) A general plan of operations shall be submitted to the Plan Commission, including blasting hours, removal plan and hours of operation.

(4) A plan of restoration shall be submitted to the Plan Commission. At the time an application is made for a permit, the applicant shall submit a general plan for restoration of the area to be excavated or used in any way the activity permitted. Included in this plan shall be:

(a) A plan showing the finished topography of the restored area including grades and slopes;

(b) A general timing for restoring the various excavation pits and overburden, for a continuing use. Upon abandonment, restoration shall be initiated within 90 days and completed within one year; and

(c) The amount and type of planting to be done on the restored area or other approved restoration uses or methods.

(5) If open excavation is greater than ten feet, a substantial fence shall be erected at least 50 feet outside the edge of the excavation; which fence shall be at least a six wire, four-foot high fence, with posts not more than a rod (16.5 feet) apart, gates effectively controlling access to the area in which such excavation is located.

(Ord. 2004-10, passed 12-30-2004)

§ 28-5-18 OFFICIAL SCHEDULE OF DISTRICT REGULATIONS.

<i>No. Category</i>	<i>Residential</i>				<i>Business</i>			<i>Manufacturing</i>		<i>Environment</i>		
	<i>R4</i>	<i>RS</i>	<i>R20</i>	<i>RMH</i>	<i>LB</i>	<i>GS</i>	<i>HB</i>	<i>I-1</i>	<i>I-2</i>	<i>AG</i>	<i>G-1</i>	<i>Q-1</i>
110 Dwelling Unit	P	P	P	P						P	P	
111 Temporary Second Dwelling (Mobile Home)										X		
112 Home Occupations	X	X	X							X		
121 Rooming and Boarding Houses	X	X	P									
122 Fraternity, Sorority Houses, Residence Halls of Dormitories			X									
123 Retirement Homes, Orphanages, Religious Quarters			X							X		
130 Residential Hotels, Apartments, Condominiums			X				P					
140 Mobile Home Parks or Courts				P								
211 Manufacturing - Meat Products								X	P			
212 Manufacturing - Dairy Products								X	P			
213 Canning and Preserving of Fruits, Vegetables and Sea Foods								X	P			

Jefferson County - Zoning

No. Category	Residential				Business			Manufacturing		Environment		
	R4	RS	R20	RMH	LB	GS	HB	I-1	I-2	AG	G-1	Q-1
214								X	P			
215								X	P			
218								X	P			
217								X	P			
219								X	P			
219								X	P			
221								X	P			
222								X	P			
223								X	P			
224								X	P			
225								X	P			
229								X	P			
231								X	P			
232								X	P			
233								X	P			
234								X	P			
235									P			
236									P			
237								X	P			
238								X	P			
241								X	P			
242								X	P	X		
243								X	P	X		
249								X	P	X		
251								X	P			
252								X	P			
253								X	P			
254								X	P			
259								X	P			
261								X	X			

<i>No. Category</i>	<i>Residential</i>				<i>Business</i>			<i>Manufacturing</i>		<i>Environment</i>		
	<i>R4</i>	<i>RS</i>	<i>R20</i>	<i>RMH</i>	<i>LB</i>	<i>GS</i>	<i>HB</i>	<i>I-1</i>	<i>I-2</i>	<i>AG</i>	<i>G-1</i>	<i>Q-1</i>
262 Manufacturing - Paper (Except Building Paper)								X	X			

<i>No. Category</i>	<i>Residential</i>				<i>Business</i>			<i>Manufacturing</i>		<i>Environment</i>		
	<i>R4</i>	<i>RS</i>	<i>R20</i>	<i>RMH</i>	<i>LB</i>	<i>GS</i>	<i>HB</i>	<i>I-1</i>	<i>I-2</i>	<i>AG</i>	<i>G-1</i>	<i>Q-1</i>
263 Manufacturing - Paperboard								X	X			
264 Manufacturing - Converted Paper and Paperboard Products (Except containers)								X	X			
265 Manufacturing - Paperboard Containers and Boxes								X	P			
266 Manufacturing - Building Paper and Building Board								X	P			
271 Newspapers: Publishing, Publishing and Printing						P	P	P	P			
272 Periodicals: Publishing, Publishing and Printing						P	P	P	P			
273 Books: Publishing, Publishing and Printing						P	P	P	P			
274 Commercial Printing						P	P	P	P			
275 Manifold Business Forms						P	P	P	P			
276 Manufacturing - Greeting Cards						P	P	P	P			
277 Manufacturing - Bookbinding and Related Industries						P	P	P	P			
278 Printing Trade Service Industries						P	P	P	P			
279 Other Printing and Publishing						P	P	P	P			
281 Manufacturing - Industrial Inorganic and Organic Chemicals								X	P			
282 Manufacturing - Plastics, Synthetic Rubber, Resins or Fiber								X	P			
283 Manufacturing - Soap, Detergents, Perfumes, Cosmetics and Other Toiletries								X	P			
284 Manufacturing - Paints, Varnishes, Lacquers, Enamels and Allied Products								X	P			
285 Manufacturing - Gum and Wood Chemicals								X	P			
289 Manufacturing - Agricultural Chemicals								X	P			
291 Manufacturing - Petroleum Refining								X	P			
292 Manufacturing - Paving and Roofing Materials								X	P			
299 Other Petroleum Refining and Related Industries								X	P			
311 Manufacturing - Tires and Inner Tubes								X	P			
312 Manufacturing - Rubber Footwear								X	P			
313 Reclaiming Rubber								X	X			
314 Manufacturing - Miscellaneous Plastic Products								X	P			
319 Manufacturing - Miscellaneous Plastic Products								X	P			
321 Manufacturing - Flat Glass								X	P			
322 Manufacturing - Glass and Glassware (Pressed or Blown)								X	P			
323 Manufacturing - Cement (Hydraulic)								X	P			
324 Manufacturing - Structural Clay Products								X	P			
325 Manufacturing - Pottery and Related Products								X	P			
326 Manufacturing - Concrete, Gypsum and Plaster Products									X			

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No. Category	Residential				Business			Manufacturing		Environment		
	RA	RS	R20	RMH	LB	GS	HB	I-1	I-2	AG	G-1	Q-1
327 Manufacturing - Cut Stone and Stone Products									X			
328 Manufacturing - Abrasive, Asbestos and Misc. Nonmetallic Mineral Products									X			
331 Blast Furnace, Steel Works and Rolling and Finishing Ferrous Metals									X			
332 Iron and Steel Foundries									X			
333 Primary Smelting and Refining of Nonferrous Metals									X			
334 Secondary Smelting and Refining of Nonferrous Metals and Alloys									X			
335 Rolling, Drawing and Extruding of Nonferrous Metals									X			
336 Nonferrous Foundries									X			
339 Other Primary Metal Industries									X			
340 Kennel and Animal Shelter						X	X			X		
342 Manufacturing - Machinery (Except Electrical)								X	P			
343 Manufacturing - Electrical Machinery, Equipment and Supplies								X	P			
344 Manufacturing - Transportation Equipment								X	P			
349 Manufacturing - Other Fabricated Metal Products								X	P			
351 Manufacturing - Engineering, Scientific and Research Equipment						P	P	P	P			
352 Manufacturing - Optical Instruments and Lenses						P	P	P	P			
353 Manufacturing - Surgical, Medical and Dental Instruments and Supplies						P	P	P	P			
354 Manufacturing - Ophthalmic Goods						P	P	P	P			
355 Manufacturing - Photographic Equipment and Supplies						P	P	P	P			
356 Manufacturing - Watches, Clocks, Devices and Parts						P	P	P	P			
361 Junk Automobile or Salvage Yard of any kind									X			
391 Manufacturing - Jewelry, Silverware and Plated Ware						P	P	P	P			
392 Manufacturing - Musical Instruments and Parts						X	X	P	P			
393 Manufacturing - Toys, Amusement Sporting and Athletic Goods						X	X	P	P			
394 Manufacturing - Pens, Pencils and Other Office and Artists Supplies						X	X	P	P			
395 Manufacturing - Novelties and Misc. Notions (Except Precious Metals)						X	X	P	P			
396 Manufacturing - Tobacco								X	P			
397 Motion Picture Production						P	p	p	P			
399 Other Miscellaneous Manufacturing						X	X	X	X			

<i>No. Category</i>	<i>Residential</i>				<i>Business</i>			<i>Manufacturing</i>		<i>Environment</i>		
	<i>R4</i>	<i>RS</i>	<i>R20</i>	<i>RMH</i>	<i>LB</i>	<i>GS</i>	<i>HB</i>	<i>I-1</i>	<i>I-2</i>	<i>AG</i>	<i>G-1</i>	<i>Q-1</i>
411 Railroad Transportation					X	X	X	p	p			

No. Category	Residential				Business			Manufacturing		Environment		
	R4	RS	R20	RMH	LB	GS	HB	I-1	I-2	AG	G-1	Q-1
412 Rapid Rail Transit and Street Railway Transportation					P	P	P	P	P			
413 Railroad Passenger Terminals					X	X	X	P	P			
421 Bus Transportation Terminals						P	P	P	P			
422 Motor Freight Transportation						P	P	P	P			
429 Other Motor Vehicle Transportation								X	X	X		
431 Airports and Flying Fields								X	X	X		
439 Other Aircraft Transportation						X		X	X	X		
441 Marine Terminals								X	X	X		
449 Other Marine Craft Transportation								X	X	X		
451 Freeways (Highway and Interstates)	P	P	P	X	P	P	P	P	P			
452 Expressways	P	P	P	P	P	P	P	P	P			
453 Parkways	P	P	P	P	P	P	P	P	P	P		
454 Arterial Streets	P	P	P	P	P	P	P	P	P	P		
455 Collector/Distributor Streets	P	P	P	P	P	P	P	P	P	P		
456 Local Access Streets	P	P	P	P	P	P	P	P	P	P		
457 Alleys	P	P		P	P	P	P	P	P	P		
459 Other Highway and Street Right-of-Way	X	X		X	X	X	X	X	X	X		
460 Automobile Parking	X	X		P	X	X	X	X	X	X		X
471 Telephone Communication (Local)	P	P	P	X	P	P	P	P	P	P		
472 Telegraph Communication	P	P		X	P	P	P	P	P	P		
473 Radio Communication	P	P			P	P	P	P	P	X		
474 Television Communication	P	P			P	P	P	P	P	X		
475 Radio and Television Communication (Combined System)	P	P			P	P	P	P	P	X		
476 Relay Towers and Transmitting Stations (TV, Radio and Telephones)	X	X	X	X	X	X	X	X	X	X		
479 Other Communication	X	X	X		X	X	X	X	X	X		
481 Electric Utility	X	X	X	X	X	X	X	X	X	X		
482 Gas Utility	X	X	X	X	X	X	X	X	X	X		
483 Water Utilities and Irrigation	X	X	X	X	X	X	X	X	X	X		
484 Sewage Disposal	X	X	X	X	X	X	X	X	X	X		
485 Solid Waste Disposal								X	X	X		
486 Major Utilities, Stations and Plants								X	X	X		
489 Other Utilities								X	X	X		
491 Other Pipeline Right-of-Way and Pressure Control Stations								X	X	X		
492 Transportation Services						X	X	X	X	X		

<i>No. Category</i>	<i>Residential</i>				<i>Business</i>			<i>Manufacturing</i>		<i>Environment</i>		
	<i>R4</i>	<i>RS</i>	<i>R20</i>	<i>RMH</i>	<i>LB</i>	<i>GS</i>	<i>HB</i>	<i>I-1</i>	<i>I-2</i>	<i>AG</i>	<i>G-1</i>	<i>Q-1</i>
493 Transportation						X	X	X	X	X		

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No. Category	Residential				Business			Manufacturing		Environment		
	R4	RS	R20	RMH	LB	GS	HB	I-1	I-2	AG	G-1	Q-1
499 Other Transportation Communication and Utilities						X	X	X		X		
511 Wholesale - Motor Vehicles and Automotive Equipment						P		P	P			
512 Wholesale - Drugs, Chemicals and Allied Products						P	P	P	P	X		
513 Wholesale - Dry Goods and Apparel						P	P			X		
514 Wholesale -Groceries and Related Products						P	P			X		
515 Wholesale - Farm Products (Raw Materials)								X	X	X		
516 Wholesale - Electrical Goods						P	P			X		
517 Wholesale - Hardware, Plumbing, Heating Equipment and Supplies						P	P			X		
518 Wholesale - Machinery, Equipment and Supplies						P	P			X		
519 Wholesale - Other Wholesale Trade (Junkyard)									X			
521 Retail - Lumber and Other Building Materials						P	P			X		
522 Retail - Heating and Plumbing Equipment						P	P			X		
523 Retail - Paint Glass and Wallpaper						P	P			X		
524 Retail - Electrical Supplies						P	P			X		
525 Retail - Hardware and Farm Equipment						P	P			X		
531 Retail - Department Stores						P	P			X		
532 Retail - Mail Order Houses						P	P			X		
533 Retail - Limited Price Variety Stores						P	P			X		
534 Retail - Merchandise Vending Machine Operations						P	P			X		
535 Retail - Direct Selling Organizations						P	P					
539 Retail - Other Trade - General Merchandise					P	P	P					
541 Retail - Groceries					P	P	P			X		
542 Retail - Meats and Fish					P	P	P			X		
543 Retail - Fruits and Vegetables					P	P	P			X		
544 Retail - Candy, Nut and Confectionery					P	P	P			X		
545 Retail - Dairy Products					P	P	P			X		
546 Retail - Bakeries					P	P	P			X		
549 Retail - Other Food Trade					P	P	P			X		
551 Retail - Motor Vehicles						P	P			X		
552 Retail - Tires, Batteries and Accessories						P	P			X		
553 Retail - Gasoline Service Stations						P	P			X		
559 Retail - Other Automotive, Marine Craft, Aircraft and Accessories						P	P			X	X	
561 Retail - Men's and Boy's Clothing and Furnishings						P	P					
562 Retail - Women's Ready-to-Wear						P	P					

No. Category	Residential				Business			Manufacturing		Environment		
	R4	RS	R20	RMH	LB	GS	HB	I-1	I-2	AG	G-1	Q-1
563 Retail - Women's Accessories and Specialties						P	P					
564 Retail - Children's and Infants Wear						P	P					
565 Retail - Family Clothing						P	P					
566 Retail - Shoes						P	P					
567 Retail - Custom Tailoring					P	P	P					
568 Retail - Furriers and Fur Apparel						P	P					
569 Retail - Other Apparel and Accessories Trade						P	P					
571 Retail - Furniture, Home Furnishings, Equipment Household Appliances						P	P					
572 Retail - Radios, Televisions and Music Supplies						P	P					
581 Retail - Hotels, Tourist Courts, Motels and Other Transient Housing					X					X		
582 Retail - Eating Places					P	P	P	P	P	X		
583 Retail - Drinking Places (Alcoholic Beverages)					X	X	X					
591 Retail - Drug and Proprietary					P	P	P					
592 Retail - Liquor					X	P	P					
593 Retail - Antiques and Secondhand Merchandise					P	P	P			X		
594 Retail - Books and Stationery					P	P	P			X		
595 Retail - Sporting Goods and Bicycles					P	P	P			X		
596 Retail - Farm and Garden Supplies					P	P	P			X		
597 Retail - Jewelry					P	P	P			X		
598 Retail - Fuel and Ice					X	X	X			X		
599 Retail - Other Trade					X	X	X			X		
611 Banking and Bank-Related Functions					P	P	P			X		
612 Credit Services (Other than Banks)					P	P	P			X		
613 Security and Commodity Brokers, Dealers, Exchanges and Services					P	P	P					
614 Insurance Carriers, Agents, Brokers and Services	X	X	X		P	P	P					
615 Real Estate and Related Services	X	X	X	X	P	P	P			X		
616 Holding and Investment Services	X	X	X		P	P	P					
619 Other Finance, Insurance and Real Estate Services					X	X	X					
621 Laundering, Dry Cleaning and Dyeing Services				X	P	P						
622 Photographic Services (Including Commercial)					P	P						
623 Beauty and Barber Services					P	P	P					
624 Funeral and Crematory Services					X	X	X					
625 Apparel Repair, Alteration and Cleaning, Shoe Repair					P	P	P					
626 Cemeteries						X	X			X		

<i>No. Category</i>	<i>Residential</i>				<i>Business</i>			<i>Manufacturing</i>		<i>Environment</i>		
	<i>RA</i>	<i>RS</i>	<i>R20</i>	<i>RMH</i>	<i>LB</i>	<i>GS</i>	<i>HB</i>	<i>I-1</i>	<i>I-2</i>	<i>AG</i>	<i>G-1</i>	<i>Q-1</i>
855 Mining Services												X
890 Other Resources Production and Extraction												X
921 Forest Reserves										P		
941 Sanitary Landfill									X	P		

(Ord. 2004-10, passed 12-30-2004; Ord. 2006-7, passed 11-9-2006)

§ 28-5-19 OFF-STREET PARKING REQUIREMENTS.

(A) These requirements are effective upon the erection or enlargement of a structure, or the use thereof changed to any permitted use or special/conditional use within a district. Each required off-street automobile storage space shall have all-weather surfaces and have free access to a public right-of-way. No required off-street automobile storage space shall be located within a required front yard (setback) in any district.

(B) Off-street parking space location:

(1) Residential: all required spaces shall be located on the same parcel with the residential use.

(2) Business: required spaces may be located on the same parcel as the commercial use, or on an area not more than 450 feet from the building.

(3) Industrial: permitted uses - required spaces may be located on the same parcel with the permitted industrial use, or on an area not more than 1,000 feet from the parcel.

(4) Commercial building owners must submit in writing a proposed handicapped-parking plan, to meet the requirements of the Americans with Disabilities Act (ADA), to the Board of Zoning Appeals of the county for approval at a regularly scheduled Board of Zoning Appeals meeting.

(5) The off-street parking requirements are shown herein. Any other use shall generally provide enough parking to more than handle the ordinary load, but not necessarily the maximum.

<i>Land Use</i>	<i>Unit of Measure</i>	<i>Required Spaces</i>
Single-family dwellings	Per dwelling	2
Two-family dwellings	Per dwelling	3
Multi-family dwellings	Per dwelling unit	1.5

Table 5-19: Off-Street Parking Requirements

<i>Land Use</i>	<i>Unit of Measure</i>	<i>Required Spaces</i>
Churches	Per four seats	1

Table 5-19: Off-Street Parking Requirements

<i>Land Use</i>	<i>Unit of Measure</i>	<i>Required Spaces</i>
Elementary schools	Per classroom*	2
Junior high schools	Per classroom*	2
High schools	Per classroom	10
Hospitals and clinics	Combination of	
	Per doctor	1
	Per each three regular employees	1
	Per 500 square feet gross floor area	1
Public utilities and other service facilities	Per 500 square feet of gross floor area or	1
	Per each three regular employees	2
	Whichever is greater	
Dormitories	Per guest room	1
Fraternities and sororities	Per every two members	1
Private nurseries, day schools, kindergartens and children homes	Per regular employee*	1
Convalescent homes and homes for the aged	Per each four beds*	1
Professional offices	Per 250 square feet of gross floor area	1
Retail business	Per 250 square feet of gross floor area	1
Tourist courts and motels	Per rental unit	1
Hotels	Per two guest rooms	1
Industrial uses	Per 600 square feet of gross floor area or	1
	Per two regular employees on largest shift, whichever is greater	1
Special/conditional uses	To be determined by the Board of Zoning Appeals, but in no case shall the required parking be less than for permitted uses	
Combination of uses on same parcel	The sum total of the number required for each use as determined according to the requirements set out in this Zoning Ordinance	

NOTES TO TABLE:

*An off-street passenger loading and unloading area is also required.

(Ord. 2004-10, passed 12-30-2004; Ord. 2006-7, passed 11-9-2006)

Article 6: Flood Hazard Area (FHA)

§ 28-6-1 STATUTORY AUTHORIZATION.

The state legislature granted the power to local units of government (I.C. 36-7-4) to control land use within their jurisdictions in order to accomplish the following.
(Ord. 2004-10, passed 12-30-2004)

§ 28-6-2 STATEMENT OF PURPOSE.

The purpose of this chapter is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the County Board of Commissioners hereby adopts the following flood plain management regulations in order to accomplish the following:

- (A) To prevent unwise developments from increasing flood or drainage hazards to others;
- (B) To protect new buildings and major improvements to buildings from flood damage;
- (C) To protect human life and health from the hazards of flooding;
- (D) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- (E) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas;
- (F) To make federally subsidized flood insurance available for structures and their contents in the county by fulfilling the requirements of the National Flood Insurance Program;
- (G) To allow the Town of Dupont to participate in the National Flood Insurance Program by authorizing the county to cover the building requirements for Dupont set forth by the regulations of the National Flood Insurance Program; and
- (H) To allow the Town of Brooksburg to participate in the National Flood Insurance Program by authorizing the county to cover the building requirements for Brooksburg set forth by the regulations of the National Flood Insurance Program.
(Ord. 2004-10, passed 12-30-2004)

§ 28-6-3 DEFINITIONS.

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

BUILDING. See ***STRUCTURE.***

DEVELOPMENT.

- (1) Any human-made change to improved or unimproved real estate including, but not limited to:
 - (a) Construction, reconstruction or placement of a building or any addition to a building;
 - (b) 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;
 - (c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - (d) Construction of flood control structures such as levees, dikes, dams, channel improvements and the like;
 - (e) Mining, dredging, filling, grading, excavation or drilling operations;
 - (f) Construction and/or reconstruction of bridges or culverts;
 - (g) Storage of materials; or
 - (h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) ***DEVELOPMENT*** does not include activities such as the maintenance of existing buildings 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 buildings.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. 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 this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. 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).

FBFM. Flood boundary and floodway map.

FEMA. Federal Emergency Management Agency.

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 area from the overflow, the unusual and rapid accumulation or the runoff of surface waters from any source.

FLOOD PLAIN. 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 ***FLOOD PLAIN*** includes both the floodway and the floodway fringe districts.

FLOOD PROTECTION GRADE or the ***FPG.*** The elevation of the regulatory flood plus two feet at any given location in the SFHA.

FLOODWAY. The channel of a river or stream and those portions of the flood plains 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.

FLOODWAY FRINGE. Those portions of the flood plain lying outside the floodway.

MAPS. The zoning maps of the county, dated 2004, showing the zoning classifications for property under the zoning jurisdiction of the county and are hereby adopted as the official zoning maps and incorporated herein by reference. The flood insurance rate map (“***FIRM***”) dated 10-1-1992, is hereby adopted as an overlay of the official zoning maps of the county and is incorporated herein by reference.

LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a special flood hazard area (SFHA). A ***LOMA*** is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations and elevations.

LOWEST FLOOR. The lowest of the following:

- (1) The top of the lowest floor of a building;

(2) The top of the basement floor;

(3) The top of the garage floor, if the garage is the lowest level of the building;

(4) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

(5) The top of the floor level of any enclosure below an elevated building 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) having a total area of one square inch for every one square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade; or

(b) The enclosed space shall be usable for the parking of vehicles and building access.

MANUFACTURED HOME. 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”.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. 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 this chapter.

RECREATIONAL VEHICLE. A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred 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.

REGULATORY FLOOD. The flood having a 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 State Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined herein. The ***REGULATORY FLOOD*** is also known by the term ***BASE FLOOD***.

SFHA or **SPECIAL FLOOD HAZARD AREA**. Those lands within the jurisdictions of the county that are subject to inundation by the regulatory flood. The **SFHAs** of the county are generally identified as such on the flood insurance rate map of the county prepared by the Federal Emergency Management Agency and dated 10-1-1992. The **SFHAs** of Dupont are generally identified as such on the flood insurance rate map of Dupont prepared by the Federal Emergency Management Agency and dated 11-1-1995. The **SFHAs** of Brooksborg are generally identified as such on the flood insurance rate map of Brooksborg prepared by the Federal Emergency Management Agency and dated 12-1-1983.

STRUCTURE. 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 IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of State or Local Health, Sanitary or Safety Code requirements or any alteration of a “historic structure”; provided that, the alteration will not preclude the structures continued designation as a “historic structure”.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-4 DUTIES OF THE ADMINISTRATOR.

The Zoning Administrator for the county shall implement this chapter and hereafter be referred to as the Flood Plain Administrator. The Flood Plain Administrator for the county is appointed to review all development and subdivision proposals to ensure compliance with this chapter, including but not limited to the following duties:

(A) Ensure that all development activities within the SFHAs of the jurisdiction of the county meet the requirements of this chapter;

(B) Provide information and assistance to citizens upon request about permit procedures and flood plain construction techniques;

(C) Ensure that construction authorization has been granted by the State Natural Resources Commission for all development projects subject hereto, and maintain a record of the authorization (either copy of actual permit, letter of recommendation or flood plain analysis and regulatory assessment);

(D) Maintain a record of the “as-built” elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction;

(E) Maintain a record of the engineer's certificate and the "as-built" flood-proofed elevation of all buildings subject hereto;

(F) Cooperate with state and federal flood plain management agencies to improve base flood and floodway data and to improve the administration of this chapter. Submit reports as required for the National Flood Insurance Program;

(G) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, letters of map amendment (LOMA), letters of map revision (LOMR), copies of DNR permits and flood plain analysis and regulatory assessment, federal permit documents and "as-built" elevation and flood proofing data for all building constructed subject to this chapter; and

(H) Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse and submit copies of the notifications to FEMA.
(Ord. 2004-10, passed 12-30-2004)

§ 28-6-5 REGULATORY FLOOD ELEVATION.

This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

(A) The regulatory flood elevation and floodway limits for the SFHAs delineated as an "A Zone" on the flood insurance rate map of the county prepared by the Federal Emergency Management Agency and dated 10-1-1992, shall be according to the best data available as provided by the Department of Natural Resources.

(B) The regulatory flood elevation for the Ohio River and shall be delineated on the flood insurance rate map of Brooksborg dated 12-1-1983 and the corresponding flood insurance study dated 6-1-1983, and prepared by the Federal Management Agency. The regulatory floodway shall be according to the best data available as provided by the Department of Natural Resources.

(C) The SFHAs of those parts of the unincorporated county that are within the extraterritorial jurisdiction of the Dupont and Brooksborg shall be as delineated on the flood insurance rate map of the county dated 10-1-1992, prepared by the Federal Emergency Management Agency. The regulatory flood elevation and floodway limits shall be according to the best data available as provided by the Department of Natural Resources.

(D) The regulatory flood elevation and floodway limits for the SFHAs delineated as an "A Zone" on the flood insurance rate map of Dupont prepared by the Federal Emergency Management Agency and

dated 11-1-1995, shall be according to the best data available as provided by the Department of Natural Resources.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-6 IMPROVEMENT LOCATION PERMIT.

(A) No person, firm, corporation or governmental body not exempted by state law shall commence any “development” in the SFHA without first obtaining an improvement location permit from the Flood Plain Administrator. The Flood Plain Administrator shall not issue an improvement location permit if the proposed “development” does not meet the requirements of this chapter.

(1) The application for an improvement location permit shall be accompanied by the following:

(a) A description of the proposed development;

(b) Location of the proposed development sufficient to accurately locate property and structure 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; and

(e) Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included.

(2) Upon receipt of an application for an improvement location permit, the Flood Plain Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the flood plain where the limits of the floodway have not yet been determined.

(3) If the site is in an identified floodway the Flood Plain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1 a permit from the Natural Resources Commission 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 and the like undertaken before the actual start of construction of the building.

(B) No action shall be taken by the Flood Plain Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Flood Plain Administrator may issue the local

improvement location permit, provided the provisions contained herein have been met. The improvement location permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(C) If the site is located in an identified floodway fringe, then the Flood Plain Administrator may issue the local improvement location permit provided the provisions contained herein 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 flood protection grade (FPG).

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

(E) No action shall be taken by the Flood Plain Administrator until either a permit for construction in the floodway or a flood plain analysis and regulatory assessment citing the 100-year flood elevation and the recommended flood protection grade has been received from the Department of Natural Resources.

(F) Once the Flood Plain Administrator has received the proper permit or flood plain analysis and regulatory assessment approving the proposed development, an improvement location permit may be issued provided the conditions of the improvement location permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained herein have been met.

(G) If the site is in an identified flood plain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Flood Plain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year elevation for the site.

(H) Upon receipt, the Flood Plain Administrator may issue the local improvement location permit, provided the provisions contained herein have been met.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-7 PREVENTING INCREASED DAMAGES.

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(A) Within the floodway identified on the flood boundary and floodway map, the flood insurance rate map or engineering analysis as provided in § 28-6-6, the following standards shall apply.

(1) No development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood.

(2) For all projects involving channel modifications or fill (including levees) the county shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(B) Within all SFHAs identified as A Zones (no 100-year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply.

(1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants or other hazardous or toxic materials below the flood protection grade, unless the materials are stored in a flood proofed storage tank or building constructed according hereto.

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-8 PROTECTING BUILDINGS.

In addition to the damage prevention requirements of § 28-6-7, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

(A) This building protection requirement applies to the following situations:

(1) Construction or placement of any new building having a floor area greater than 400 square feet;

(2) Structural alterations made to:

(a) An existing (previously unaltered) building, the cost of which equals or excess 50% of the value of the pre-altered building (excluding the value of the land); and/or

(b) Any previously altered building.

(3) Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred;

(4) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully

occupied before it was removed to avoid flood damage; and

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

(B) This building protection requirement may be met by one of the following methods. The Flood Plain Administrator shall maintain a record of compliance with these building protection standards as required in § 28-6-4.

(1) A residential or nonresidential building may be constructed on a permanent landfill in accordance with the following.

(a) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

(b) The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.

(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 three horizontal to one 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 (see definition of lowest floor in § 28-6-3) shall be at or above the FPG.

(2) A residential or nonresidential building may be elevated in accordance with the following.

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls or other types of similar foundation; provided:

1. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square inch for every one square foot of enclosed area subject to flooding. The bottom of all such opening shall be no higher than one foot above grade.

2. Any enclosure below the elevated floor is used for storage of vehicles and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice and floating debris.

(c) All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the FPG.

(3) (a) 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 anchoring requirements.

1. 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. This requirement applies to all manufactured homes to be placed on a site:

- a. Outside a manufactured home park of subdivision;
- b. In a new manufactured home park of subdivision;
- c. In an expansion to an existing manufactured home park or subdivision; or
- d. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.

2. This requirement applies 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.

(b) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements 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.

(4) Recreational vehicles placed on a site shall either:

- (a) Be on the site for less than 180 consecutive days;
- (b) 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
- (c) Meet the requirements for “manufactured homes” in subsection (B)(3) above.

(5) A nonresidential building may be flood proofed to the FPG (in lieu of elevating) if done in accordance with the following.

(a) A registered professional engineer shall certify that the building 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 building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures and impacts from debris or ice.

(b) Flood proofing measures shall be operable without human intervention and without an outside source of electricity.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-9 OTHER DEVELOPMENT REQUIREMENTS.

(A) The Flood Plain Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Flood Plain Administrator finds the subdivision to be so located, the Flood Plain Administrator shall forward plans and materials to the State Department of Natural Resources for review and comment. The Flood Plain Administrator shall require appropriate changes and modifications in order to assure that:

(1) It is consistent with the need to minimize flood damages;

(2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) Onsite waste disposal systems, if provided, will be located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(B) Developers shall record the 100-year flood elevation on all subdivision plats containing lands (identified elsewhere by this chapter) within a flood hazard area prior to submitting the plats for approval by the Plan Commission.

(C) All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed and approved by the appropriate community emergency management authorities.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-10 VARIANCES.

(A) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this chapter provided the applicant demonstrates that:

(1) There exists a good and sufficient cause for the requested variance;

(2) The strict application of the terms of this chapter will constitute an exceptional hardship to the applicant; and

(3) The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public or conflict with existing laws or ordinances.

(B) The Board of Zoning Appeals may issue a variance to the terms and provisions of this chapter subject to the following standards and conditions.

(1) No variance or exception for a residential use within a floodway subject to § 28-6-7(A) or (B) may be granted.

(2) Any variance or exception granted in a floodway subject to § 28-6-7(A) or (B) will require a permit from the Department of Natural Resources.

(3) Variances or exceptions to the Building Protection Standards of § 28-6-8 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.

(4) Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects;

(5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and

(6) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks of life and property and could require payment of increased flood insurance premiums.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-11 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter 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 chapter does not create any liability on the part of the community, the Department of Natural Resources, or the state, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-12 VIOLATIONS.

Failure to obtain an improvement location permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code of the county.

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

(B) The County Planning Commission 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.

(C) Nothing herein shall prevent the county from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.
(Ord. 2004-10, passed 12-30-2004)

§ 28-6-13 ABROGATION AND GREATER RESTRICTIONS.

This chapter repeals and replaces other ordinances adopted by the County Commissioners to fulfill the requirements of the National Flood Insurance Program. However, this chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this chapter repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this chapter and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the County Commissioners shall assure that all National Flood Insurance Program regulations (44 C.F.R. part 60) as well as state laws and regulations regarding flood plain issues (312 I.A.C. 10, I.C. 14-28-1 and I.C. 14-28-3) are met.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-14 SEPARABILITY.

The provisions and subsections of this chapter shall be deemed separable and the invalidity of any portion of this chapter shall not affect the validity of the remainder.

(Ord. 2004-10, passed 12-30-2004)

§ 28-6-15 EFFECTIVE DATE.

This article shall take effect upon its passage by the County Commissioners.
(Ord. 2004-10, passed 12-30-2004)

Article 7: Non-Conforming Use Specifications

Within the districts established by this chapter, or amendments that may later be adopted, there exist non-conforming uses of land or structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that non-conformities shall not be enlarged upon, expanded or extended, and not be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district.

(Ord. 2004-10, passed 12-30-2004)

§ 28-7-1 CHANGE.

Whenever a non-conforming use has been changed to a conforming use, it shall not thereafter revert to a non-conforming use.

(Ord. 2004-10, passed 12-30-2004)

§ 28-7-2 EXTENSION.

Non-conformities are declared by this chapter to be incompatible with permitted uses in the districts in which the use is located. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by attachment of a building, premises or additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

(Ord. 2004-10, passed 12-30-2004)

§ 28-7-3 ERECTION AND RE-ERECTION OF STRUCTURE.

Where a building exists that is a non-conforming use, no additional building devoted to a non-conforming use can be erected on that premises. A building that is located upon any such premises and that has been damaged by fire or other causes to the extent of more than 50% of its appraised replacement valuation may be reconstructed subject to the following restrictions.

(A) The reconstruction must be performed by the person(s) who owned the building when the damage occurred.

(B) The reconstruction must take place within six months of when the damage occurred, 60 days for a mobile home.

(C) The structure to be reconstructed must be built to the same square footage as the previous building.
(Ord. 2004-10, passed 12-30-2004)

§ 28-7-4 RIGHT TO CONSTRUCT IF PERMIT ISSUED.

Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has heretofore been issued and the construction of which has been diligently prosecuted within one year of the date of the permit and which entire building shall be completed according to the plans, as filed, within three years of the issuance of the permit. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, the demolition or removal shall be deemed to be actual construction; provided that, the work shall be carried out diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

(Ord. 2004-10, passed 12-30-2004)

§ 28-7-5 NON-CONFORMING USES OF STRUCTURES.

If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) If no structural alterations are made, any non-conforming use of a structure or structure and land may, upon appeal to the Board of Zoning Appeals, be changed to another non-conforming use provided that the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting the change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of this chapter.

(B) When a non-conforming use of a structure or structure and land in combination is discontinued or abandoned for a continuous period of six months or, in the case of a mobile home in the county, more than 60 days (except when government action impedes access to the premises), the structure or structure and land combination shall not, thereafter, be used, except in conformity with the regulations of the district in which it is located.

(C) Where non-conforming use status applies to a structure and land in combination, removal or destruction of the-structure shall eliminate the non-conforming status of the land.

(Ord. 2004-10, passed 12-30-2004)

§ 28-7-6 DISCONTINUANCE OF NON-CONFORMING USE OF LAND.

The lawful use of land for open storage purposes, which does not conform to the provisions of this chapter, shall be discontinued within five years from the date of passage of this chapter, and the use of land for storage purposes, which may become a non-conforming use by reason of an amendment to this chapter, shall be discontinued within five years from the date of passage of the amendment.

(Ord. 2004-10, passed 12-30-2004)

§ 28-7-7 NON-CONFORMING USE CREATED BY AMENDMENT.

These provisions apply in the same manner to a use that may become a non-conforming use due to a later amendment to this chapter.

(Ord. 2004-10, passed 12-30-2004)

Article 8: Administration

§ 28-8-1 ENFORCEMENT OF THE ORDINANCE.

(A) It shall be the duty of the Zoning Enforcement Officer, or any other public official so designated by the Board of Commissioners or the Plan Commission and Board of Zoning Appeals to enforce this chapter. He or she shall receive applications required by this chapter, review applications for compliance with the provisions of this chapter, approve or disapprove applications, issue permits and furnish the prescribed certificates. He or she shall examine areas for which permits have been issued, and shall make necessary inspections to see that the provisions of this chapter are being upheld. He or she may be assisted by the County Sheriff in enforcing orders and the County Attorney in prosecuting violations.

(B) For the purpose of this chapter, the Building Inspector or the Zoning Enforcement Officer or specified designee shall have the following duties:

(1) Upon finding that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct the violation(s);

(2) Order discontinuance of illegal uses of land, buildings or structures;

(3) Order removal of illegal buildings or structures or illegal additions or structural alterations;

(4) Order discontinuance of any illegal work being done; and

(5) Take any other action authorized by this chapter to ensure compliance with or to prevent violation(s) of this chapter. This may include the issuance of and action on improvement location and certificate of occupancy permits and such similar administrative duties as are permissible under the law.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-2 PROCEDURES AND REQUIREMENTS FOR PERMITS.

(A) It shall be unlawful to construct, make additions to, or demolish a structure, or to make interior changes to an existing building which will increase the number of bedrooms, bathrooms, kitchens, washrooms or stories, without first filing with the Zoning Enforcement Officer and/or the Secretary of the Plan Commission an application in writing and obtaining a formal improvement location/building permit. However, a permit shall not be required for repairs that do not change the number of bedrooms, bathrooms, kitchens or washrooms or which do not increase the square footage. Further, no permit shall be required for portable buildings with dimensions equal to or lesser than 12 feet by 16 feet.

(B) Before an improvement location/building permit is issued a permit fee therefore shall be paid to the County Plan Commission as set forth in schedule A filed herewith and made a part hereto. In instances in which an additional level/story is added to an existing structure, an additional fee shall be charged per square foot of building area (measured at outside dimensions) in accordance with Schedule A. Further, if an existing structure is converted, in whole or in part, from a nonresidential to a residential use, an additional fee per square foot of residential space shall be charged. However, no permit fee shall be required for an addition of an exterior deck to an existing structure.

SCHEDULE A

The greater of \$25 or any of the following:

1. A fee of \$0.10 per square foot of building area (measured at outside dimensions) for residential buildings, garages, commercial buildings and industrial buildings; however, the fee for basements shall be \$0.05 per square foot.

2. A flat fee of \$25 for a nonresidential building (excluding garages) in an agricultural district used only for agricultural purposes.

3. A fee of \$100 for each sign advertising a business not located on the parcel on which the sign is constructed; the fee for all other signs shall be \$25.

4. A flat fee of \$750 for a communication tower. No fee shall be required for a communication tower that is used exclusively by the landowner for his or her personal, noncommercial use.

5. Where a permit has been obtained pursuant to subsection 2. above (i.e., nonresidential buildings, excluding garages, in an agricultural district used only for agricultural purposes) and the

building for which the permit was obtained is going to be converted into a use that would otherwise require a permit pursuant to subsection 1. above (i.e., residential buildings, garages, commercial buildings and industrial buildings), a new permit must be obtained and the fee for the new permit shall be \$0.10 per square feet of building area measured at outside dimensions.

(C) Applications for permits shall be filed with the Zoning Enforcement Officer and/or the Secretary of the Plan Commission, and shall be accompanied by the drawings of the proposed work as the Building Inspector may require.

(D) (1) Accompanying each application shall be a plot plan in a form and size suitable for filing permanently with the application to assist the Building Inspector in his or her on-site inspection. The applicant shall conspicuously and properly mark each corner of the proposed building site. The plot plan shall show the property lines, all recorded easements and other interest on the property, the proposed buildings and building setback lines. The Zoning Enforcement Officer may require proof of ownership of the site and a survey. A connection to a municipal sewer system shall be required for all new commercial or residential structures. Where no connection to a sanitary sewage system is available, a septic permit approval must be obtained from the County Health Department prior to:

(a) Construction of a residence or placement of a mobile home which will not be connected to a sanitary sewage system;

(b) Any replacement, reconstruction of expansion or remodeling of a residence which will increase the flow to the septic system; or

(c) Any addition to, alteration of or repair of an existing residential sewage disposal system.

(2) The applicant shall include in writing the proposed use or uses of the premises and shall certify the same by signing and submitting an affidavit in support of issuance of improvement location permit along with his or her application. This affidavit shall be available for signing from the County Surveyor's office.

(E) Within five days after the receipt of an application, the Zoning Enforcement Officer and/or the Secretary of the Plan Commission shall either approve or disapprove the application. The Zoning Enforcement Officer and/or the Secretary of the Plan Commission shall retain the plans. If the application is approved, the Zoning Enforcement Officer and/or the Secretary of the Plan Commission shall issue a placard to the applicant. It is to be posted in a conspicuous place on the property in question, and will attest to the fact that the use or alteration is in compliance with the provisions of this chapter. If the application is denied, the reason shall be stated on the application and the applicant so notified.

(F) If work has not begun one year from the date of issuance of the permit, that permit shall expire and be revoked by the Zoning Enforcement Officer and/or the Building Inspector of the Plan Commission. If work has not been substantially completed within three years from the date of issuance

of the permit, that permit shall expire and be revoked by the Zoning Enforcement Officer and/or the Building Inspector of the Plan Commission. In each case, written notice shall be given to the applicants with the stipulation that work may not begin or continue (whichever case applies) until a new permit has been obtained.

(G) It shall be unlawful to use, occupy or permit the use or occupancy of any nonresidential building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until the Building Inspector or Zoning Enforcement Officer shall have issued a certificate of occupancy. Upon application for a certificate of occupancy, the Building Inspector shall approve, disapprove or issue a permit within 30 days. The certificate of occupancy shall state that the proposed use of the building or land conforms to the requirements of this chapter and that the Building Inspector has inspected the property and attested to that fact. A copy of the certificate of occupancy shall be given to the Plan Commission.

(H) The Building Inspector or Zoning Enforcement Officer may issue a temporary certificate of occupancy for a period not exceeding six months pending completion of modifications in order to comply with this chapter.

(I) The Zoning Enforcement Officer and/or the Secretary of the Plan Commission shall maintain a complete record of all improvement location permits and certificates of occupancy and copies shall be furnished or presented for review to any person making a request.

(J) Failure to obtain either an improvement location building permit or a certificate of occupancy shall be a violation of this chapter and will be punishable under the provisions of § 28-8-23 and shall be reason for issuance of a stop work order by the Zoning Enforcement Officer or Building Inspector. The Zoning Enforcement Officer or Building Inspector shall provide the property owner or his or her authorized representative notification of the ordinance violation and issue the stop work order immediately. The stop work shall be posted on or near the property in question in a conspicuous place and no further construction shall proceed until a valid permit is obtained. Where the building or construction has proceeded without receiving a valid permit, the fees for subsequent permit shall be doubled.

(K) Improvement location/building permits issued on the basis of plans and applications approved by the Zoning Enforcement Officer, Building Inspector or Secretary authorize only the use or arrangement set forth in the approved plans and applications or amendments thereto, and no other use, arrangements or construction. Any use, arrangement or construction contrary to that authorized shall be deemed a violation of this chapter and be punishable under the provisions of § 28-8-23. The Building Inspector or Zoning Enforcement Officer may issue a stop work order.

(L) Any persons may file a written complaint whenever a violation of this chapter occurs or is alleged to have occurred. The complaint shall state fully and accurately the causes and basis thereof, and

be filed with and recorded by the Zoning Enforcement Officer who shall immediately investigate and take action upon the complaint as provided in this chapter.

(Ord. 2004-10, passed 12-30-2004; Ord. 2006-3, passed 9-1-2006; Ord. 2006-7, passed 11-9-2006; Ord. 2007-8, passed 12-7-2007; Ord. 2009-1, passed 1-9-2009)

§ 28-8-3 BOARD OF ZONING APPEALS.

The Board of Zoning Appeals is hereby created as an official entity of the county under the provisions of I.C. 36-7-4-901.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-4 COMPOSITION AND APPOINTMENT.

(A) The Board of Zoning Appeals shall consist of five members as follows:

(1) Three citizen members appointed by the Board of County Commissioners, of whom one must be a member of the Plan Commission and two must not be members of the Plan Commission;

(2) One citizen member appointed by the County Council who must not be a member of the Plan Commission; and

(3) One member appointed by the Plan Commission from the Plan Commission's membership who must be a county agriculture agent or a citizen member of the Plan Commission other than the member appointed by the Board of County Commissioners under subsection (A)(1) above.

(B) None of the members shall hold other elective or appointed offices in the county or state government.

(C) Upon establishment of the Board of Zoning Appeals, the county representatives shall be appointed for the following terms: one for a term of one year, one for a term of two years, one for a term of three years and one for a term of four years. The terms of these members shall expire on the first day of January of the first, second, third or fourth year, respectively, following their appointment. Thereafter, as their terms expire, each new appointment shall be for a term of four years. Members of the Board may be removed from office by the appointing authority for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at his or her residence address. A member who is removed may appeal his or her removal to the Circuit Court or Superior Court of the county within 30 days after receiving notice of the removal.

(D) A member of a Board of Zoning Appeals serves until his or her successor is appointed and qualified. A member is eligible for reappointment.

(E) If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition the appointing authority may appoint an alternate member to participate with the Board in any hearing or decision if the regular member it has appointed has a disqualification under this section or is unable to participate in the hearing or decision. An alternative member shall have all the powers and duties of a regular member while participating in the hearing or decision.

(F) A member of the Board of Zoning Appeals may not participate in a hearing or decision of the Board concerning a matter in which he or she has a director indirect financial interest. The Board shall enter into its records:

(1) The fact a regular member has such a disqualification; and

(2) The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-5 ORGANIZATION.

(A) At the first meeting of each year, the Board of Zoning Appeals shall elect Chairperson and a Vice Chairperson from its members. The Vice Chairperson shall have authority to act as Chairperson during the absence or disability of the Chairperson.

(B) A majority of members shall constitute a quorum. However, no action shall be official unless authorized by a majority of the full Board.

(C) The Board of Commissioners shall provide suitable offices for the holding of hearings and the preservation of records, documents and accounts. The County Council may appropriate funds to carry out the duties of the Board of Zoning Appeals. The Board of Commissioners may compensate the members of the Board of Zoning Appeals for their service. The Board shall have authority to expend all sums appropriated to it for purposes and activities authorized by this chapter in accordance with regular county procedures. The Board may appoint and fix the compensation of an attorney, secretary and such employees as are necessary for the discharge of its duties in conformity and compliance with salaries and compensations theretofore fixed by the Board of Commissioners.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-6 RULES OF PROCEDURE.

(A) The Board shall adopt rules for its procedure which may not be in conflict with the Zoning Ordinance concerning:

- (1) Filing of appeals;
- (2) Application for variances, special exceptions, special uses, contingent uses and conditional uses;
- (3) Giving of notice;
- (4) Conduct of hearings; and
- (5) Determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk or area).

(B) Rules adopted by the Board of Zoning Appeals shall be printed and be made available to all applicants and other interested persons.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-7 MEETINGS AND RECORDS.

All meetings of the Board of Zoning Appeals shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings and record the vote of all actions taken. All minutes and records shall be filed in the office of the Board and shall be a public record.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-8 POWERS AND DUTIES OF THE BOARD.

(A) The Board of Zoning Appeals shall have the following powers and it shall be its duty to hear and determine appeals from and review:

- (1) Any order, requirement, decision or determination made by an administrative official, hearing officer or staff member under the Zoning Ordinance;
- (2) Any order, requirement, decision or determination made by an administrative board or other body, except a Plan Commission in relation to the enforcement of the Zoning Ordinance; and
- (3) Any order, requirement, decision or determination made by an administrative board or other body, except a Plan Commission in relation to requiring the procurement of an improvement location or occupancy permit.

(B) The Board of Zoning Appeals shall approve or deny all:

- (1) Special exceptions;
- (2) Special uses;
- (3) Contingent uses; and
- (4) Conditional uses.

(C) The Board of Zoning Appeals shall approve or deny variances of use from the terms of the Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval. A variance may be approved under this section only upon a determination in writing that:

- (1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- (3) The need for the variance arises from some condition peculiar to the property involved;
- (4) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- (5) The approval does not interfere substantially with the Comprehensive Plan.

(D) A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk or area) of the Zoning Ordinance. A variance may be approved under this section only upon a determination in writing that:

- (1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

(E) In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the

premises and to that end shall have all the powers of the Zoning Enforcement Officer or Building Inspector from whom the appeal is taken.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-9 PROCEDURES AND REQUIREMENTS FOR APPEALS AND VARIANCES.

Appeals and variances shall conform to the procedures and requirements of §§ 28-8-9 through 28-8-17, inclusive, of this chapter. As specified in § 28-8-8, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-10 APPEALS.

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this chapter may be taken by any persons aggrieved or by any officer or bureau of the County Board of Commissioners affected by any decision of the Zoning Enforcement Officer and/or the Secretary of the Plan Commission. The appeal shall be taken within 20 days after the decision by filing with the Zoning Enforcement Officer and/or the Secretary of the Plan Commission and with the Board of Zoning Appeals a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Enforcement Officer and/or the Secretary of the Plan Commission shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-11 STAY OF PROCEEDINGS.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer and/or the Secretary of the Plan Commission from whom the appeal is taken certifies to the Board of Zoning Appeals, after the notice of appeal is filed with him or her, that by reason of facts stated in the application, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the Zoning Enforcement Officer or Building Inspector from whom the appeal is taken or due cause shown.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-12 VARIANCES.

The Board of Zoning Appeals may authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. No

non-conforming use of neighboring lands, structures or buildings in the same district and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this chapter would result in unnecessary hardship.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-13 APPLICATION AND STANDARDS FOR VARIANCES.

(A) A variance from the terms of this chapter shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Building Inspector or the Secretary of the Plan Commission and the Board of Zoning Appeals containing:

- (1) Name, address and phone number of the applicants;
- (2) Legal description of the property;
- (3) Description of the nature of the variance requested; and

(4) A narrative statement demonstrating that the requested variance conforms to the standards listed in § 28-8-7.

(B) A variance shall not be granted unless the Board makes specific findings of fact, based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed by § 28-8-7 have been met by the applicant.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-14 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting any appeal or variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this chapter and punishable under § 28-8-23.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-15 PUBLIC HEARING BY THE BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall hold a public hearing within 45 days on the receipt of an application for an appeal or variance from the Building Inspector or Zoning Enforcement Officer or an applicant. However, the public hearing shall not be held sooner than 15 days after its receipt.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-16 NOTICE OF PUBLIC HEARING IN NEWSPAPER.

Before holding the public hearing required in § 28-8-15, notice of the hearing shall be given in the newspaper of general circulation in the county at least ten days before the date of the hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance. (Ord. 2004-10, passed 12-30-2004)

§ 28-8-17 NOTICE TO PARTIES IN INTEREST.

Before holding the public hearing required in § 28-8-15, written notice of the hearing shall be mailed by the applicant, by certified mail, return receipt requested, at least ten days before the day of the hearing, to each person who owns an interest in real estate adjoining the property involved in the petition, including owners of real estate at corners, and across streets, alleys or easements, as well as others who may share a common boundary; all other persons who, in the opinion of the applicant, have an interest in the outcome of the petition; and any owner of real estate who did not join as an original petitioner or who did not file a waiver of notice of hearing prior to the day of public hearing. (Ord. 2004-10, passed 12-30-2004)

§ 28-8-18 NO EX PARTE COMMUNICATION WITH THE BOARD.

A person may not communicate with any member of the Board of Zoning Appeals before the hearing with the intent to influence the member's action on a matter pending before the Board. Not less than five days before the hearing, however, the Zoning Enforcement Officer and/or the Secretary of the Plan Commission may file with the Board a written statement setting forth the facts or opinions relating to the matter. (Ord. 2004-10, passed 12-30-2004)

§ 28-8-19 ACTION BY BOARD OF ZONING APPEALS.

(A) Upon appeal, the Board of Zoning Appeals may reverse, affirm or modify the order, requirement, decision or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board or body from which the appeal is taken. The Board shall make a decision on any matter that it is required to hear either:

- (1) At the meeting at which that matter is first presented; or
- (2) At the conclusion of the hearing on that matter, if it is continued.

(B) Within five days after making any decision, the Board shall file in the office of the Board a copy of its decision.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-20 COMMITMENTS.

(A) In the case of a petition or an application for a special exception, special use, contingent use, conditional use, or variance from the terms of the Zoning Ordinance. The Board of Zoning Appeals may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel.

(B) The Board of Zoning Appeals may:

(1) Adopt rules governing the creation, form, recording, modification, enforcement and termination of commitments; and

(2) Adopt rules designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

(C) (1) Commitments shall be recorded in the office of the County Recorder and take effect upon the approval of the exception, use, or variance. Unless modified or terminated by the Board of Zoning Appeals, a commitment is binding on:

(a) The owner of the parcel;

(b) A subsequent owner of the parcel; and

(c) A person who acquires an interest in the parcel.

(2) A commitment is binding on the owner of the parcel even if it is unrecorded. However, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment may be modified or terminated only by a decision of the Board made at a public hearing after notice as provided by rule.

(D) By permitting or requiring commitments, the Board of Zoning Appeals does not obligate itself to approve or deny any request.

(E) Conditions imposed on the granting of an exception, a use or a variance are not subject to the rules applicable to commitments.

(F) This section does not affect the validity of any covenant, easement, equitable servitude or other land use restriction created in accordance with law.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-21 PROCEEDINGS OF THE PLAN COMMISSION.

The Plan Commission shall continue to operate under its existing rules of operation. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions all of which shall be of public record and be immediately filed in the office of the Commission.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-22 DUTIES OF THE PLAN COMMISSION.

(A) Initiate proposed amendments to this chapter; and

(B) Review all proposed amendments to this chapter and make recommendations to the Board of Commissioners.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-23 PENALTIES FOR VIOLATION OF ORDINANCE.

(A) Any person or corporation who violates or fails to comply with any provisions of the County Zoning Ordinance shall be guilty of an ordinance violation and shall be subject to a fine of \$2,500. Each day a violation exists shall constitute a separate offense.

(B) Any person or corporation being required by the County Zoning Ordinance to submit plans or plats to either the Zoning Enforcement Officer, the Building Inspector, the Board of Zoning Appeals or the Plan Commission, who builds, reconstructs, removes or structurally alters any building or develops land in a manner other than shown by approved plans or plats, shall be guilty of an ordinance violation and subject to a fine of \$2,500. Each day a violation exists shall constitute a separate offense.

(C) The County Plan Commission, the Board of Zoning Appeals, the Zoning Enforcement Officer and/or the Building Inspector and/or the Building Inspector and any other designated enforcement official of the county may institute suit for injunctive relief in the Circuit Court to restrain an individual, corporation or governmental unit from violating the provisions of the County Zoning Ordinance.

(Ord. 2004-10, passed 12-30-2004)

§ 28-8-24 SCHEDULE OF FEES, CHARGES AND EXPENSES.

(A) The Board of Commissioners shall, by ordinance or resolution, establish a schedule of fees, charges and expenses and a collection procedure for improvement location permits, amendments, appeals, variances, conditional use permits, plan approvals and other matters pertaining to the

administration and enforcement of this chapter requiring investigations, legal, advertising postage and other expenses. The schedule of fees shall be posted in the office of the Plan Commission and may be altered or amended only by the Board of Commissioners. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. All fees other than for improvement location permits are set forth in Schedule B.

SCHEDULE B

1. Variance permit and renewals: \$30;
2. Conditional/special use permit: \$30;
3. Applications for appeals: \$30;
4. Rezoning fees per parcel for rezoning applications: \$75;
5. Copy of County Zoning Ordinance: \$30;
6. Copy of county subdivision control ordinance: \$30;
7. Copy per page of surveys, maps, plat maps, blueprints: \$5, and any copy over size of 11 inches by 17 inches; and
8. Filing fees for subdivision plats (preliminary and final) amended preliminary plats and replats of subdivisions: \$100, plus a fee of \$5 per lot.

(B) The Plan Commission or Board of Zoning Appeals shall consider no petition without the fees having been paid in advance. The applicant shall be responsible for payment of all mailing and legal advertising costs.

(Ord. 2004-10, passed 12-30-2004)

Article 9: Procedures and Requirements for Approval of Conditional Uses

Conditional uses shall conform to the procedures and requirements of this article.

(Ord. 2004-10, passed 12-30-2004)

§ 28-9-1 GENERAL.

It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of

these and some other more conventional uses possess characteristics of such unique and special nature

relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually. These specific uses, as they are conditionally permitted under the provisions of §§ 28-4-1 through 28-4-13, shall follow the procedures and requirements set forth herein. Conditional uses, while requiring special consideration by the Board of Zoning Appeals, shall be deemed permitted uses in the districts in which they are provided.

(Ord. 2004-10, passed 12-30-2004)

§ 28-9-2 CONTENTS OF APPLICATION FOR A CONDITIONAL USE.

An application for a conditional use permit shall be filed with the Zoning Enforcement Officer and/or the Secretary of the Plan Commission and the Board of Zoning Appeals by at least one owner or lessee of property for which the conditional use is proposed. At a minimum, the application shall contain the following information:

(A) Name, address and phone number of the applicant;

(B) Legal description of the property;

(C) Description of the existing use;

(D) Zoning district;

(E) Description of the proposed conditional use;

(F) A plan of the proposed site for the conditional use showing the location of all property lines, rights-of-way or other interests in the property, setback lines, buildings, parking and loading areas, traffic access and traffic circulation, open space, landscaping, refuse and service areas, utilities, signs, yards and other information as the Board may require to determine if the proposed conditional use meets the intent and requirements of this chapter and is appropriate for the location at which it is proposed; and

(G) If applicable, a narrative statement evaluating the effects of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Comprehensive Plan.

(Ord. 2004-10, passed 12-30-2004)

§ 28-9-3 GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES.

The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that the use at the proposed location:

(A) Is in fact a conditional use as established under the provisions hereof and appears on § 28-5-18 for the zoning district involved;

(B) Will be harmonious with and in accordance with the general objectives, or with any specific objective of the county's Comprehensive Plan and/or the Zoning Ordinance;

(C) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

(D) Will not be hazardous or disturbing to existing or future neighboring uses;

(E) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

(F) Will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community;

(G) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

(H) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and

(I) Will not result in the destruction, loss or damage of natural, scenic or historic features of major importance.

(Ord. 2004-10, passed 12-30-2004)

§ 28-9-4 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting any conditional use, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms upon which the conditional use is granted, shall be deemed a violation of this chapter and punishable under § 28-8-23.

(Ord. 2004-10, passed 12-30-2004)

§ 28-9-5 NOTICE OF PUBLIC HEARING.

Upon receipt of the application for a conditional use permit specified in § 28-9-2, the Board of Zoning Appeals shall hold a public hearing, publish notice in a newspaper, and give written notice to all parties in interest according to the procedures specified herein of this chapter.

(Ord. 2004-10, passed 12-30-2004)

§ 28-9-6 ACTION BY THE BOARD OF ZONING APPEALS.

(A) The Board of Zoning Appeals shall make a decision on any matter that it is required to hear under § 28-8-19 either:

- (1) At the meeting at which that matter is first presented; or
- (2) At the conclusion of the hearing on that matter, if it is continued.

(B) Within five days after making any decision, the Board shall file in the office of the Board a copy of its decision.

(Ord. 2004-10, passed 12-30-2004)

§ 28-9-7 EXPIRATION OF CONDITIONAL USE PERMIT.

A conditional use permit shall be deemed to authorize only one particular use and the permit shall automatically expire if, for any reason, the use has not commenced within one year.

(Ord. 2004-10, passed 12-30-2004)

Article 10: Amendments

§ 28-10-1 PROCEDURE FOR AMENDMENT OR DISTRICT CHANGES.

This chapter may be amended utilizing the procedures specified in this article.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-2 GENERAL.

Whenever the public necessity, convenience, general welfare or good zoning practices require, the Board of Commissioners may by ordinance after receipt of recommendations thereon from the Plan Commission, and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and zoning district boundaries or classification of property.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-3 INITIATION OF ZONING AMENDMENTS.

Amendments to this chapter may be initiated in one of the following ways:

(A) By adoption of a motion by the Plan Commission;

(B) By adoption of a resolution by Board of Commissioners; and

(C) For zoning maps, by the filing of a petition with the Plan Commission by at least 50% of the owners of property within the area proposed to be changed by the amendment.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-4 CONTENTS OF APPLICATION.

Applications for amendments to the official zoning map adopted, as part of this chapter by §§ 28-2-1 through 28-2-6 shall contain at least the following information:

(A) Name, address and phone number of the applicant;

(B) Filing fee as established by Board of Commissioners according to § 28-8-24;

(C) Present use;

(D) Present zoning district;

(E) Proposed zoning district;

(F) Vicinity map at a scale approved by the Zoning Enforcement Officer and/or the Secretary of the Plan Commission showing property lines, thoroughfares, existing and proposed zoning within 300 feet and such other items as the Zoning Enforcement Officer may require;

(G) List of all property owners and their mailing addresses who are within, contiguous to or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case; and

(H) Statement on how the proposed amendment relates to the Comprehensive Plan.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-5 TRANSMITTAL TO PLAN COMMISSION.

Prior to the next meeting, after the filing of a petition for amendment, the petition or application shall be transmitted to the Plan Commission.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-6 PUBLIC HEARING BY PLAN COMMISSION.

The Plan Commission shall schedule a public hearing after a petition is received. Notices shall be in the newspaper as described in § 28-10-7.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-7 NOTICE OF PUBLIC HEARING IN NEWSPAPER.

(A) Before holding the public hearing required in § 28-10-6, notice of the hearing shall be given in the newspaper of general circulation in Jefferson County at least ten days before the date of the hearing. The notice shall set forth the time and place of the public hearing, the geographic area to which the proposal applies and a summary of the proposed amendment.

(B) The Plan Commission shall give notice of the hearing by publication under I.C. 5-3-1. The notice must state:

(1) If the proposal contains or would add or amend any penalty or forfeiture provisions, the entire text of those penalty or forfeiture provisions;

(2) The place where a copy of the proposal is on file for examination before the hearing;

(3) That written objections to the proposal that are filed with the Secretary of the Plan Commission before the hearing will be considered;

(4) The oral comments concerning the proposal will be considered; and

(5) The hearing may be continued from time to time as may be found necessary.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-8 NOTICE PARTIES IN INTEREST.

If the proposed amendment intends to rezone or redistrict ten or fewer parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the applicant, by registered mail, at least 20 days before the day of the public hearing, to each person who owns an interest in real estate adjoining the property involved in the petition including owners of real estate at corners, and across streets, alleys or easements, as well as others who may share a common boundary; all other person who, in the opinion of the applicant, have an interest in the outcome of the petition; and any other owners of real estate who did not join as an original petitioner or who did not file a waiver of notice of hearing prior to the day of public hearing. The failure to deliver the notification, as provided in this section, shall

not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in § 28-10-7.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-9 RECOMMENDATION BY PLAN COMMISSION.

Within ten business days after the Plan Commission determines its recommendation, the Commission shall transmit its recommendation to the Board of Commissioners. The Plan Commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied or it may send it to the Board of Commissioners with no recommendation.

(Ord. 2004-10, passed 12-30-2004)

§ 28-10-10 ACTION BY BOARD OF COMMISSIONERS.

(A) The Board of Commissioners shall vote on a recommended amendment proposal from the Plan Commission within 90 days after the Plan Commission transmits its recommendation. The Board of Commissioners shall give notice under I.C. 5-14-1.5-5 of its intention to consider the proposal.

(B) If the proposal is to amend or partially repeal the text of the Zoning Ordinance, the following procedures shall be followed:

(1) If the Plan Commission submits a recommendation in favor of the amendment:

(a) The Board of Commissioners adopts the recommendation, it takes effect as other ordinances of the Board of Commissioners;

(b) The Board of Commissioners fails to act within 90 days, it takes effect as if it had been adopted 90 days after receipt from the Plan Commission; or

(c) The Board of Commissioners rejects the recommendation or amends the proposal, it shall be returned to the Plan Commission for its consideration. The Plan Commission has 45 days in which to consider the rejection or amendment and to report to the Board as follows.

1. If the Plan Commission approves the amendment or fails to act in 45 days, the proposal stands as passed as amended by the Board of Commissioners as of the date of the filing or at the end of the 45-day period.

2. If the Plan Commission disapproves of the rejection or amendment, the action of the Board of Commissioners stands only if confirmed by another vote of the Board within 45 days after the Plan Commission certifies its disapproval. If the Board of Commissioners fails to confirm its action, the ordinance

takes effect as originally proposed.

(2) If the Plan Commission submits an unfavorable recommendation or no recommendation with the proposal to the Board of Commissioners:

(a) The Board of Commissioners adopts the proposal, it takes effect as other ordinances of the Board of Commissioners;

(b) The Board of Commissioners rejects the proposal or fails to act within 90 days, it is defeated; or

(c) The Board of Commissioners amends the proposal, it shall be returned to the Plan Commission for its consideration. The Plan Commission has 45 days in which to consider the amendment and report back to the Board of Commissioners as follows:

1. If the Plan Commission approves the amendment or fails to act in 45 days, the ordinance stands as passed by the Board of Commissioners as of the date of the filing or at the end of the 45-day period.

2. If the Plan Commission disapproves the amendment, the action of the Board of Commissioners stands only if confirmed by another vote of the Board within 45 days after the Plan Commission certifies its disapproval. If the Board fails to confirm its action, the proposal is defeated.

(3) If the proposal is to change the official zoning map incorporated by reference in the Zoning Ordinance, the following procedures shall apply:

(a) If the Plan Commission provides a favorable recommendation:

1. The Board of Commissioners adopts the proposal; it takes effect as other ordinances of the Board;

2. The Board of Commissioners rejects the proposal, it is defeated; or

3. The Board of Commissioners fails to act within 90 days, the proposal takes effect at the end of the 90-day period.

(b) If the Plan Commission provides an unfavorable or no recommendation:

1. The Board of Commissioners adopts the proposal; it takes effect as other ordinances of the Board of Commissioners;

2. The Board of Commissioners rejects the proposal, it is defeated; or

3. The Board of Commissioners fails to act within 90 days, it is defeated.

(4) Any proposal for a Zoning Map amendment that is defeated under the provisions of this section may not be resubmitted for a period of one year.
(Ord. 2004-10, passed 12-30-2004)