

# **ZONING ORDINANCE**

for Troy, Indiana

Prepared for:

**Town of Troy**  
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Prepared by:

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September 12, 2007

# **ZONING ORDINANCE**

**TROY, INDIANA  
PERRY COUNTY**

## **TROY CODE**

**ORIGINAL ZONING ORDINANCE ADOPTION**

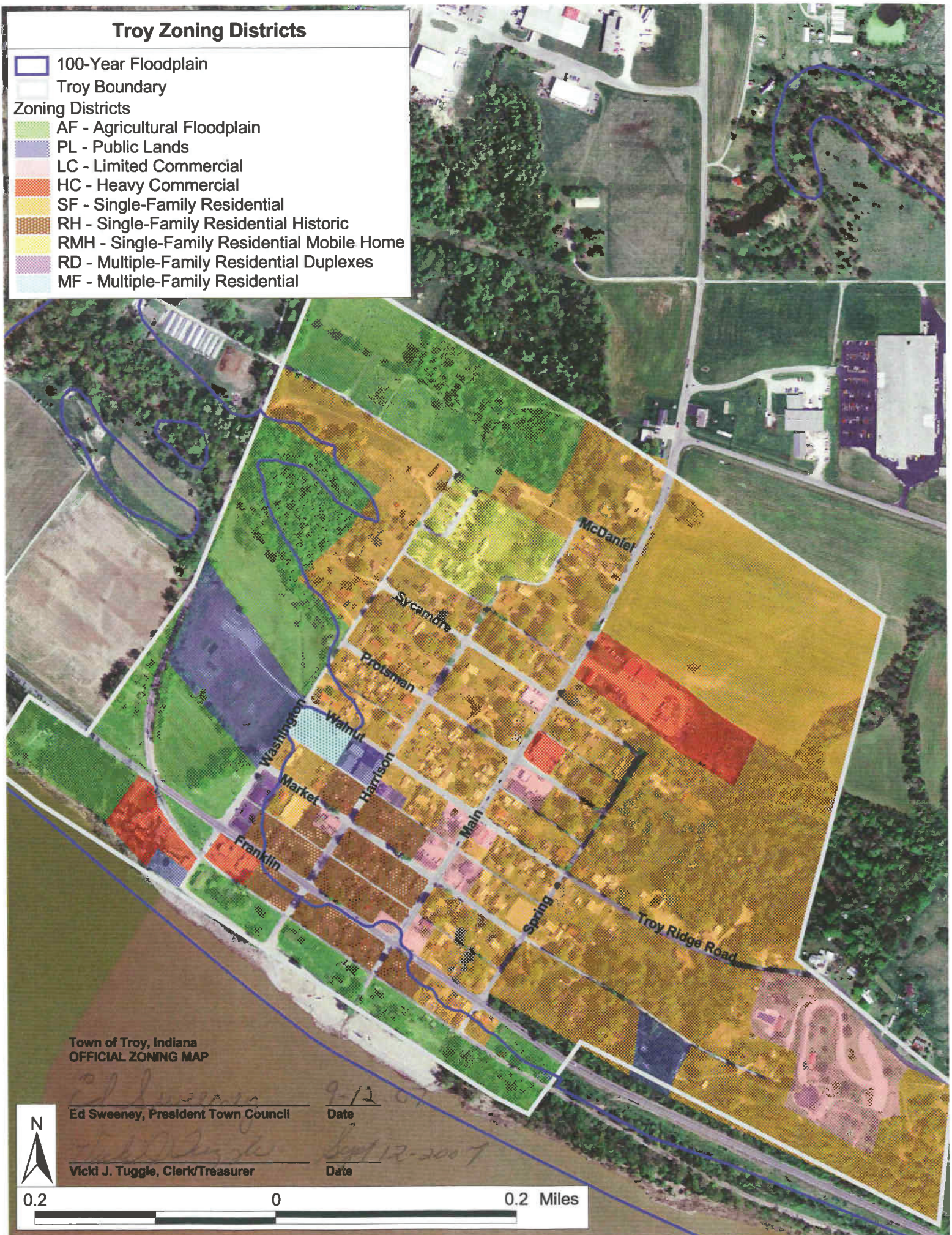
**September 12, 2007**

**(Ordinance No. 1-07)**



# Troy Zoning Districts

-  100-Year Floodplain
-  Troy Boundary
- Zoning Districts**
-  AF - Agricultural Floodplain
-  PL - Public Lands
-  LC - Limited Commercial
-  HC - Heavy Commercial
-  SF - Single-Family Residential
-  RH - Single-Family Residential Historic
-  RMH - Single-Family Residential Mobile Home
-  RD - Multiple-Family Residential Duplexes
-  MF - Multiple-Family Residential



Town of Troy, Indiana  
OFFICIAL ZONING MAP

Ed Sweeney, President Town Council

Date

Vicki J. Tuggle, Clerk/Treasurer

Date



0.2 0 0.2 Miles



ORDINANCE NO. 1-07

ORDINANCE ADOPTING THE ZONING ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TROY, INDIANA  
ADOPTING THE ZONING ORDINANCE OF THE TOWN OF TROY, INDIANA

WHEREAS, the ordinance is enacted in accordance with Indiana State Law (Indiana Code 36-7-4-600 series) for the purpose of promoting the public health, safety, comfort, morals, convenience, and general welfare by establishing land use classifications, by dividing the Town into districts, imposing regulations, restrictions, and prohibitions on the use and occupancy of real property, by limiting the height, area, and bulk of buildings and other structures, by providing for yards and other open spaces around them, by establishing standards of performance and design, and by providing for the administration and enforcement thereof; and

WHEREAS, the Advisory Plan Commission of TROY, Indiana, did on August 29, 2007 hold a legally advertised public meeting to consider adoption of the attached Zoning Ordinance (Exhibit A) for the town; and

WHEREAS, the Plan Commission did consider said Zoning Ordinance until all comments and objections were heard, and

WHEREAS, the Plan Commission found that the Zoning Ordinance meets the requirements of Indiana Code 36-7-4-600, and that the adoption of this Zoning Ordinance is found to be in the best interests of TROY, Indiana, and

WHEREAS, the Town Council finds that it is in the best interest of the Town to adopt said Zoning Ordinance.

NOW THEREFORE, BE IT ORDAINED, that the Town Council of TROY, Indiana, hereby adopts Exhibit A, attached and made a part hereof, as the Zoning Ordinance of the Town of TROY, Indiana.

This ordinance shall take effect from and after its passage as provided by law.

DULY ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TROY, INDIANA, ON THIS THE  
12th DAY OF September, 2007.

Aye                      Nay                      Abstain                      Absent

Susie Fortwendel  
John Methena  
Ed Sweeney  
Robert Tuggle

*Ed Sweeney*  
*John Methena*  
*Martha "Susie Fortwendel"*

*Ed Sweeney*  
Ed Sweeney, President

ATTEST:

*Vicki Tuggle*  
Vicki Tuggle, Clerk-Treasurer

**ZONING ORDINANCE  
CERTIFICATION**

I, Susie Fortwendel, Secretary of the Troy Advisory Plan Commission do hereby certify to the Troy Town Council, that the Zoning Ordinance of the Town of Troy, a true copy of which is attached, was considered and approved by the Troy Advisory Plan Commission at their meeting held on August 29, 2007 by a vote of 6 in favor, 0 against, 0 abstaining, and 1 absent and do herewith forward the same to you for your consideration and approval.

Susie Fortwendel

Susie Fortwendel

Secretary

Troy Advisory Plan Commission

8-29-07

Date

RESOLUTION NO. 2007-01  
RESOLUTION OF THE PLAN COMMISSION  
ADOPTING THE ZONING ORDINANCE

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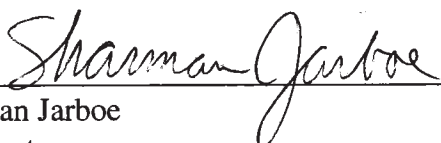
A RESOLUTION RECOMMENDING THAT THE TOWN COUNCIL OF THE TOWN OF TROY ADOPT THE ATTACHED ZONING ORDINANCE, CONSISTENT WITH INDIANA STATE LAW REQUIREMENTS:

WHEREAS, the ordinance is enacted in accordance with Indiana State Law (Indiana Code 36-7-4-600 series) for the purpose of promoting the public health, safety, comfort, morals, convenience, and general welfare by establishing land use classifications, by dividing the Town into districts, imposing regulations, restrictions, and prohibitions on the use and occupancy of real property, by limiting the height, area, and bulk of buildings and other structures, by providing for yards and other open spaces around them, by establishing standards of performance and design, and by providing for the administration and enforcement thereof; and

WHEREAS, the Advisory Plan Commission of Troy, Indiana, did on August 29, 2007 hold a legally advertised public hearing on the proposed Zoning Ordinance of the town of Troy, Indiana until all comments and objections were heard; and

WHEREAS, the Advisory Plan Commission found that said Zoning Ordinance is in the best interest of the citizens of Troy, Indiana.

NOW THEREFORE, BE IT RESOLVED, that the Advisory Plan Commission of Troy, Indiana, recommends to the Town Council the adoption of said Zoning Ordinance attached hereto named Zoning Ordinance of Troy, Indiana, dated August 15, 2007.

  
\_\_\_\_\_  
Sharman Jarboe  
President  
Troy Advisory Plan Commission

8-29-07  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Susie Fortwendel  
Secretary  
Troy Advisory Plan Commission

8-29-07  
\_\_\_\_\_  
Date

# **ZONING ORDINANCE**

**TROY, INDIANA**

**TOWN COUNCIL**

SUSIE FORTWENDEL

JOHN METHENA

ED SWEENEY

ROBERT TUGGLE

**PLAN COMMISSION**

SHARMAN JARBOE

VICKI MATHENA

SUSIE FORTWENDEL

GARY PALMER

ROGER FELLA

ROBERT TUGGLE

BETTY LINNE

**JACK ROBINSON – TOWN ATTORNEY**

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## **ARTICLE I - GENERAL PROVISIONS**

### **Section 1 - PREAMBLE**

This ordinance is enacted in accordance with Indiana Law for the purpose of promoting the public health, safety, morals, convenience, and general welfare by establishing land use classifications, by dividing the Town into districts, imposing regulations, restrictions, and prohibitions on the use and occupancy of real property, by limiting the height, area, and bulk of buildings and other structures, by providing for yards and other open spaces around them, by establishing standards of performance and design, and by providing for the administration and enforcement thereof.

### **Section 2 - INTERPRETATION**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Wherever this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or Ordinances, the provisions of this Ordinance shall govern. Statutory matters set forth in Indiana Code 36-7-4 et seq., amendments, supplements and successor statutes thereto, are incorporated into this ordinance.

### **Section 3 - SEPARABILITY**

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such 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.

## **ARTICLE II - DEFINITIONS**

### **Section 1 - PURPOSE**

For the purpose of this Ordinance, certain terms or words shall have the meaning as provided in this Article. Where terms or words are not defined herein, they shall have as their meanings those set forth by Indiana Code 36-7-4 or, if not defined therein, by their ordinary accepted meanings.

### **Section 2 - DEFINITIONS**

1. "Accessory Building or Structure" see "Building, Accessory."
2. "Accessory Use" means a subordinate use which is incidental to that of the primary use and is a use other than human occupancy.
3. "Administrator" means the Zoning Administrator of the Town.
4. "Adult Entertainment" means a regular commercial participation in one or more of the following defined activities:
  - Adult Bookstore
  - Adult Video Rental Center
  - Adult Motion Picture Theater
  - Adult Retail Store
  - Adult Strip Club
  - Adult Entertainment Center (Commercial)
5. "Adult Bookstore" means an establishment having more than ten percent (10%) of its stock in trade or its dollar volume in books, magazines, periodicals or other printed material, or photographs, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities.
6. "Adult Video Rental Center" means an establishment having more than ten percent (10%) of its stock in trade or its dollar volume in films, motion pictures, video cassettes, digital video discs (DVDs) or other forms of video recordings which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities.
7. "Adult Motion Picture Theater" means an establishment having more than ten percent (10%) of its stock in trade or its dollar volume in the presentation of films, motion pictures, slide projections or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities.
8. "Adult Retail Store" means an establishment having more than ten percent (10%) of its stock in trade or its dollar volume in devices, toys, audio or visual recordings, games, attire, or other items intended for adult sexual activities or used for erotic, pornographic, or related sexual activities.

9. "Adult Strip Club" means an establishment (indoor or outdoor; and private or public) for audiences or individuals to observe nudity or partial nudity of any persons, or any other services designed to appeal to erotic or sexual interests.
10. "Adult Entertainment Center (Commercial)" means any establishment not otherwise defined as an adult bookstore, adult video rental center, adult motion picture theater, adult retail store, or adult strip club, which as one of its principal uses (defined as more than ten percent (10%) of its stock in trade or its dollar volume, if applicable) regularly offers matter, goods, services or entertainment appealing to adult sexual interests and distinguished or characterized by emphasis on matter depicting, describing or relating to sexual activities.
11. "Alterations, Structural" means any change in the supporting members of a building such as bearing walls, columns, beams or girders.
12. "Automotive Filling Station" means any building, land or area used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use, the sale and installation of lubricants, tires, batteries, similar accessories, or including convenience sales of prepackaged food products, household items and other goods commonly associated with the same.
13. "Automotive Repair" means the repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision repair services, painting and steam cleaning of vehicles.
14. "Basement" means a story all or partly under ground but having at least one-half of its height below the average level of the adjoining ground.
15. "Bed and Breakfast Establishment" means any dwelling unit that contains no more than four guest rooms where lodging, with or without meals, are provided for compensation to guests.
16. "Building" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property.
17. "Building, Accessory" means a subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the main building or use.
18. "Building, Height" means 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 or flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.
19. "Building, Principal" means a building in which is conducted the main or principal use the lot on which the building is situated.
20. "Building Site" means the portion of the lot on which buildings and accessory structures are placed, and includes parking areas.
21. "Child Day Care Facility" means the following:
  - A. "Child Care" means a service that provides for the care, health, safety and supervision of a child's social, emotional and educational growth. Pursuant to IC 12- 7-2-28.2
  - B. "Child Care Center" a non-residential site or structure where at least one (1) child receives "Child Care" from a provider:
    - a. While unattended by a parent, legal guardian or custodian;

- b. For regular compensation;
- c. For more than four (4) hours but less than twenty-four (24) hours of each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays. Pursuant to IC 12- 7-2-28.4.

C. "Child Care Home"

- a. means a residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian or other relative) at any time receive "Child Care" from a provider:
  - (1) while unattended by a parent, legal guardian or custodian;
  - (2) for regular compensation; and
- b. for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays;
- c. The term includes:
  - (1) a Class I Child Care Home; and
  - (2) a Class II Child Care Home.

Pursuant to IC 12-7-2-28.6

- a. "Child Care Home Class I - Nonresident Operator" means a "Child Care Home that serves any combination of full-time and part –time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least grade 1. The addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks. Pursuant to IC 12- 7-2-33.7.
- b. "Child Care Home Class I - Resident Operator" means a "Child Care Home that serves any combination of full-time and part –time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least grade 1. The addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks. The site or structure of the "Child Care Home" must be the primary residence of the person who operates the "Child Care Home". Pursuant to IC 12-7-2-33.7; IC 36-7-4-1 108.
- c. "Child Care Home Class II - Nonresident Operator" means a "Child Care Home" that serves more than twelve but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time. Pursuant to IC 12-7-2-33.8.
- d. "Child Care Home Class III - Resident Operator" means a "Child Care Home" that serves more than twelve but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time. The site or structure of the "Child Care Home" must be the primary residence of the person who operates the "Child Care Home". Pursuant to IC 12- 7-2-33.8.

- 22. "Clinic" means a place 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 who are not provided with board or room or kept overnight on the premises.
- 23. "Club" means a building or portion thereof or premises owned or operated for a social, literary, political, educational or recreational purpose primarily for the exclusive use of members and their guests.



24. "Commission" means the Plan Commission of the Town of Troy.
25. "Communication Facilities" Antennas and antenna tower structures including, but not limited to, any towers, equipment enclosures, or other structures intended for use in connection with the wireless transmission or receipt of radio, television, or any other electromagnetic based transmissions or receptions. The following shall not be considered as communication facilities for the purpose of this ordinance: satellite reception dishes less than three (3) feet in diameter; wireless communication facilities that are completely located within a principal structure and that operate with the sole purpose of providing communications within said structure; and hand-held wireless communication devices.
26. "Comprehensive Plan" means a plan or any portion thereof, adopted by the Plan Commission and the Town Council under the provisions of Indiana Code 36-7-4-501 et. seq. amendments, supplements and successor statutes thereto.
27. "Convalescent Care Facility" means a building or group of buildings, public or private, which provides personal care or nursing to ill, physically infirm or aged persons, for more than sixteen (16) persons who are not related by blood or marriage to the operator.
28. "Council" means the Town Council of the Town of Troy.
29. "Density" means a unit of measurement; the number of dwelling units per acre of land
- A. "Gross Density" means the number of dwelling units per acre of the total land to be developed.
  - B. "Net Density" means the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.
30. "Drinking and Eating Establishment" means an establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail, for consumption on the premises, and where food may be available for consumption on the premises.
31. "Dwelling" means any building or portion thereof designed or used primarily as the residence or sleeping place of one or more families, but not including a tent, cabin, trailer or trailer coach, boarding or rooming house, hotel or motel, or mobile home.
32. "Dwelling, Mobile Home" means a transportable structure designed to be used as a residential dwelling.
33. "Easement" means authorization for a specified purpose, of any designated parcel of property, whether by grant, reservation, prescription, plat or description.
34. "Educational Institution" means a facility that provides a curriculum of elementary, secondary or continuing academic instruction, including kindergarten, elementary schools, junior high schools, high schools, and technical and collegiate level courses.
35. "Family" means one (1) or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three (3) persons not so related, sharing meals and living as single housekeeping unit. A family may include not more than (2) roomers, boarders or permanent guests, whether gratuitous or not.
36. "Family Care Home" means a licensed residential facility that provides room and board, personal care, habilitation services and supervision in a family setting.

37. "Floodplain" means that land, including the flood fringe and floodway, subject to inundation by the regional flood.
38. "Flood, Regional" means large floods which have previously occurred or which may be expected to occur on a particular stream because of like physical characteristics. The regional flood generally has an average frequency of the one hundred year recurrence interval flood.
39. "Floor Area of a Residential Building" means the sum of the gross horizontal area of the several floors of a residential building, excluding basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.
40. "Floor Area" means the sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the centerline of party walls, including the floor area of accessory buildings and structures.
41. "Floor Area Ratio" means the total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.
42. "Food Processing" means the preparation, storage or processing of food products. Examples of these activities include dairies, canneries and other similar businesses.
43. "Group Home" means a dwelling shared by four (4) or more handicapped persons including resident staff, who live together as a single housekeeping unit and a long term family-like environment, which staff persons provide care, education, participation, community activities for the residents to live as independently as possible in order to reach their maximum potential. "Handicapped" for purposes of this definition shall be defined by the Americans with Disabilities Act. Group homes shall also include facilities established pursuant to I.C. 12-17.4-5 et seq.
44. "Home Occupation" means any occupation, profession, activity or use which is accessory to the principal use of the premises and is conducted by a resident occupant, within the dwelling, which does not alter the exterior of the property or affect the residential character of the neighborhood.
45. "Hospital" means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities and staff offices that are an integral part of the facility.
46. "Hotel or Motel" means a facility offering transient lodging accommodations on a daily rate to the general public and possibly providing additional services, such as restaurants, meeting rooms and recreational facilities.
47. "Improvement location permit" means a document issued by the Administrator authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.
48. "Junk" means old scrap copper, brass, rope, rags, trash, waste, batteries, paper, rubber, junked, dismantled or wrecked automobiles or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous materials.
49. "Loading Space, Off-Street" means space set aside for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such 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.

50. "Lot" means a parcel or plot of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide yards and other open 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;
  - C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
51. "Lot Area" means the computed horizontal area contained within the lot lines.
52. "Lot Coverage" means the ratio of the enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.
53. "Lot Frontage" means that the front of a lot shall be construed to be the portion at the street or road right-of-way. For the purpose of determining yard requirements on corner lots, all sides of a lot adjacent to streets may be considered frontage and the land owner shall make an election upon construction regarding compliance under "yards" in this article.
54. "Lot Measurements" means that a lot shall be measured as follows:
- A. "Depth" means the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
  - B. "Width" means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the right-of-way line except for lots on cul-de-sac type streets where it is measured at the setback line.
55. "Lot Types." Terminology used in this Ordinance with reference to corner lots, interior lots and through lots is as follows:
- A. "Corner Lot" means 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 straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.
  - B. "Interior Lot" means a lot with only one frontage on a street.
  - C. "Through Lot" means 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.
  - D. "Reversed Frontage Lot" means a lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.
56. "Manufactured Home" is a "mobile home" built after 1973 in accordance with the federal manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).
57. "Manufacturing" means the assembling, altering, converting, fabricating, finishing, processing or treatment of a product.
58. "Minimum Building Setback Line" means a line parallel to the street right-of-way line at a distance equal to the required depth of the front yard, and extending across the full width of the lot. Where the established right-of-way line, if any, cannot be ascertained, the right-of-way line

shall be deemed to be 30 feet from the center line of the existing roadway of north-south streets and east-west streets west of Hill Street and 25 feet from the center line of the existing roadway of north-south streets and east-west streets east of Hill Street and including Hill Street.

59. "Mobile Home," see "Dwelling, Mobile Home."
60. "Mobile Home Park" means any site or tract of land under single ownership, upon which three or more mobile homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of the park.
61. "Modular Home" means a dwelling meeting the Indiana Uniform Building Code that is delivered to the building site in pre-manufactured or pre-fabricated modular components by a flat-bed truck and is assembled on the building site on a permanent foundation. A "mobile home" or "manufactured home" is not a "modular home."
62. "Non-conforming" means a building, structure or use of land existing at the time of enactment of this Ordinance which does not conform to the regulations of the district or zone in which it is situated.
63. "Office" means quasi-commercial uses which may often be transitional between retail business and/or manufacturing, and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, clerical, drafting, etc. Institutional offices of a charitable, philanthropic or religious or educational nature are also included in this classification.
64. "Open Space" means land used for resource protection, recreation, amenity and/or buffers, excluding any enclosed space, but including unenclosed decks and balconies.
65. "Parking Space, Off-Street" means 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 outside of any street or alley right-of-way.
66. "Personal Services" means activities conducted in an office, store or other place of business catering to the personal needs of a customer such as normally conducted by a barber, beautician, tailor, or dressmaker.
67. "Printing and Publishing" means any business which is engaged in the printing and/or publishing of newspapers, magazines, brochures, business cards and similar activities either for profit or nonprofit.
68. "Public Service Facility" means the erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping station, sewage disposal or pumping plants, or 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 but not limited to the furnishing of electrical, gas, rail transport, communication, public or private water and sewage service.
69. "Public Uses" means 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.
70. "Public Way" means an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway right-of-way, road, sidewalk, street, tunnel viaduct, walk, bicycle



path; or other ways in which the general public or public entity have a right, or which are dedicated whether improved or not.

71. "Quasi-Public Use" means churches, parochial schools, hospitals and other facilities of an educational, religious, charitable, philanthropic or nonprofit nature.
72. "Recreation, Commercial" means any business which is operated as a recreation enterprise, either publicly or privately owned, for profit. Examples include, but are not limited to: golf courses, arcades, bowling alleys, theaters, etc.
73. "Recreation, Non-Commercial" means any business which is operated as a recreational enterprise, either publicly or privately owned, for nonprofit. Examples include, but are not limited to: fishing areas, parks, archery ranges, etc.
74. "Recycling Center" means an establishment or place of business used, maintained or operated for the purpose of collecting, sorting, cleansing, treating and reconstituting waste or other discarded material for the purpose of recovering and reusing the materials.
75. "Restaurant" means an establishment with table services whose principal business is the selling of unpackaged food and beverages to the customer in a ready to consume state, in individual servings, or in non-disposable containers.
76. "Right-of-Way" means a strip of land taken or dedicated for use as a public way, or for public utilities. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment) such as grade separations, landscaped areas, viaducts and bridges.
77. "Seat" is used for the purpose of determining the number of required off-street parking spaces for certain uses. The number of seats is the number of seating units installed or indicated, or each twenty-four lineal inches of benches, pews or space for loose chairs.
78. "Sewers, Central or Group" means 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.
79. "Sewers, On-Site" means 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.
80. "Shopping Center" means a grouping of retail and service uses on a single site that is developed, owned and managed as a unit with off-street parking as an integral part of the unit.
81. "Slope" means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance. Slope may also be expressed in percent, degrees or both from the horizontal.
82. "Steep Slopes" means an area with slopes in excess of 12 percent.
83. "Storage Facility" means a building used primarily for the holding of goods and merchandise.
84. "Storage Facility, Personal" means a building or group of buildings in a controlled-access compound that contains equal or varying sizes of individual compartmentalized and controlled-access stalls or lockers for the storage of customer's goods or wares.

85. "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things, structures include buildings, garages, sheds, swimming pools, gazebos, decks, carports, mobile homes, walls, fences, signs and billboards.
86. "Swimming Pool" means any structure located in ground or above ground containing, or normally capable of containing, water to a depth at any point greater than 24 inches for the purpose of recreation, sports activity, or swimming.
87. "Thoroughfare Plan" means the portion of the Comprehensive Plan adopted by the Plan Commission and the Town Council indicating the general location recommended for arterial, collector and local thoroughfares within the appropriate jurisdiction.
88. "Thoroughfare, Street or Road" means the full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:
- A. "Alley" means a minor street used primarily for vehicular service access to the back or side of properties abutting on another street.
  - B. "Arterial Street" means a highway primarily for through traffic, carrying heavy loads and a large volume of traffic, usually on a continuous route.
  - C. "Collector Street" means a thoroughfare, whether within a residential, industrial, commercial or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
  - D. "Cul-de-sac" means a local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
  - E. "Dead-end Street" means a street having only one outlet for vehicular traffic.
  - F. "Local Street" means a street primarily for providing access to residential or other abutting property.
  - G. "Loop Street" means a type of "local street," each end of which terminates at an intersection with the same arterial or collector street.
  - H. "Marginal Access Street" means a local or collector street, parallel and adjacent to an "arterial" or "collector" street, providing access to abutting properties and protection from "arterial" or "collector" streets. Also called a frontage street.
89. "Variance" means a modification of the strict terms of the relevant regulations where the modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. However, a variance of use is strictly prohibited.
90. "Veterinary Animal Hospital or Clinic" means a place used for the care, grooming, 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 primary activity.
91. "Vicinity Map" means a drawing located on the plat which 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.

92. "Walkway" means a public way for pedestrian use only, whether along the side of a road or not.
93. "Wholesale and Warehousing" means business establishments that generally store and sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product or for use by a business service.
94. "Yard" means a required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three feet above the general ground level of the graded lot upward; provided, accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
95. "Yard, Front" means a yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.
96. "Yard, Rear" means a yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.
97. "Yard, Side" means a yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

## **ARTICLE III - DISTRICT ESTABLISHMENT AND MAP**

### **Section 1 - DIVISION INTO DISTRICTS**

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

The Town is hereby divided into twelve (12) use districts and one (1) overlay district, as follows:

<u>Abbreviation</u>	<u>Use Districts</u>	<u>Article</u>
AF	<b>Agricultural Floodplain</b> District	XII
RH	<b>Residential Historic</b> District	XIII
SF	<b>Single-Family</b> Residential District	XIV
RMH	<b>Residential Mobile Home</b> District	XV
RD	<b>Residential Duplex</b> District	XVI
MF	<b>Multi-family</b> Residential District	XVII
MU	<b>Mixed Use</b> District	XVIII
LC	<b>Limited Commercial</b> District	XIX
HC	<b>Heavy Commercial</b> District	XX
M	<b>Manufacturing</b> District	XXI
PUD	<b>Planned Unit Development</b> District	XXII
PL	<b>Public Lands</b> District	XXIII
	<u>Overlay Zones</u>	
SAO	Sensitive Areas Overlay Zone	XXIV

### **Section 2 - MAP ESTABLISHED**

The districts established as shown on the Official Zoning Map, together with all explanatory matter, are hereby adopted as part of this Article.

### **Section 3 - IDENTIFICATION**

The Official Zoning Map shall be identified by the signature of the President of the Town Council and attested by the Clerk/Treasurer of Troy.

### **Section 4 - INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the centerlines of thoroughfares or highways, street lines or highway right-of-way lines, such centerlines, street lines or highway right-of-way lines shall be construed to be such boundaries;
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries;
- C. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there



from as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map;

- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of such railroad line.

## **Section 5 - VACATED STREET OR ALLEY**

Whenever any street, or other public way is vacated by official action as provided by law, the zoning district adjoining the side of such public way shall be extended automatically, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall be subject to all regulations of the extended district.

## **Section 6 - UNCERTAINTY AS TO BOUNDARIES**

All questions concerning the exact location of district boundary lines, shall be determined by the Administrator with appeals to the Board of Zoning Appeals, according to rules and regulations which may be adopted by it.

## **Section 7 - CONFORMANCE WITH REGULATIONS**

Except as hereinafter specified, no land, building, structure, or premise, shall hereafter be used, and no building or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district in which it is located.

## **Section 8 - TOWN AND PUBLIC UTILITIES**

- A. A use of land, building, structure, or premises located within any district shall not be required to comply with the use and/or occupancy terms, conditions and provisions of this ordinance if and only if said land, building, structure and premises is owned, used, operated or leased exclusively by the State of Indiana, or its political subdivisions including the County of Perry and the Town of Troy, or any of their respective departments including the Town's municipally owned utilities.
- B. Except as set forth in Section 8(a) of this article, a use of land, building, structure, or premises located within any district which is owned, used, operated or leased by a public utility or utility, as those terms are defined in Indiana Code 8-1-2-1, whether or not said public utility or utility is under the jurisdiction of the Indiana Utility Regulatory Commission, shall be subject to the provisions of the zoning code as conditional uses pursuant to Article IX, Section 1.

## **ARTICLE IV - ADMINISTRATION AND ENFORCEMENT**

### **Section 1 - RESPONSIBILITIES OF THE ADMINISTRATOR**

The Administrator shall have the following responsibilities and powers:

- A. Enforce the provisions of this Ordinance and interpret the meaning and application of its provisions.
- B. Receive and make determinations regarding applications for Improvement Location Permits and Certificates of Occupancy, in conjunction with the Plan Commission and the Board of Zoning Appeals.
- C. Issue Improvement Location Permits and Certificates of Occupancy as provided by this Ordinance, and keep a record of same with notations of special conditions involved.
- D. Review and process plans pursuant to the provisions of this Ordinance.
- E. Make determinations as to whether violations of this Ordinance exist, determine the nature and extent thereof, and notify the owner in writing, specifying the exact nature of the violation and the manner in which it shall be corrected by the owner, pursuant to the procedures in this Ordinance.
- F. Conduct inspections of buildings and uses of land to determine compliance or non-compliance with this Ordinance.
- G. Maintain permanent and current records required by this Ordinance, including but not limited to the Official Zoning Map, Improvement Location Permits, Grading Permits, Certificates of Occupancy, inspection documents and records of all variances, amendments and conditional uses. These records shall be made available for use of the Council, the Plan Commission, and the Board of Zoning Appeals and to the public.
- H. Determine the existence of any violations of this Ordinance and enforce this Ordinance.
- I. Revoke a permit or approval issued contrary to this Ordinance or based on a false statement or misrepresentation in the application.
- J. Issue Sign Permits and Grading Permits in accordance with the provisions of this Ordinance, and to collect fees for said permits in accordance with Article IV, Section 14.
- K. Verify that recording of agreements PUD and approved Development Plans has occurred.

### **Section 2 - PROCEEDINGS OF THE PLAN COMMISSION**

The Plan Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Ordinance and with the membership, powers and duties of the Commission which are described in Indiana Code 36-7-4-400 et. seq.

### **Section 3 - RESPONSIBILITIES OF THE PLAN COMMISSION**

The Plan Commission shall have the following responsibilities and powers:

- A. Initiate and/or periodically review advisable changes to the Official Zoning District Map, or changes to the text of this Ordinance, where the same will promote the best interest of the community.

- B. Review all Planned Unit Development applications, review all applications for conditional uses submitted by public utilities or utilities and make recommendations as provided in this Ordinance.
- C. Carry on a continuous review of the effectiveness and appropriateness of this Ordinance and recommend such changes or amendments as it feels would be appropriate.
- D. Review and act on Development Plans.

#### **Section 4 - PROCEEDINGS OF THE BOARD OF ZONING APPEALS**

There is hereby established a Board of Zoning Appeals, the membership, powers, duties and responsibilities of which are described in Indiana Code 36-7-4-900 et. Seq. Said Board of Zoning Appeals shall adopt rules necessary for the conduct of its affairs pursuant to the provisions of this ordinance and its statutory duties, powers and authority.

#### **Section 5 - RESPONSIBILITIES OF THE BOARD OF ZONING APPEALS**

The Board of Zoning Appeals shall have the following responsibilities and powers:

- A. Hear and decide appeals concerning any order, requirement, decision, interpretation or determination made by the Administrator.
- B. Hear and decide requests for variances.
- C. Hear applications for and decide upon requests for conditional uses.

The Board of Zoning Appeals may call upon the Town departments for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the Board of Zoning Appeals as may be reasonably required hereunder.

#### **Section 6 - IMPROVEMENT LOCATION PERMIT REQUIRED**

No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building, structure or land be established or changed in use without an Improvement Location Permit issued by the Zoning Administrator. Improvement Location Permits shall be issued only in conformity with the provisions of this Ordinance unless the Administrator receives a written order from the Board of Zoning Appeals deciding an appeal, variance, or request for conditional use, or from the Plan Commission approving a Development Plan review, or from the Town Council approving a Planned Unit Development District, as provided by this Ordinance.

#### **Section 7 - IMPROVEMENT LOCATION PERMIT APPLICATION**

The application for an Improvement Location Permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire in one year, with an option for a one year renewal, if construction has not been initiated. At a minimum, the application shall contain the following information:

- A. Name, address and phone number of applicant;
- B. Legal description of property;
- C. Existing use;
- D. Proposed use;
- E. Zoning district;

- F. Number of dwelling units (if applicable);
- G. Plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; the location of streets, alleys and existing and proposed utilities, whether above ground or underground, and the location and dimensions of the proposed building(s) or alteration; and any other information which may be required by the Administrator;
- H. Building heights;
- I. Number of off-street parking spaces or loading berths;
- J. Such other materials as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

Applications concerning single family dwellings may be exempt from subsection G of this Section, at the discretion of the Administrator.

## **Section 8 - IMPROVEMENT LOCATION PERMIT APPROVAL**

The Administrator shall either approve or disapprove the application in conformance with the provisions of this Ordinance and Troy Ordinances pertaining to Flood Hazard areas.

The Administrator shall not issue an Improvement Location Permit prior to a determination that the requirements of Article XXIII (Grading and Soil Erosion Control) have been satisfied. In the event that a grading permit is required, it shall be issued prior to the issuance of a Location Improvement Permit. If the Administrator determines that the requested permit is located within a flood hazard area as defined by the Federal Emergency Management Agency (FEMA) he shall not issue an Improvement Location Permit prior to receiving the required approval of the Indiana Department of Natural Resources (IDNR).

One copy of the plans shall be returned to the applicant by the Administrator, after he marks such copy either as approved or disapproved and attests to same by his signature on the copy. One copy of plans, similarly marked, shall be retained by the Administrator. The Administrator shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Ordinance.

## **Section 9 - IMPROVEMENT LOCATION PERMIT EXPIRATION**

An Improvement Location Permit shall be valid for a period of one year, with an option to renew for one additional year, if good cause is shown by the applicant. If the work described in any Improvement Location Permit is no longer being diligently pursued, or is not more than 50% completed within two years of the date of issuance, the permit shall expire and written notice shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new Improvement Location Permit has been obtained through the normal application process.

## **Section 10 - TEMPORARY USES**

### **A. INTENT**

Temporary Uses shall be permitted in applicable Districts by the grant of a Temporary Improvement Location Permit issued by the Administrator in accordance with the requirements of this Section.

#### B. GENERAL PROVISIONS

1. The duration of the temporary period is stated hereinafter, provided, however, renewal of such Permit may be requested.
2. Temporary Uses shall be subject to all the regulations of the applicable District.

#### C. PERMITTED USES

1. Temporary office, model home or model apartment. Maximum 18 months.
2. Non-commercial concrete batching plant, both incidental and necessary to construction. Maximum 18 months.
3. Carnivals and similar temporary uses. Maximum 10 days.
4. Mobile home as a temporary office during the period of construction and development. Maximum 18 months.
5. Other similar uses deemed temporary by the Administrator and attached with such time period, conditions and safeguards as the Administrator may deem necessary, including signs in connection with the foregoing.

#### D. TEMPORARY BUILDINGS

Temporary buildings, construction trailers, equipment and materials used in conjunction with construction work only may be permitted in any district during the period construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work. Storage of such facilities or equipment beyond the completion date of the project shall require a Zoning Permit authorized by the Administrator.

#### E. STANDARDS

1. Adequate access and off-street parking Facilities shall be provided which shall not interfere with traffic movement on adjacent streets.
2. No public address systems or other noise producing devices shall be permitted in a residential district.
3. Any flood lights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.
4. No banners, pennants or unnecessary signs shall be permitted in a residential district.
5. The lot shall be put in clean condition devoid of temporary use remnants upon termination of the temporary period.

### **Section 11 - CERTIFICATE OF OCCUPANCY**

No person shall use or occupy or permit the use or occupancy of any 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 a Certificate of Occupancy is issued by the Administrator stating that the proposed use of the building or land conforms to the requirements of this Ordinance.

The Certificate of Occupancy shall state that the building or proposed use of a building or land, complies with the plans and applications approved by the Administrator, Board of Zoning Appeals and/or Plan Commission, as may be applicable.



## **Section 12 - TEMPORARY CERTIFICATE OF OCCUPANCY**

A temporary Certificate of Occupancy may be issued by the Administrator for a period not exceeding six months during alterations or partial occupancy of a building pending its completion.

## **Section 13 - CONSTRUCTION AND USE IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES**

Improvement Location Permits or Certificates of Occupancy issued on the basis of plans and applications approved by the Administrator authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto. Use, arrangement or construction contrary to that authorized shall be deemed a violation of this Ordinance punishable under Article V of this Ordinance.

## **Section 14 - SCHEDULE OF FEES, CHARGES AND EXPENSES**

The Council shall establish a schedule of fees, charges and expenses, and a collection procedure, for Improvement Location Permits, sign permits, grading permits, amendments, appeals, variances, conditional use permits, plan approvals and other matters pertaining to the administration and enforcement of this Ordinance requiring investigations, inspections, and other expenses. The schedule of fees shall be posted in the office of the Administrator. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal

## **ARTICLE V - VIOLATION AND REMEDIES**

### **Section 1 - VIOLATION**

Any building or structure that is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land that is proposed to be used, or is used in violation of this Ordinance or any amendment or supplement thereto, the Administrator, the Plan Commission, or the Board of Zoning Appeals, may, in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct or abate such violation to prevent the occupancy of the said building, structure or land or to prevent any illegal act, conduct, business or use in or about, such premises.

### **Section 2 - NOTICE OF VIOLATION**

The notice of any violation of this Ordinance shall be as follows:

- A. Whenever the Administrator determines that there is a violation of any provision of this Ordinance, a notice of such violation shall be issued. Such notice shall:
  - 1. Be in writing;
  - 2. Identify the violation; and
  - 3. State the date by which the violation shall be corrected.
- B. Service of notice of the violation shall be as follows:
  - 1. By personal delivery to the owner, tenant or other person or legal entity in charge or possession of the property, or by leaving the notice at the usual place of residence of such persons with a person of sixteen (16) years or older; or
  - 2. By First Class Mail, addressed to any of these persons at a last known address. Service shall be deemed complete when the fact of the mailing is posted, provided that the First Class mail envelope is not returned by the Postal Authorities with an endorsement showing failure of delivery.

### **Section 3 - REMEDIES**

The following remedies shall apply to violations of the Zoning Code:

- A. PROHIBITIONS
  - 1. No person shall fail or refuse to comply with an order issued by the Administrator.
  - 2. No person shall construct, modify, alter, use or occupy any structure or land in violation of this Ordinance.
- B. PENALTIES
  - 1. Whoever violates any of the provisions of this Ordinance commits an Infraction. Any such violation constitutes a Class B Infraction, and upon proof of commission of the violation, is subject to a judgment of up to \$1,000 for such violation. In addition to that judgment, the Defendant shall be liable for costs as provided by Indiana Law and shall furthermore be liable for reasonable attorney fees and costs of litigation of the Town in prosecuting such a violation.

### C. CIVIL REMEDIES

The Town of Troy, the Administrator on behalf of the Town of Troy, or the Board of Zoning Appeals or the Plan Commission on behalf of the Town of Troy may, in addition to other remedies provided in this Ordinance, file suit for injunction against any person who is not in compliance with the provisions of this Ordinance, or if such action or omission on behalf of such person has caused damages to the Town of Troy for a judgment of damages.

## **ARTICLE VI - DISTRICT CHANGES AND REGULATION AMENDMENTS**

### **Section 1 - CONTENTS OF APPLICATIONS FOR ZONING MAP AMENDMENTS**

Applications for amendments to the Official Zoning Map shall contain at least the following information:

- A. Name, address and phone number of applicant;
- B. Present use;
- C. Present zoning district;
- D. Proposed use;
- E. Proposed zoning district;
- F. A vicinity map at a scale approved by the Administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the Administrator may require;
- G. A 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;
- H. A statement of the reason for the requested change; and
- I. A fee as established by the Council.

### **Section 2 - RECOMMENDATION BY PLAN COMMISSION**

Within sixty (60) days from the receipt of the proposed amendment, the Plan Commission shall act on the same and transmit its recommendation to Council. 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. The Plan Commission may extend said time for as much as one hundred and fifty (150) days in order to allow for additional technical consideration.

### **Section 3 - STANDARDS FOR ZONING MAP AMENDMENTS**

All recommendations by the Plan Commission for Official Zoning Map amendments shall be consistent with the Town's adopted plans, goals, and policies, and the following:

- A. Prior to making a recommendation to the Council concerning a proposed change in the zoning map, the Plan Commission shall consider and make written findings as to whether or not some or all of the following conditions exist:
  - 1. There has been a change in demand for land which alters the information upon which the Official Zoning Map is based.
  - 2. There has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the Town mapped as such on the Zoning Map, is inadequate to meet the demands for such development.
  - 3. Proposed uses cannot be accommodated by sites already zoned in the Town due to lack of transportation or utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district.
  - 4. There is an error in the text of this Ordinance or the Official Zoning Map as enacted.

- B. In addition to the findings required to be made by Section 3A, written findings shall be made by the Plan Commission on each of the following matters based on the evidence presented:
1. The extent to which the proposed amendment and proposed use are in compliance with and do not deviate from adopted plans, goals and policies.
  2. The suitability of the property in question for the uses permitted under the proposed zoning.
  3. The adequacy of public facilities such as transportation, utilities, and other required public services to serve the proposed use.
  4. The effect of the proposed rezoning on surrounding uses.
  5. The effect of the proposed rezoning on the economic viability of existing developed and vacant land within the Town.

#### **Section 4 - NOTICE OF PUBLIC HEARING**

Written notice of the hearing shall be provided by the applicant in accordance with the adopted Rules of Procedure of the Troy Plan Commission.



## **ARTICLE VII - NON-CONFORMING USES**

### **Section 1 - INTENT**

Within the districts established by this Ordinance or any amendment that may later be adopted, there exists lots, uses of land, structures and uses of structures and land in combination which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

### **Section 2 - AVOIDANCE OF UNDUE HARDSHIP**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction had been carried on diligently. Actual construction includes the placing of construction materials in permanent position and fastened in a permanent manner. 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 is carried out diligently.

### **Section 3 - SINGLE NON-CONFORMING LOTS OF RECORD**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance notwithstanding setback limitations imposed by other provisions of this Ordinance. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply irrespective of its area or dimensions, provided the applicable yard and other open space requirements satisfy the following requirements: that on lots of record which do not meet the minimum yard requirements for the corresponding district as of the effective date of this code, the minimum yard setback shall be determined by the proportional application of the requirement specified in that corresponding district. Proportional reduction in setback requirements shall be based on the proportional relationship between the minimum lot area in the particular zone district and area of the lot of record in question. However those modified setbacks shall not be greater than 50% of the minimum setback required in that district except as otherwise provided by this Ordinance.

Variances of requirements listed in Article XII through XIX, other than lot area or lot width, shall be obtained only through action of the Board of Zoning Appeals as provided in Article VIII, Sections 1 -4.

### **Section 4 - NON-CONFORMING LOTS OF RECORD IN COMBINATION**

If two or more lots or a combination of lots and portions of lots with continuous frontage in a single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of the parcel shall be used or sold in a manner which diminishes compliance with requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this Ordinance.

## **Section 5 - NON-CONFORMING USES OF LAND**

Where, at the time of adoption of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

- A. No such non-conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. No such non-conforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the uses at the effective date of adoption or amendment of this Ordinance.
- C. If any such non-conforming uses of land are discontinued or abandoned for more than one (1) year, except when government action impedes access to the premises, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which the land is located.
- D. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

## **Section 6 - NON-CONFORMING STRUCTURES**

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk or other requirements concerning the structure, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion may be altered to decrease its non-conformity;
- B. Should the non-conforming structure or a non-conforming portion of structure be damaged by more than 50% of its fair market value it may, only after approval by the Board of Zoning Appeals, be reconstructed as it previously existed. All remaining debris shall be cleared away and disposed of properly within two months of the time of destruction. If the structure is damaged 50% or less of the fair market, the non-conforming structure may be restored on the same footprint, provided such restoration shall begin within six months from the time of damage;
- C. Should the structure be moved for any reason, for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

## **Section 7 - NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION**

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 Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

- B. Any non-conforming use may be extended throughout any part of a building which was manifestly arranged or designed for the use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside the building;
- C. 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 finds 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 Ordinance;
- D. Any structure, or structures and land in combination, in or on which a non- conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;
- E. When a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned for more than one (1) year, except when government action impedes access to the premises, the structure or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located;
- F. 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.

## **Section 8 - REPAIRS AND MAINTENANCE**

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content, existing when it became non-conforming, shall not be increased. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the officials.

## **Section 9 - CONDITIONAL USE PROVISIONS; NOT NON-CONFORMING USES**

Any use which is permitted as a conditional use in a district shall not be deemed a non-conforming use in such district but shall, without further action, be considered a conforming use.

## **ARTICLE VIII - VARIANCES**

### **Section 1 - AUTHORIZATION FOR VARIANCES**

The Board of Zoning Appeals may authorize, upon appeal, in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where the following standards are met and, owing to special conditions, a literal enforcement of the provisions of this Ordinance 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 Ordinance would result in unnecessary hardship. Variances in use are strictly prohibited.

- A. *Conditions prevailing.* Where there are exceptional or extraordinary circumstances or conditions, where the literal enforcement of the requirements of this Ordinance would involve practical difficulty or would cause unnecessary hardship, and where the literal enforcement of this Ordinance is unnecessary to carry out the spirit and purpose of this Ordinance, the Board shall have power to relieve such hardship. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use it as it may deem necessary in the interest of the furtherance of the purpose of the Ordinance and in the public interest. In authorizing a variance, with attached conditions, the Board shall require such evidence and guarantee or bond as it may deem to be necessary, to enforce compliance with the conditions attached.
- B. *Findings of the Board.* In accordance with Indiana Code 37-7-4-918.5, no such variance of the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board makes a written determination, that ALL of the following facts and conditions exist:
  - 1. The approval of a variance 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 will not interfere substantially with the adopted Comprehensive Plan of the Town of Troy.

### **Section 2 - APPLICATION AND STANDARDS FOR VARIANCES**

The following shall apply to the application for a variance:

- A. A variance from the terms of this Ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Administrator and the Board containing:
  - 1. Name, address and phone number of applicant;
  - 2. Legal description of property;
  - 3. Description of nature of variance requested; and

4. A narrative statement demonstrating that the requested variance conforms to the standards.
- 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 facts and conditions imposed by Section 1-B hereof have been met by the applicant.

### **Section 3 - SUPPLEMENTARY CONDITIONS AND SAFEGUARDS**

In granting any appeal or variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of the 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 Ordinance.

### **Section 4 - PUBLIC HEARING BY THE BOARD OF ZONING APPEALS**

The Board of Zoning Appeals shall hold a public hearing in accordance with its adopted rules of procedures after the receipt of an application for an appeal or variance from the Administrator or an applicant.



## **ARTICLE IX - CONDITIONAL USES**

### **Section 1 - AUTHORIZATION FOR CONDITIONAL USES**

The Board of Zoning Appeals may authorize, upon application, and receipt of the recommendation of the Plan Commission, conditional uses as delineated in Articles III, XII through XXI. Such conditional use requests shall first be submitted to the Plan Commission for review and shall further conform to the procedures and requirements of Article IX, Sections 1 through 10, inclusive.

### **Section 2 - APPLICATION FOR A CONDITIONAL USE APPROVAL**

An application for conditional use shall be filed with the Administrator by at least one owner, owner's agent or lessee of property for which such conditional use is proposed. Upon the Administrator's acceptance for filing of the application, the Administrator shall refer the application to the Plan Commission. The Plan Commission shall review the application, in accordance with its rules of procedure, and either favorably recommend, unfavorably recommend, or submit no recommendation concerning said application to the Board of Zoning Appeals.

At a minimum, the application shall contain the following information:

- A. Name, address and phone number of applicant;
- B. Legal description of property;
- C. Description of existing use;
- D. Zoning district;
- E. Description of proposed conditional use;
- F. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, adjacent buildings and their uses, and such other information as the Board may require to determine if the proposed conditional use meets the intent and requirements of this part;
- G. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, odor and fumes 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; and
- H. Names and mailing addresses of all contiguous and adjoining properties.
- I. If a Communication Facility, then written approval or a written statement of no objection from all relevant federal and state agencies including but not limited to the Federal Aviation Administration, the Federal Communications Commission, the United States Environmental Protection Agency, and the Indiana Department of Environmental Management.

### **Section 3 - GENERAL STANDARDS FOR CONDITIONAL USES**

The Board of Zoning Appeals or Plan Commission shall review the particular facts and circumstances of each proposed use in terms of all the following standards and find evidence to determine whether the use at the proposed location:

- A. Is in fact a conditional use as established under the provisions of Articles XII through XXI, Article III, Section 8(b), or is a Communication Facility;

- B. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Town's Comprehensive Plan and/or this 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 cost 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 or odors; and
- 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.
- I. Whether the proposed Communication Facility minimizes land use impacts as being designed to accommodate future co-location by other such facilities, thus reducing the total number of such future facilities.
- J. The extent to which the Communication Facility has been masked to better blend the surroundings and reduce the naked visual impact.

#### **Section 4 - COMPLIANCE WITH THE SENSITIVE AREAS OVERLAY ZONE**

The conditional permit issued must comply with all the provisions of Article XXIV Sensitive Areas Overlay Zone, if the application for a conditional use permit is in a location designated as falling within the Overlay Zone. The Board of Zoning Appeals should refer to the Zoning Map to ascertain whether the application is within the Sensitive Areas Overlay Zone.

If the Board of Zoning Appeals determines the site should be reviewed under the provisions of the Sensitive Areas Overlay Zone, then the Board of Zoning Appeals shall submit the proposed conditional use application to the Plan Commission for review and recommendation. The Commission shall return the application together with written report of its review and recommendations as soon as possible, but in no case later than sixty (60) days after submission.

#### **Section 5 - COMPLIANCE WITH ARTICLE XXV: GRADING AND SOIL EROSION CONTROL**

The conditional permit issued will comply with all the provisions in Article XXV, Grading and Soil Erosion Control, if applicable.

#### **Section 6 - SUPPLEMENTARY CONDITIONS AND SAFEGUARDS**

In granting any conditional use, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of the conditions and safeguards, when made a

part of the terms under which the conditional use is granted, shall be deemed a violation of this Ordinance and provide cause to revoke a conditional use granted.

In granting any conditional use permit, the Board of Zoning Appeals may impose such conditions as it may deem necessary to protect the public welfare and protect the character of the neighboring properties. Such conditions may include, but shall not be limited to, the regulation of:

- A. Setbacks
- B. Screening and buffers
- C. Parking
- D. Hours of operation
- E. Landscaping and vegetation
- F. Access and traffic
- G. Glare
- H. Vibration
- I. Odors
- J. Dust
- K. Smoke
- L. Noise

## **Section 7 - HOME OCCUPATIONS**

Home occupations shall be subject to the following conditions in addition to use regulations in various districts:

- A. Said home occupation shall be clearly incidental and subordinate to the use of the property for residential purposes;
- B. Not more than the equivalent of twenty-five (25) percent of the gross floor area of the dwelling shall be for a home occupational use;
- C. The external appearance of the structure in which the use is conducted shall not be altered. Furthermore, no external alteration, construction or reconstruction of premises to accommodate the use shall be permitted;
- D. There shall be no outside storage of any kind related to the home occupational use;
- E. No expansion of existing off-street parking shall be permitted. Furthermore, no additional parking burden, due to the home occupational use, shall be created;
- F. No equipment, process, materials or chemicals shall be used which create offensive noises, vibration, smoke, dust, odor, heat, glare, x-rays, radiation or electrical disturbances;
- G. No retail sales of any products shall occur on the premises; and
- H. Not more than one (1) person, who is not a resident of the premises, may participate in the home occupation as an employee or volunteer.

## **Section 8 - MOBILE HOME PARKS**

Mobile home parks, where permitted, are subject to the following conditions:

- A. *Intent.* It is the intent of this Section to regulate the location of, and to encourage, stabilize and protect the development of well planned mobile home parks.
- B. *Approval Procedures.* Mobile home parks shall be permitted only as a conditional use in the MF District and shall be developed according to the general standards and regulations stated and referenced in this chapter.
- C. *General Standards.* Mobile Home Parks shall:
  - 1. 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 area;
  - 2. Not be hazardous or detrimental to existing or future neighboring uses;
  - 3. Be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage, refuse disposal and schools; or that the persons or agencies responsible for the establishment of the proposed park shall be able to provide adequately any services;
  - 4. Be consistent with the intent and purpose of this Part and the Comprehensive Plan;
  - 5. Have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads;
  - 6. Not result in the destruction, loss or damage of natural features of major importance;
  - 7. Have a minimum size of not less than five acres;
  - 8. Have skirting installed within sixty days after the mobile home is placed on the lot.
- D. *Requirements.* Mobile home parks shall meet all local and state requirements having jurisdiction in this matter.

## **Section 9 - FAMILY CARE HOMES, CONVALESCENT CARE FACILITIES AND GROUP HOMES**

Family care homes, convalescent care facilities and group homes, where permitted, are subject to the following conditions:

- A. *General Provisions.* A convalescent care facility is permitted as a conditional use in the MF and MU residential districts. Group homes are permitted as a conditional use in the MU district. Family care homes are permitted as a conditional use in the MF and MU residential districts.
- B. *Dispersal.*
  - 1. The Administrator in the case of permitted uses, and the Board of Zoning Appeals in the case of conditional uses, shall exercise care that proposed homes and facilities do not violate the provisions of subsections (2) and (3) hereof. These provisions are intended to assure that such homes and facilities do not exceed the limited capacity of a neighborhood's existing social structure to accommodate them. These provisions are also intended to avoid an over concentration of such homes and facilities which may inadvertently create an institutional setting, and thus impede successful functioning of the homes and facilities;
  - 2. No more than a total of three homes or facilities shall be permitted on the same block face. No more than a total of three family or care facilities or group homes shall be permitted on the same block face; and

3. No home or facility shall be permitted if it is shown that such home or facility would increase the number of persons living in such homes beyond thirty-two persons, living within a radius of one-fourth mile of the applicant.
- C. *Home Appearance.* The outside appearance of a family care home, convalescent care facility or group home shall be designed and maintained to reflect a residential character within the neighborhood. There shall be no outside evidence of the residential nature of the home other than one sign not exceeding four inches by twelve inches, non-illuminated and mounted flat against the wall near the entrance door to the home, stating the owner's name.

## **Section 10 – ADULT ENTERTAINMENT**

Adult entertainment uses, where permitted subject to conditional use approval, are subject to the following conditions:

- A. *General Provisions.* Adult bookstores, adult theaters, massage parlors and other forms of adult entertainment, as defined in Article II-Definitions, are permitted only in the M Manufacturing District.
- B. *Separation.* Adult entertainment businesses shall be sited a minimum of five hundred (500) feet from residences, churches, parks, cemeteries, schools, libraries, child care facilities and municipal buildings.

## **Section 11 - EXPIRATION OF A CONDITIONAL USE**

A conditional use approval shall be deemed to authorize only one particular conditional use and the approval shall automatically expire if, for any reason, the conditional use shall cease for more than one (1) year.



## **ARTICLE X - GENERAL REQUIREMENTS**

### **Section 1**

The following chart sets forth these requirements for each district: minimum lot area; minimum lot width at the building set-back line; minimum lot frontage; set-back requirements; maximum height regulations; minimum floor area; and maximum lot coverage. Where no requirement is listed in the chart for a specific district, then the requirements set forth in the particular Article for that district shall control.

<b>Requirements</b>	<b>Zoning District</b>		
	<b>AF</b>	<b>RH</b>	<b>SF</b>
Minimum Lot Area (sq. ft.)	13,086	13,086	7,200
Minimum Lot Width at the Building Set-Back Line (ft.)	99	99	55
Minimum Lot Frontage (ft.)	99	99	55
Front Yard Set-Back Requirements (ft.)	10 <sup>a</sup>	10 <sup>a</sup>	10 <sup>a</sup>
Rear Yard Set-Back Requirements (ft.)	Principal Structure = 30 Accessory Structure = 2	Principal Structure = 30 Accessory Structure = 2	Principal Structure = 30 Accessory Structure = 2
Side Yard Set-Back Requirements (ft.)	Principal Structure = 5 Accessory Structure = 2	Principal Structure = 5 Accessory Structure = 2	Principal Structure = 5 Accessory Structure = 2
Maximum Height for Principal Structures (ft.)	35 <sup>b</sup>	35 <sup>b</sup>	35 <sup>b</sup>
Maximum Height for Accessory Structures (ft.)	15	15	15
Minimum Floor Area (sq. ft.)	1,200	1,200	850
Maximum Lot Coverage	30%	30%	30%
Maximum Floor Area Ratio	0.3	0.3	0.3
Maximum Density (dwelling units per acre)	3.333	3.333	6.050

Notes: (a) If the average setback on the block-face is greater, the greater setback shall apply.  
(b) See Article X, Section 5 for height exceptions.

Requirements	Zoning District		
	RMH	RD	MF
Minimum Lot Area (sq. ft.)	7,200	13,086	Single-family detached = 7,200 Single-family attached = 7,200 Two-family = 7,200 Multiple-family = 13,086 + 2,000 sq. ft. for each additional unit over 5
Minimum Lot Width at the Building Set-Back Line (ft.)	55	99	Single-family detached = 55 Single-family attached = 55 Two-family = 55 Multiple-family = 99
Minimum Lot Frontage (ft.)	55	99	Single-family detached = 55 Single-family attached = 55 Two-family = 55 Multiple-family = 99
Front Yard Set-Back Requirements (ft.)	10 <sup>a</sup>	10 <sup>a</sup>	10 <sup>a</sup>
Rear Yard Set-Back Requirements (ft.)	Principal Structure = 30 Accessory Structure = 2	Principal Structure = 30 Accessory Structure = 2	Principal Structure = 30 Accessory Structure = 2
Side Yard Set-Back Requirements (ft.)	Principal Structure = 5 Accessory Structure = 2	Principal Structure = 5 Accessory Structure = 2	Principal Structure = 5 Accessory Structure = 2
Maximum Height for Principal Structures (ft.)	35 <sup>b</sup>	35 <sup>b</sup>	40 <sup>b</sup>
Maximum Height for Accessory Structures (ft.)	15	15	15
Minimum Floor Area (sq. ft.)	Detached = 850 Mobile Home = 320 Attached = 500	Detached = 1000 Two-Family = 500	Single-family detached = 850 Single-family attached = 500 Mobile home in Mobile Home Park = 320 Two-Family = 500 Multi-Family: efficiency = 350 Multi-Family: 1 bedroom = 500 Multi-Family: 2 bedroom = 700 Multi-Family: 3 bedroom = 800 Multi-Family: 4 bedroom = 900
Maximum Lot Coverage	30%	30%	30%
Maximum Floor Area Ratio	0.3	0.3	0.3
Maximum Density (dwelling units per acre)	6.050	6.666	8.000

Notes: (a) If the average setback on the block-face is greater, the greater setback shall apply.  
(b) See Article X, Section 5 for height exceptions.

	<b>Zoning District</b> <b>(Non-Residential requirements listed below. See MF District for Residential requirements.)</b>		
<b>Requirements</b>	<b>MU</b>	<b>LC</b>	<b>HC</b>
Minimum Lot Area (sq. ft.)	5,445	5,445	13,068
Minimum Lot Width at the Building Set-Back Line (ft.)	55	55	99
Minimum Lot Frontage (ft.)	55	55	99
Front Yard Set-Back Requirements (ft.)	10 <sup>a</sup>	None <sup>a</sup>	None <sup>a</sup>
Rear Yard Set-Back Requirements (ft.)	Principal Structure = 30 Accessory Structure = 2	Principal Structure = 30 Accessory Structure = 2	Principal Structure = 10 Accessory Structure = 10
Side Yard Set-Back Requirements (ft.)	Principal Structure = 5 Accessory Structure = 2	Principal Structure = 5 Accessory Structure = 2	Principal Structure = 10 Accessory Structure = 10
Maximum Height for Principal Structures (ft.)	40 <sup>b</sup>	40 <sup>b</sup>	40 <sup>b</sup>
Maximum Height for Accessory Structures (ft.)	15	25	35
Maximum Lot Coverage	30%	50%	50%
Maximum Floor Area Ratio	Non-Residential = 0.30	Non-Residential = 0.40	Non-Residential = 0.60
Maximum Density (dwelling units per acre)	8.000	8.000	8.000

Notes: (a) If the average setback on the block-face is greater, the greater setback shall apply. If the non-residential structure abuts a residential district, the setback requirement of the residential district shall apply for the minimum lot width requirement. (Existing non-residential structures are exempt.)

(b) See Article X, Section 5 for height exceptions.

	<b>Zoning District</b>		
<b>Requirements</b>	<b>M</b>	<b>PL</b>	
Minimum Lot Area (sq. ft.)	13,086	5,445	
Minimum Lot Width at the Building Set-Back Line (ft.)	99	55	
Minimum Lot Frontage (ft.)	99	55	
Front Yard Set-Back Requirements (ft.)	50	10 <sup>a</sup>	
Rear Yard Set-Back Requirements (ft.)	Principal Structure = 40 Accessory Structure = 25	Principal Structure = 30 Accessory Structure = 2	
Side Yard Set-Back Requirements (ft.)	Principal Structure = 15 <sup>c</sup> Accessory Structure = 5 <sup>c</sup>	Principal Structure = 5 Accessory Structure = 2	
Maximum Height for Principal Structures (ft.)	Per development plan.	35 <sup>b</sup>	
Maximum Height for Accessory Structures (ft.)	Per development plan.	15	
Maximum Lot Coverage	50%	30%	
Maximum Floor Area Ratio	0.6	0.6	

Notes: (a) If the average setback on the block-face is greater, the greater setback shall apply.

(b) See Article X, Section 5 for height exceptions.

(c) When adjacent to a residential district the minimum side yard setback is 25 feet.

## **Section 2 - CONVERSION OF DWELLINGS INTO MORE UNITS**

A residence located in a RD, MF or MU district may be converted to accommodate an increased number of dwelling units provided:

- A. The yard dimensions still meet the yard dimensions required by this Ordinance for new structures in that district;
- B. The lot area per family equals the lot area requirements for new structures in that district;
- C. The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district;
- D. The conversion is in compliance with all other relevant Ordinances.

## **Section 3 - COMMUNITY OR CLUB SWIMMING POOLS**

Community and club swimming pools are permitted in any commercial or residential district, but shall comply with the following conditions and requirements:

- A. The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated;
- B. The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than fifty feet to any property line; and
- C. The swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access by children from the thoroughfare or adjacent properties. Such fence or wall shall not be less than five feet in height and maintained in good condition with a gate and lock.

## **Section 4 - REQUIRED TRASH AREAS**

All commercial, industrial and multi-family residential uses that provide trash and/or garbage collection areas shall be enclosed on at least three sides by a solid wall or fence a minimum of four feet in height or one foot higher than the receptacles therein if such area is not within an enclosed building or structure. Provisions for adequate vehicular access to and from such area or areas for collection of trash and/or garbage as approved by the Administrator shall be required.

## **Section 5 - SUPPLEMENTAL YARD AND HEIGHT REGULATIONS**

In addition to all yard regulations specified in the official schedule of district regulations and in other Articles of this Ordinance, the provisions of subsections A through E inclusive shall be used for interpretation and clarification.

### ***A. Visibility at Intersections***

On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and ten feet above the centerline grades of the intersecting streets within a triangle 20 feet from the intersection of the right-of-way lines.

### ***B. Yard Requirements for Two-Family and Multi-Family Dwellings***

Two-family and multi-family dwellings shall be considered as one building for the purpose of determining front, side and rear yard requirements. The entire group, as a unit, shall require one

front, one rear and two side yards as specified for dwellings in the appropriate district. Each individual building shall meet all yard requirements for the appropriate district as though it were on an individual lot.

*C. Architectural Projections*

Open structures such as porches, canopies, balconies, platforms, carports, covered patios and similar architectural projections shall be considered part of the building to which attached and shall not project into the required minimum front, side or rear yard.

*D. Exceptions to Height Regulations*

The height limitations contained in the official schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at the airport, except where such structures would violate the provisions of the National Electric Safety (NESC) Code, updates, amendments and supplements thereto.

## **Section 6 - FENCES, WALLS AND HEDGES**

Fences, walls, and hedges are permitted in all districts, subject to the following conditions:

**A. Location**

1. Fences shall be permitted in any yard. Walls shall not be located in the front yard. Furthermore, no wall shall project past the front building line of any principally permitted or conditionally permitted structure;

**B. Height**

1. Fences, walls, and hedges shall not exceed (above ground) four (4) feet in the front yard or six (6) feet in height for other yards for residential uses unless such fence, wall or hedge is used for screening purposes in which case its height shall not exceed six (6) feet or be less than four (4) feet;
2. Fences, walls, and hedges shall not exceed eight (8) feet in height for non-residential uses;

**C. Materials**

1. Fences shall not contain an electric charge;
2. Barbed wire shall only be permitted in the M Manufacturing District and only on the top of a perimeter fence;

**D. Sight Distance Requirements**

No fence, wall, or hedge shall violate the sight distance requirements found in Article X, Section 5(A) of the Zoning Ordinance.

## **Section 7 - SPECIAL PROVISIONS FOR COMMERCIAL AND INDUSTRIAL USES**

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious noxious or similar objectionable conditions which could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this Ordinance may be undertaken and maintained if there are acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits as established by the performance requirements in subsections A through I, inclusively.

**A. Fire Hazards**

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved in accordance with standards promulgated by the State Fire Marshal.

**B. Electrical Disturbances**

No activity shall emit electrical disturbances adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance in accordance with regulations established by the Federal Communications Commission (FCC).

**C. Air Pollution**

No use shall discharge across the lot lines fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter or other air pollutants in such concentration so as to be detrimental to health, animals, vegetation or property, or conflict with the air quality requirements and regulations established by the State of Indiana.

**D. Noise**

No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness or vibration. Said noise shall be muffled or other wise controlled so as not to become detrimental; provided, however, public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard. The Administrator shall be guided by the guidelines established by the U.S. Department of Housing and Urban Development (HUD).

**E. Glare**

Any operation producing intense light or heat, including high temperature processes such as combustion or welding shall not be visible beyond any lot line bounding the property wherein the use is conducted. All exterior lighting shall be positioned as to extend glare away from adjacent properties or right-of-way. Furthermore, no activity on private property shall generate light that creates a nuisance to surrounding properties, as determined by the Administrator.

**F. Hazardous Materials**

The storage, utilization and manufacture of solid, liquid and gaseous chemicals and other materials shall be permitted, subject to the standards and regulations of any local, state or federal agency having jurisdiction in this matter.

**G. Enforcement Provisions**

The Administrator, prior to the issuance of a Location Improvement Permit, may require the submission of statements and plans indicating the manner in which dangerous and objectionable elements involved in processing and in equipment operations are to be eliminated or reduced to acceptable limits and tolerances.

**H. Measurement Procedures**

Methods and procedures for the determination of the existence of any dangerous and objectionable elements shall conform to the standards and regulations of any local, state or federal agency having jurisdiction in this matter.

## **Section 8 - DRAINAGE PLAN**

Properties to be developed or redeveloped in any district are subject to the following conditions:



- A. Prior to issuance of a Location Improvement Permit, the Administrator shall require any person or persons (not exempt by Subsection C) proposing to develop or redevelop land to prepare and implement a site grading and drainage development plan which shall:
  1. Yield quantities of surface runoff from the development site at rates which are the same or less than before development as specified by Section 9;
  2. Not result in increasing potentials for sedimentation of lands, siltation of waters and flooding of watercourses at locations off-site; and
  3. Bear the seal of a Registered Engineer in the State of Indiana.
- B. No changes subject to regulation under this Ordinance shall be made in existing natural surface composition or sub-surface configuration of any land proposed for development or redevelopment within the lands unless one of the following is established:
  1. A determination is made according to Section 9 by the Administrator that implementation of an approved site grading and drainage development plan would not cause runoff impacts that would adversely affect the quality of existing land and water at any off-site locations, or;
  2. A plan for minimizing the harmful and damaging potentials of runoff impacts has been prepared and processed for approval by the Plan Commission;
  3. When deemed necessary by the Administrator, a runoff control plan shall be required as follows:
    - a. A runoff control plan shall identify how accelerated surface runoff water induced by site development is to be controlled within the runoff standards of Section 9.
- C. Any person or persons seeking approval to implement a residential subdivision development shall be exempted from preparing a runoff control plan according to Section 9 provided that they:
  1. Construct upon one lot or parcel at a time and there is no other construction occurring simultaneously on land or property adjacent to the proposed development site;
  2. Do not disrupt alter or expose more than 10,000 square feet of existing natural surface of total development site at a time; and
  3. Submit and follow a standard policy for controlling runoff impacts foreseen to result during and from present and future site development which is acceptable to the Town.

In any enforcement action, including an inquiry by the Administrator, the burden of proving an exemption from preparing a run-off control plan according to Section 9 of this Article shall be on the person or persons developing or redeveloping the land.

## **Section 9 - STORMWATER RUNOFF CONTROL PLANNING STANDARDS**

Site grading, drainage planning, and runoff control plans prepared in conjunction with proposed subdivision or land developments shall be based upon the following standards:

- A. Sediment deposition caused by accelerated stormwater runoff over a development site or by accelerated erosion due to the sloughing or sliding of surface soil that has been exposed by grading, dumping, stockpiling or other excavation related earth disturbances shall be retarded and confined within the boundaries of the development site.
- B. To control pollution of public waters by soil sedimentation from accelerated stream channel erosion and to control accelerated stormwater runoff from development areas, the increased peak rates of runoff shall be controlled such that:
  1. The peak rate of runoff from the critical storm and all more frequent storms occurring on the development area does not exceed the peak rate of runoff from the critical storm of

twenty four hour duration occurring on the same area under predevelopment conditions so that post-development runoff rates are no greater than the runoff rates from equivalent size storms under pre- development conditions;

2. The critical storm for a specific development area for the determination of storage requirements is determined as follows:
  - a. Determine by appropriate hydrologic method the total rate of runoff from the development area before and after development;
  - b. From the rate determined above, determine the percentage increase in rate of runoff due to development and using this percentage, select the critical storm from this table. If the percentage of increase in rate of runoff is:

Equal to or greater than	And less than	The critical storm for peak rate control shall be (years)
--	10%	1
10%	20%	2
20%	50%	5
50%	100%	10
100%	250%	25
250%	500%	50
500%		100

3. Appropriate methods which shall be used to determine changes in rates and volume of runoff as established by the U.S. Department of Agriculture, Engineering Division of the Soil Conservation Service, or equivalent methods as approved by the Town.

## **ARTICLE XI - DEVELOPMENT PLAN REVIEW GUIDELINES AND STANDARDS**

### **Section 1 - APPLICABILITY**

1. Authority for Development Plan Review and Authority for the Standards of Review are contained in Indiana Code 36-7-4-1400 (the series).
2. The Advisory Plan Commission has exclusive authority to approve, disapprove or modify a Development Plan for real property located within its jurisdiction pursuant to Indiana Code 36-7-4-1401.5 (b).
3. Wherever this Article (Article XI) may be in conflict with the Subdivision Control Ordinance, the Thoroughfare Ordinance or other laws, ordinances or regulations then the most restrictive language shall apply.
4. Development Plan Review shall apply for each Zoning District where it is specifically required or as required by the following general standards articulated in this Section 1.
5. This Article shall apply to new property development, except for subdivisions of four (4) single family detached dwelling units or less, and shall apply to the substantial expansion of existing structures, except for individual single family detached dwellings and two-family dwellings.
6. Substantial expansion of existing structures shall be defined based on the criteria established below:

<b>When the Existing Structure is...</b>	<b>A Substantial Expansion is...</b>
0-1,000 sq. ft. GFA*	50% or Greater addition of GFA
1,001-10,000 sq. ft. GFA	40% or Greater addition of GFA
10,001-25,000 sq. ft. GFA	30% or Greater addition of GFA
25,001-50,000 sq. ft. GFA	20% or Greater addition of GFA
50,001 sq. ft. GFA and larger	10% or Greater addition of GFA

\* GFA means Gross Floor Area

7. Furthermore, no building shall be erected or structurally altered on any lot or parcel in zones where a Development Plan is required, except in accordance with the regulations of this Article and an approved Development Plan. No Location Improvement Permit shall be issued prior to the approval of a required Development Plan. In cases determined by the Board of Zoning Appeals, a temporary Certificate of Occupancy permit may be issued with the posting of a bond, or other satisfactory security, as established by the Town Council.

### **Section 2 – CONTENTS OF DEVELOPMENT PLAN APPLICATION**

Before a location improvement permit is issued, one copy of the development plan at a scale no smaller than 1 inch to 100 feet shall be filed with the Administrator setting forth, identifying and locating the following:

1. The total area in the development;
2. The existing zoning of the property in question and/or all adjacent properties;
3. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned;

4. Existing topography with a maximum of ten (10) foot contour intervals with slopes in excess of 18% identified;
5. The proposed finished grade of the development shown by contours not larger than five (5) feet;
6. The locations of all existing and proposed buildings in the described parcels, the uses to be contained therein and the total number of buildings including dimensions, heights, gross floor area and number of stories;
7. Location and dimension of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, angles of stalls, grades, surfacing materials, drainage plans, and illumination of facilities;
8. All sidewalks and other open areas;
9. Location of all walls, fences, and buffer yards;
10. Location, size, height and orientation of all signs;
11. Location of all existing and proposed streets, highways and alleys;
12. Location of all other existing and proposed utilities including electric, gas, telephone, CATV, and storm drains;
13. All existing and proposed water and sanitary sewer lines indicating pipe sizes, types and grades;
14. The schedule of phasing of the project; and
15. Such other information as required by the Plan Commission to determine the conformance with this Ordinance.

### **Section 3 - COMPLIANCE WITH THE SENSITIVE AREAS OVERLAY ZONE**

The Development Plan Approval must comply with all of the provisions of Article XXIV (Sensitive Areas Overlay Zone) if the development plan application area is located within the Overlay Zone.

### **Section 4 - COMPLIANCE WITH GRADING AND SOIL EROSION CONTROL**

The development plan approval granted must comply with all of the provisions of Article XXIV (Grading and Soil Erosion Control).

Upon submission of the complete application for development plan review to the Administrator, the application shall be transmitted to the Plan Commission where they shall review the development plan pursuant to this Article. No public notice shall be required in conjunction with the Development Plan review. The Plan Commission shall review the development plan at either a regular or special meeting. A development plan may be referred by the Plan Commission to the Technical Advisory Committee for review and comment.

### **Section 6 - DEVELOPMENT PLAN REVIEW GUIDELINES**

The following principles shall guide the Development Plan review by the Plan Commission:

- A. The natural topographic and landscape features of the site shall be incorporated into the plan and the development whenever feasible;
- B. Buildings and open spaces should be in proportion and in scale with existing structures and spaces in the area within three hundred (300) feet of the development site;

- C. A site that has an appearance of being congested, over built or cluttered can evolve into a blighting influence and therefore such should not be congested, over built or cluttered;
- D. Open spaces should be readily accessible;
- E. Natural separation should be preserved or created on the site by careful planning of the streets and clustering of buildings using natural features and open spaces for separation. Existing vegetation removal should be kept to a minimum;
- F. Screening of intensive uses should be provided by utilizing landscaping, fences or walls to enclose internal areas;
- G. Buildings should be sited in an orderly, non-random fashion. Long, unbroken building facades should be avoided;
- H. In connection with the placement of buildings, the location should be oriented to maximize the privacy of the occupants of adjacent buildings;
- I. Street location and design shall conform to existing topographic characteristics.
- J. Cutting and filling shall be minimized in the construction of streets. Flat as possible grades shall be utilized proximate to intersections;
- K. Pedestrian circulation in non-residential areas should be arranged so that off- street parking areas are located within a convenient walking distance of the use being served.
- L. Handicapped parking should be located as near as possible to be accessible to the structure.
- M. Pedestrian and vehicular circulation should be separated as much as possible, through crosswalks designated by pavement markings, signalization or complete grade separation;
- N. Path and sidewalk street crossings should be located where there is a good sight distance along the road, preferably away from sharp bends or sudden changes in grade;
- O. Parking lots and garages should be located in such a way as to provide safe, convenient ingress and egress. Whenever possible there should be a sharing of curb cuts for more than one facility.
- P. Parking areas should be screened and landscaped and traffic islands should be provided to protect circulating vehicles and to break up the monotony of continuously paved areas;
- Q. The grading and excavation proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, scarring of the hillside, or any other geological instability which would affect health, safety and general welfare;
- R. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties. Storm water runoff from the development should be handled through detention and retention facilities;
- S. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides;
- T. Drive through establishments such as restaurants and banks should be located to allow enough automobile waiting space for peak hour operation without interference with other parking lot circulations; and
- U. Special attention shall be given to the placement of all public utilities and area lighting.

## **Section 7 - GENERAL STANDARDS AND FINDINGS NECESSARY FOR DEVELOPMENT PLAN REVIEW**

The Plan Commission shall review the particular facts and circumstances of each proposed Development Plan in terms of all the following standards and find evidence to determine whether the proposed Development Plan at the proposed location:

- A. Complies with the following conditions:
  - 1. Is in a Zoning District which requires Development Plan Review; and
  - 2. Is properly zoned for the uses proposed in the Development Plan Review Application; or
  - 3. Is a Communication Facility or Utility Facility which is exempt from the Zoning Ordinance by state statute?
- B. Will be harmonious, with and in accordance with, the general objectives, or with any specific objective of the Town's Comprehensive Plan and/or this 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 demonstrate that they will provide adequately any such services;
- F. Will not create excessive additional requirements at public cost 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 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.
- I. Whether the proposed Communication Facility minimizes land use impacts as being designed to accommodate future co-location by other such facilities, thus reducing the total number of such future facilities.
- J. The extent to which the Communication Facility or other exempt facility) has been masked to better blend with the surroundings and reduce the naked visual impact.

## **Section 8 - SIGNS**

The following guidelines apply to the application of signs in the Development Plan review process:

- 1. Signs shall be reviewed as part of the Development Plan review process;
- 2. The Plan Commission shall have the authority to modify sign regulations as part of the Development Plan.

## **Section 9 - RECORDING OF APPROVED DEVELOPMENT PLANS**

Upon final approval of a Development Plan by the Plan Commission, the applicant shall file with the County Recorder of Perry County a copy of the approved Development Plan. The Administrator shall not issue a Location Improvement Permit, or a Building Construction Permit, for any development for which



Development Plan Approval is a requirement without first verifying that the approved Development Plan has in fact been filed in the office of the Perry County Recorder.

## **ARTICLE XII - AF AGRICULTURAL FLOODPLAIN DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the AF Agricultural Floodplain District is to accommodate uses that are appropriate in the floodplain. Existing structures may be continued. Expanded or new structures must comply with all applicable floodplain regulations. All expanded or new enclosed structures must be located at least one foot above the 100-year floodplain. No expanded or new structures meant for public occupancy may be located in the floodway of the 100-year floodplain. All structures meant for public occupancy shall be served by a public water supply and by a central sewer system.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Agricultural
- B. Single-family detached dwellings
- C. Child Care Home Class I-Resident Operator or Child Care Home Class II-Resident Operator; providing, that the site, structure and operator are licensed by the State Division of Family and Children and the State Fire Prevention and Building Safety Commission and further providing that the site and structure meets all local building and land use codes and is served by a central water utility and a central sanitary sewer utility.

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Garages
- B. Sheds
- C. Swimming Pools
- D. Gazebos
- E. Fences and Walls: see Article X, Section 6 for regulations
- F. Compost Facilities
- G. Decks
- H. Carports
- I. Signs
- J. Solar Panels
- K. Off Street Parking of Recreational Vehicles
- L. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Non-Commercial Recreation
- B. Home Occupation
- C. Public and Quasi-Public Uses
- D. Educational Institutions

E. Religious Places of Worship

F. Child Day Care Home Class I-Non resident Operator or Child Care Home Class II - Nonresident Operator

**Section 5 - LAND USE INTENSITY**

A. The number of dwelling units per acre shall not exceed 3.333.

## **ARTICLE XIII - RH RESIDENTIAL HISTORIC DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the RH Residential Historic District is to protect the historic residential structures within the Troy Historic District. Any new homes must be compatible with existing homes in the Historic District. No manufactured or mobile homes are allowed in this district. Modular homes may be allowed in this district if they are compatible with existing historic homes, such as having a two-story frame. All structures shall be served by a central water utility and central sanitary sewer utility.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Single-family detached dwellings
- B. Child Care Home Class I-Resident Operator or Child Care Home Class II-Resident Operator; providing, that the site, structure and operator are licensed by the State Division of Family and Children and the State Fire Prevention and Building Safety Commission and further providing that the site and structure meets all local building and land use codes and is served by a central water utility and a central sanitary sewer utility.

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Garages
- B. Sheds
- C. Swimming Pools
- D. Gazebos
- E. Fences and Walls: see Article X, Section 6 for regulations
- F. Compost Facilities
- G. Decks
- H. Carports
- I. Signs
- J. Solar Panels
- K. Off Street Parking of Recreational Vehicles
- L. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Non-Commercial Recreation
- B. Home Occupation
- C. Public and Quasi-Public Uses
- D. Educational Institutions
- E. Religious Places of Worship
- F. Agricultural
- G. Child Day Care Home Class I-Non resident Operator or Child Care Home Class II - Nonresident Operator

**Section 5 - LAND USE INTENSITY**

- A. The number of dwelling units per acre shall not exceed 3.333.

## **ARTICLE XIV - SF SINGLE-FAMILY RESIDENTIAL DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the SF Single-Family Residential District is to accommodate traditional low density residential development. Traditional homes of one or two stories are appropriate in this zone. Modular homes and manufactured homes are allowed in this district if they are placed on a permanent foundation. In addition to being on a permanent foundation, modular and manufactured homes shall have sloped roofs with overhangs and traditional window frames. All structures shall be served by a central water utility and central sanitary sewer utility.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- B. Single-family detached dwellings
- C. Child Care Home Class I-Resident Operator or Child Care Home Class II-Resident Operator; providing, that the site, structure and operator are licensed by the State Division of Family and Children and the State Fire Prevention and Building Safety Commission and further providing that the site and structure meets all local building and land use codes and is served by a central water utility and a central sanitary sewer utility.

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Garages
- B. Sheds
- C. Swimming Pools
- D. Gazebos
- E. Fences and Walls: see Article X, Section 6 for regulations
- F. Compost Facilities
- G. Decks
- H. Carports
- I. Signs
- J. Solar Panels
- K. Off Street Parking of Recreational Vehicles
- L. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Non-Commercial Recreation
- B. Home Occupation
- C. Public and Quasi-Public Uses
- D. Educational Institutions
- E. Religious Places of Worship



F. Agricultural

G. Child Day Care Home Class I-Non resident Operator or Child Care Home Class II - Nonresident Operator

**Section 5 - LAND USE INTENSITY**

A. The number of dwelling units per acre shall not exceed 6.050.

## **ARTICLE XV - RMH RESIDENTIAL MOBILE HOME DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the RMH Residential Mobile Home District is to allow the mixing of mobile homes and other types of single-family housing, including single-family detached dwellings and single-family attached dwellings such as patio homes and zero lot-line homes (two units with one common wall or four units with two common walls). All structures shall be served by a central water utility and central sanitary sewer utility.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Single-family detached dwellings, including modular homes, manufactured homes and mobile homes.
- B. Single-family attached dwellings, including patio homes and zero lot-line homes.
- C. Child Care Home Class I-Resident Operator or Child Care Home Class II-Resident Operator.

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Garages
- B. Sheds
- C. Swimming Pools
- D. Gazebos
- E. Fences and Walls: see Article X, Section 6 for regulations
- F. Compost Facilities
- G. Decks
- H. Carports
- I. Signs
- J. Solar Panels
- K. Off Street Parking of Recreational Vehicles
- L. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Noncommercial Recreation
- B. Home Occupations
- C. Bed and Breakfast Establishments
- D. Child Care Home Class I-Nonresident Operator or Child Care Home Class II-Nonresident Operator
- E. Public and Quasi-public Uses
- F. Educational Institutions

- G. Religious Places of Worship
- H. Agricultural
- I. Family Care Home
- J. Convalescent Care Facility

## **Section 5 - LAND USE INTENSITY**

The number of dwelling units per acre shall not exceed 6.050.

## **ARTICLE XVI - RD RESIDENTIAL DUPLEX DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the RD Residential Duplex District is to allow single-family detached dwellings and two-family dwellings (commonly known as duplexes). Any new homes must be compatible with existing homes in the RH District, if the lot abuts the RH District. No manufactured or mobile homes are allowed in this district. Modular homes may be allowed in this district, and must be compatible with existing historic homes if the lot abuts the RH District. All structures shall be served by a central water utility and central sanitary sewer utility.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Single-family detached dwellings, including modular homes.
- B. Two-family dwellings.
- C. Child Care Home Class I-Resident Operator or Child Care Home Class II-Resident Operator.

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Garages
- B. Sheds
- C. Swimming Pools
- D. Gazebos
- E. Fences and Walls: see Article X, Section 6 for regulations
- F. Compost Facilities
- G. Decks
- H. Carports
- I. Signs
- J. Solar Panels
- K. Off Street Parking of Recreational Vehicles
- L. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Noncommercial Recreation
- B. Home Occupations
- C. Bed and Breakfast Establishments
- D. Child Care Home Class I-Nonresident Operator or Child Care Home Class II-Nonresident Operator
- E. Public and Quasi-public Uses
- F. Educational Institutions

- G. Religious Places of Worship
- H. Agricultural
- I. Family Care Home
- J. Convalescent Care Facility

## **Section 5 - LAND USE INTENSITY**

The number of dwelling units per acre shall not exceed 6.666.

## **ARTICLE XVII - MF RESIDENTIAL MULTI- FAMILY DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the MF Residential Multi-Family District is to encourage higher density residential development and to enable a variety of housing types, including single-family detached dwellings, single-family attached dwellings such as patio homes and zero lot-line homes (two units with one common wall or four units with two common walls), two-family dwellings (commonly known as duplexes) and multiple-family dwellings. Modular homes are allowed in this district, but no manufactured or mobile homes are allowed in this district unless located in a mobile home park. All structures shall be served by a central water utility and central sanitary sewer utility.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Single-family detached dwellings
- B. Single-family attached dwellings such as patio homes and zero lot-line homes (two units with one common wall or four units with two common walls).
- C. Two-family dwellings
- D. Multiple-family dwellings
- E. Mobile home in a mobile home park
- F. Child Care Home Class I-Resident Operator or Child Care Home Class II-Resident Operator

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Garages
- B. Sheds
- C. Swimming Pools
- D. Gazebos
- E. Fences and Walls: see Article X, Section 6 for regulations
- F. Compost Facilities
- G. Decks
- H. Carports
- I. Signs
- J. Solar Panels
- K. Off Street Parking of Recreational Vehicles
- L. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

### **Section4 - CONDITIONALLY PERMITTED USES**

- A. Mobile Home Park
- B. Non-commercial Recreation



- C. Home Occupations
- D. Child Care Home Class I-Nonresident Operator or Child Care Home Class II-Nonresident Operator
- E. Convalescent Care Facility
- F. Clubs
- G. Public and Quasi-Public Uses
- H. Educational Institutions
- I. Religious Places of Worship
- J. Hospitals
- K. Family Care Home

## **Section 5 - DEVELOPMENT PLAN REVIEW AND CONFORMANCE**

All uses, except single and two-family dwellings, not a part of a platted subdivision require Development Plan Review as required under this Ordinance in Article XI.

## **Section 6 - LAND USE INTENSITY**

The number of dwelling units per acre shall not exceed 8.0.

## **ARTICLE XVIII - MU - MIXED USE DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the Mixed Use District is to accommodate a mixture of residential and business uses. Residential and business uses may be mixed within the same building or structure, or on the same lot. A variety of businesses which are compatible with residential uses may be permitted. This district is intended to be planned as a transitional area between commercial and residential uses. Multi-family housing is encouraged on upper stories of shops and offices. All structures shall be served by a central water utility and central sanitary sewer utility.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Single-family detached dwellings
- B. Single-family attached dwellings such as patio homes and zero lot-line homes (two units with one common wall or four units with two common walls).
- C. Two-family dwellings
- D. Multiple-family dwellings
- E. Mobile home in a mobile home park
- F. Child Care Home Class I-Resident Operator or Child Care Home Class II-Resident Operator

### **Section 3 - PERMITTED ACCESSORY USES**

Permitted accessory uses are as follows:

- A. Garages
- B. Sheds
- C. Swimming Pools
- D. Gazebos
- E. Fences and Walls: see Article X, Section 6 for regulations
- F. Compost Facilities
- G. Decks
- H. Carports
- I. Signs
- J. Solar Panels
- K. Off Street Parking of Recreational Vehicles
- L. Off-Street Parking and Loading
- M. Refuse Facilities: see Article X, Section 4 for regulations
- N. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

#### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Mobile Home Park
- B. Non-Commercial Recreation
- C. Personal Services
- D. Offices
- E. Home Occupations
- F. Bed and Breakfast Establishments
- G. Deleted
- H. Convalescent Care Facility
- I. Family Care Home
- J. Group Home Facility
- K. Clubs
- L. Public and Quasi-Public Uses
- M. Educational Institutions
- N. Religious Places of Worship
- O. Hospitals
- P. Mortuary or Funeral Home
- Q. Small Retail Business
- R. Personal Storage Facilities.

#### **Section 5 - MINIMUM LOT AREA**

Single-family, two-family and multi-family shall follow the provisions of Article XVII (MF). A. Non-residential uses shall have at least 5,445 square feet.

#### **Section 6 - MINIMUM LOT WIDTH AT THE BUILDING SETBACK LINE**

Single-family, two-family and multi-family shall follow the provisions of Article XVII (MF). For non-residential uses, the minimum lot width at the building setback line shall be not less than 55 feet.

#### **Section 7 - MINIMUM LOT FRONTAGE**

Single-family, two family and multi-family shall follow the provisions of Article XVII (MF). For non-residential uses, the minimum frontage shall not be less than 55 feet.

#### **Section 8 - LAND USE INTENSITY**

The following land use intensity standards shall apply:

- A. The number of dwelling units per acre shall not exceed 8; and
- B. Non-residential uses shall have a floor area ratio not to exceed 0.30.

## **Section 9 - DEVELOPMENT PLAN REVIEW**

All uses, except single and two-family dwellings, not a part of a platted subdivision shall require Development Plan review as required under this Ordinance in Article XI.

## **ARTICLE XIX - LC LIMITED COMMERCIAL DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the LC Limited Commercial District is to encourage small-scale commercial buildings that are compatible with adjacent residential uses and that are no more than two stories tall, and to provide for uses to accommodate the sale of convenience retail goods and personal services purchased frequently for daily or weekly needs. Small scale shops and offices shall be encouraged in this district.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Single-Family Dwellings (detached or attached)
- B. Two-Family Dwellings
- C. Multiple-Family Dwelling Units
- D. Commercial Recreation
- E. Small Retail Business
- F. Personal Services
- G. Offices
- H. Banks and financial institutions without drive-through windows
- I. Drinking and Eating Establishments without drive-through windows
- J. Restaurants without drive-through windows
- K. Convenience Stores
- L. Automotive Filling Stations
- M. Printing and Publishing
- N. Public and Quasi-Public Uses
- O. Educational Institutions
- P. Religious Places of Worship
- Q. Bed and Breakfast Establishments
- R. Clubs
- S. Veterinary Office or Hospital (no exterior kennels)
- T. Mortuary or Funeral Home
- U. Medical Facility or Clinic
- V. Child Care Center or Child Care Home Class I-Resident Operator or Child Care Home Class II-Resident Operator or Child Care Home Class I-Nonresident Operator or Child Care Home Class II-Nonresident Operator

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Signs: see Article XXVII.
- B. Off-Street Parking and Loading: see Article XXVI.

- C. Fences and Walls: see Article X, Section 6 for regulations
- D. Refuse Facilities (Dumpsters): see Article X, Section 4 for regulations
- E. Garages
- F. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

#### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Personal Storage Facilities
- B. Supermarkets

#### **Section 5 - MINIMUM LOT AREA**

Single-family, two-family and multi-family shall follow the provisions of Article XVII (MF). A. Non-residential uses shall have at least 5,445 square feet.

#### **Section 6 - MINIMUM LOT WIDTH AT THE BUILDING SETBACK LINE**

Single-family, two family and multi-family shall follow the provisions of Article XVII (MF). For non-residential uses, the minimum lot width at the building setback line shall be not less than 55 feet.

#### **Section 7 - MINIMUM LOT FRONTAGE**

Single-family, two family and multi-family shall follow the provisions of Article XVII (MF). For non-residential uses, the minimum frontage shall not be less than 55 feet.

#### **Section 8 - LAND USE INTENSITY**

The following land use intensity standards shall apply:

- A. The number of dwelling units per acre shall not exceed 8; and
- B. The floor area ratio for properties shall not exceed 0.40.

#### **Section 9 - DEVELOPMENT PLAN REVIEW**

This is a requirement for all proposed uses in this district, for permitted and conditionally permitted uses, All Development Plans shall be reviewed by the Planning Commission according to the standards, criteria and regulations of this Ordinance in Article XI.

## **ARTICLE XX – HC HEAVY COMMERCIAL DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the HC Heavy Commercial District to accommodate the full range of commercial, retail and office uses and to include intensive and land extensive commercial uses that may not be compatible in a residential neighborhood.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Single-Family Dwellings (detached or attached)
- B. Two-Family Dwellings
- C. Multiple-Family Dwelling Units
- D. Commercial Recreation
- E. Retail Business
- F. Personal Services
- G. Offices
- H. Banks and financial institutions with or without drive-through windows
- I. Drinking and Eating Establishments with or without drive-through windows
- J. Restaurants with or without drive-through windows
- K. Convenience Stores
- L. Automotive Filling Stations
- M. Printing and Publishing
- N. Public and Quasi-Public Uses
- O. Educational Institutions
- P. Religious Places of Worship
- Q. Bed and Breakfast Establishments
- R. Clubs
- S. Retail Business
- T. Food Processing
- U. Personal Storage Facility
- V. Hotel or Motel
- W. Automobile Repair
- X. Automobile, Truck, Trailer Sales and Service
- Y. Drive-in Establishments including Banks and Financial Institutions, Restaurants and Theaters
- Z. Plant Greenhouse and Nurseries
- AA. Wholesale Establishments
- BB. General Building Trade Services (including contractor's office buildings and yards provided materials not for public sale are screened from the public right-of-way)



- CC. Veterinary Office or Hospital
- DD. Medical Facility
- EE. Hospitals
- FF. Mortuary or Funeral Home
- GG. Child Care Center
- HH. Personal Storage Facilities

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Outside Storage Facilities
- B. Outside Storage Display
- C. Silos
- D. Off-Street Parking and Loading: see Article XXVI.
- E. Fences and Walls: see Article X, Section 6 for regulations
- F. Refuse Facilities (Dumpsters): see Article X, Section 4 for regulations
- G. Garages
- H. Uses which are clearly incidental to the Principally Permitted Uses on the Lot

### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Kennels
- B. Truck Terminals

### **Section 5 - SCREENING REQUIREMENTS**

When adjacent to a residential district, the front yard setback of the residential district shall be observed for a distance of 99 feet from the side lot line. Side and rear yards when adjacent to a residential district must be buffered and screened. A strip of at least ten (10) feet in width and running the length of the side and rear yards shall be landscaped and planted for screening purposes.

### **Section 6 - SIGNAGE**

Signage requirements are specified in Article XXVII, Signs.

### **Section 7 - TRAFFIC ACCESS/CURB CUT REQUIREMENTS**

The purpose of this Section is to maintain acceptable and safe traffic operating conditions by the location and design of access points. This encourages the uninterrupted flow of traffic and avoids vehicular and pedestrian conflicts.

### **Section 8 - LANDSCAPING REQUIREMENTS**

- A. Landscaping shall be used to screen parking areas from adjacent properties to the sides and rear of the property;
- B. Large, unbroken parking areas shall be avoided. Traffic, or directional islands in combination with trees and plantings shall be used to divide large parking areas into smaller segments; and
- C. Waste receptacles shall be screened on all sides by a six-foot high solid fence or wall.

## **Section 9 - MINIMUM LOT AREA**

Single-family, two-family and multi-family shall follow the provisions of Article XVII (MF). A. Non-residential uses shall have at least 13,068 square feet.

## **Section 10 - MINIMUM LOT WIDTH AT THE BUILDING SETBACK LINE**

Single-family, two family and multi-family shall follow the provisions of Article XVII (MF). For non-residential uses, the minimum lot width at the building setback line shall be not less than 99 feet.

## **Section 11 - MINIMUM LOT FRONTAGE**

Single-family, two family and multi-family shall follow the provisions of Article XVII (MF). For non-residential uses, the minimum frontage shall not be less than 99 feet.

## **Section 12 - LAND USE INTENSITY**

The following land use intensity standards shall apply:

- A. The number of dwelling units per acre shall not exceed 8; and
- B. The floor area ratio for properties shall not exceed 0.60.

## **Section 13 - DEVELOPMENT PLAN REVIEW**

This is a requirement for all proposed uses in this district, for permitted and conditionally permitted uses. All Development Plans will be reviewed by the Plan Commission according to the standards, criteria and regulations of Article XI.

## **ARTICLE XXI - M MANUFACTURING DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the M Manufacturing District is to accommodate manufacturing and industrial establishments and related uses.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Personal Services
- B. Offices
- C. Automotive Repair
- D. Automotive Filling Station
- E. Manufacturing
- F. Wholesale Warehousing
- G. Food Processing
- H. Transport Terminals
- I. Printing and Publishing
- J. Recycling Centers

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Outside Storage Facilities
- B. Outdoor Storage Display
- C. Silos
- D. Signs: see Article XXVII
- E. Off-Street Parking and Loading: see Article XXVI
- F. Fences and Walls: see Article X, Section 6 for regulations
- G. Refuse Facilities (Dumpsters): see Article X, Section 4 for regulations
- H. Garages
- I. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot.

### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Non-Commercial Recreation
- B. Commercial Recreation
- C. Restaurants
- D. Child Day Care Facilities
- E. Clubs
- F. Public and Quasi-Public Uses
- G. Storage Facilities
- H. Adult Entertainment

## **Section 5 - MINIMUM LOT AREA AND WIDTH**

The minimum lot area for properties in the M Manufacturing District shall not be less than 13,068 square feet with a width of not less than 99 feet.

## **Section 6 - SETBACK REQUIREMENTS**

- A. The minimum front yard setback for properties in the M Manufacturing District shall not be less than 50 feet from the front lot line;
- B. The minimum side yard setback for properties in the M Manufacturing District shall be as follows:
  - 1. Principal structures shall not be closer than 15 feet from the side lot line;
  - 2. Accessory structures shall not be closer than 5 feet from the side lot line;
  - 3. Except that when adjacent to a residential district, the side yard setback shall be not less than 25 feet;
- C. The minimum rear yard setback for properties in the M Manufacturing District shall not be less than 40 feet from the rear lot line.

## **Section 7 - SCREENING REQUIREMENTS**

Side and rear yard areas, when adjacent to a residential district, shall be screened. A strip of at least twenty-five (25) feet in width and running the length of the side and rear parcel shall be landscaped and planted for screening purposes.

## **Section 8 - MAXIMUM HEIGHT REGULATIONS**

The maximum height of the principal and accessory structure shall be determined as part of the Development Plan.

## **Section 9 - MAXIMUM LOT COVERAGE**

The maximum lot coverage of any property in the M Manufacturing District to be covered by principal and accessory uses is 50 percent.

## **Section 10 - LAND USE INTENSITY**

The floor area ratio for properties in the M Manufacturing District shall not exceed 0.60.

## **Section 11 - DEVELOPMENT PLAN REVIEW**

This is a requirement for all proposed uses in this district, for permitted and conditionally permitted uses. All Development Plans will be reviewed by the Planning Commission according to the standards, criteria and regulations of Article XI.

## **ARTICLE XXII - PUD - PLANNED UNIT DEVELOPMENT**

### **Section 1 - OBJECTIVES FOR PLANNED UNIT DEVELOPMENTS**

It is the policy of the Town to promote progressive development of land and construction thereon by encouraging Planned Unit Developments to achieve:

- A. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks and area requirements;
- B. A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services;
- C. A development pattern which preserves and utilizes natural topography and geologic features, trees and other vegetation, and prevents the disruption of natural drainage patterns;
- D. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets;
- E. A development pattern in harmony with land use density, transportation facilities and community facilities objectives of the Comprehensive Plan; and
- F. A more efficient use of public utilities.

The Town is also prepared to accept a greater population density in undeveloped areas than that reflected by present zoning provided the developer can demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.

### **Section 2 - PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENTS**

Because of the special characteristics of Planned Unit Developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Article and those of the other Articles of this Ordinance, the provisions of this Article shall prevail. Subjects not covered by this Article shall be governed by the respective provisions found elsewhere in this Ordinance.

### **Section 3 - APPLICATION AND PROCEDURE**

Upon approval by the Plan Commission and Council, a Planned Unit Development District may be applied to any existing residential, commercial or MU district. Upon approval of a final development plan, the Official Zoning Map shall be annotated for the land area involved so that the district name includes the notation "PUD." Planned Unit Development Districts shall be approved by the Plan Commission and Council in the manner provided in Article XXII, Section 17 through 29 inclusive.

### **Section 4 - USES PERMITTED**

- A. Compatible residential, commercial, industrial, public and quasi-public uses may be combined in PUD Districts provided that the proposed location of the commercial or industrial uses will not adversely affect adjacent property and/or the public health, safety and general welfare. Lot

area and other yard requirements of the residential districts established in this Ordinance shall apply except as modified in Section 10 and Section 12 of this Article; and

- B. The amount of land devoted to commercial and/or industrial use in a residential commercial development shall be determined by the Plan Commission and approved by Council.

## **Section 5 - MINIMUM PROJECT AREA**

- A. The gross area of a tract of land to be developed in a Planned Unit Development District shall be a minimum of ten (10) acres. However, smaller parcels may be considered on the basis of their potential to satisfy the objectives of this Ordinance as stated in Section 1 of this Article; and
- B. When the Planned Unit Development proposes a mixture of residential uses with commercial and/or industrial uses, the Plan Commission may limit the development of not more than eight percent (8%) of the tract to commercial uses and not more than twelve percent (12%) of the tract to industrial uses.

## **Section 6 - COMMON OPEN SPACE**

A minimum of ten percent (10%) of the land developed in Any Planned Unit Development project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. Detention basins constructed in compliance with the requirements of Article X, Section 9 shall not be considered as common open space. The Plan Commission shall require additional open space contingent upon the deviation from the lot size or density set forth in the official schedule of district regulations. The usable open space shall be disposed of as required in Section 7 of this Article.

## **Section 7 – DISPOSITION OF OPEN SPACE**

The required amount of common open space land reserved under a Planned Unit Development shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or be dedicated to the Town and retained as common open space for parks, recreation and related uses. All land dedicated to the Town shall meet the Plan Commission's requirements as to size, shape and location. Public utility and similar easements and rights of way for watercourses and other similar channels are not acceptable for common open space dedication to the Town unless the land or rights of way is usable as a trail or other similar purpose and approved by the Plan Commission . The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan. Dedication of land to the Town requires the approval and acceptance of Council.

## **Section 8 - UTILITY REQUIREMENTS**

Underground utilities, including telephone and electrical systems, are required within the limits of all planned unit developments. Appurtenances to these systems which can be effectively screened may be exempted from this requirement if the Plan Commission finds that the exemption will not violate the intent or character of the proposed planned unit development.

## **Section 9 - MINIMUM LOT SIZES**

- A. Lot area per dwelling unit may be reduced by not more than forty percent (40%) of the minimum lot area required in the official schedule of district regulations. A Planned Unit Development need not conform to the density requirements established in this Ordinance. A diversification of lot sizes is encouraged; and
- B. Lot widths may be varied to allow for a variety of structural designs. It is also recommended that setbacks be varied.

## **Section 10 - LOTS TO ABUT UPON COMMON OPEN SPACE**

Every property developed under the Planned Unit Development approach should be designed to abut upon common open space or similar areas. A clustering of dwellings is encouraged. In areas where townhouses are used, there shall be no more than eight townhouse units in any contiguous group.

## **Section 11 - HEIGHT REQUIREMENTS**

For each floor of building height over the maximum height regulations specified in the respective district, the distance between the buildings and the side and rear property lines of the planned unit development project area shall be increased by a one foot addition to the side and rear yard required in the districts.

## **Section 12 - PARKING**

Off-street parking, loading, and service areas shall be provided in accordance with Article XXIV. However, off-street parking lots and loading areas shall not be permitted within fifteen (15) feet of any residential use.

## **Section 13 - PERIMETER YARDS**

Notwithstanding the provisions of this Article, every lot abutting the perimeter of the Planned Unit Development District shall maintain all yard requirements specified in the respective district for the applicable conventional zoning district.

## **Section 14 - ARRANGEMENT OF COMMERCIAL USES**

- A. When Planned Unit Development Districts include commercial uses, commercial buildings and establishments, they shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares. Planting screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas;
- B. The plan of the project shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, landscaping and any other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding noncommercial areas; and
- C. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Plan Commission.

## **Section 15 - ARRANGEMENT OF INDUSTRIAL USES**



- A. Planned Unit Development Districts may include industrial uses if it can be shown that the development results in a more efficient and desirable use of land;
- B. Industrial uses and parcels shall be developed in park like surroundings utilizing landscaping and any existing woodlands as buffers to screen lighting, parking areas, loading areas or docks, and/or outdoor storage of raw materials or products. A planned industrial area shall provide for the harmony of buildings and a compact grouping in order to economize the provision of the utility services as are required. Thoroughfares shall be kept to a minimum throughout a planned industrial area in order to reduce through traffic; and
- C. Project side yards of forty feet and a rear yard of fifty feet shall be required if the project is located adjacent to any residential uses. All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas and improved areas shall be landscaped with trees and plantings and properly maintained at all times.

## **Set. 16 - PREAPPLICATION MEETING**

The developer shall meet with the Administrator, Plan Commission Technical Advisory Committee prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this Ordinance, the criteria and standards contained herein, and to familiarize the developer with the Comprehensive Plan, Thoroughfare Plan, the Subdivision Regulations and the drainage, sewer and water systems of the Town.

## **Section 17 - APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN**

- A. An application for preliminary planned unit development shall be filed with the Plan Commission by at least one owner, optionee or lessee of property for which the planned unit development is proposed. At a minimum, the application shall contain the following information filed in duplicate:
  - 1. Name, address and phone number of applicant;
  - 2. Name, address and phone number of registered surveyor, registered engineer or urban planner assisting in the preparation of the preliminary development plan;
  - 3. Legal description of property;
  - 4. Description of existing use;
  - 5. Zoning district;
  - 6. A vicinity map at a scale approved by the Commission, showing property lines, streets, existing and proposed zoning and other items as the Commission may require to show the relationship of the planned unit development to the Comprehensive Plan and to existing schools and other community facilities and services;
  - 7. A preliminary development plan at a scale approved by the Commission showing topography at two foot intervals; location and type of residential, commercial and industrial land uses; layout, dimensions and names of existing and proposed streets; rights of way, utility easements, parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone and natural gas; and any other characteristics as the Commission deems necessary;
  - 8. Proposed schedule for the development of the site; and
  - 9. Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within two years.

- B. The application for preliminary Planned Unit Development shall be accompanied by a written statement by the developer setting forth the reasons why, in his opinion, the Planned Unit Development would be in the public interest and would be consistent with the Town's statement of objectives for Planned Unit Developments in Article XXI, Section 1.

#### **Set. 18 - PUBLIC HEARING BY COUNCIL**

Upon receipt of the preliminary plan, the Council shall place said item on the agenda at its next regularly scheduled meeting after the required notice set forth by Section 20 herein is given.

#### **Section 19 - NOTICE OF PUBLIC HEARING IN NEWSPAPER**

Applicant(s)/ petitioner(s) shall be caused to publish in a newspaper of general circulation in Troy notice of the public hearing required in Article XXI, Section 18 by Plan Commission. The notice shall be published at least ten (10) days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the preliminary development plan.

#### **Section 20 - NOTICE TO PROPERTY OWNERS BY APPLICANT**

Written notice of the hearing shall be provided by the applicant in accordance with the adopted rules and procedures of the Plan Commission and all other interested parties as the Council may determine.

#### **Section 21 - APPROVAL IN PRINCIPLE BY PLAN COMMISSION**

After the public hearing required by Section 18, the Plan Commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this Ordinance; whether the proposed development advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the interrelationship with the land uses in the surrounding area justify the deviation from standard district regulations. The Plan Commission's approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels or engineering feasibility.

#### **Section 22 - FINAL DEVELOPMENT**

After approval in principle of the preliminary development plan, the developer shall submit a final development plan to the Plan Commission. The final development plan shall be in general conformance with the preliminary development plan approved in principle. Five copies of the final development plan shall be submitted and shall be endorsed by a registered civil engineer and a registered land surveyor.

#### **Section 23 - APPLICATION FOR APPROVAL OF FINAL DEVELOPMENT PLAN**

An application for approval of the final development plan shall be filed with the Plan Commission by at least one owner, optionee or lessee of property for which the planned unit development is proposed. Each application shall be signed by the owner, optionee or lessee, attesting to the truth and exactness of all information supplied on the application for final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within two years

from the date of issuance of the approval. At a minimum, the application shall contain the following information:

- A. A survey of the proposed development site, showing the dimensions and bearings of the property lines, area in acres, topography, existing features of the development site, including major wooded areas, structures, streets, easements, utility lines and land uses;
- B. All the information required on the preliminary development plan; the location and sizes of lots, location and proposed density of dwelling units, nonresidential building intensity; and land use considered suitable for adjacent properties;
- C. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type; estimated residential population by type of housing; estimated nonresidential population; anticipated timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from standard zoning districts or other Ordinances governing development;
- D. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone and natural gas installations; waste disposal facilities; street improvements, and nature and extent of earthwork required for site preparation and development;
- E. Site plan, showing buildings, various functional use areas, circulation and their relationship;
- F. Preliminary building plans, including floor plans and exterior elevations; G, Landscaping plans; and
- G. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon, including those areas which are to be commonly owned and maintained.

## **Section 24 - RECOMMENDATION BY PLAN COMMISSION**

Within ninety (90) days or such other time as may be extended by the Plan Commission, after receipt of the final Development Plan, the Plan Commission shall recommend to the Council that the final development plan be approved as presented, approved with supplementary conditions or disapproved.

## **Section 25 - CRITERIA FOR RECOMMENDATIONS BY PLAN COMMISSION**

Before making its recommendation as required in Section 24, the Plan Commission shall find that the facts submitted with the application and presented at the public hearing established that:

- A. The proposed development can be initiated within two years of the date of approval;
- B. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that the objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under standard district regulations;
- C. The streets and thoroughfares proposed are suitable and adequate to any anticipated traffic, and increased densities will not generate traffic in the amounts as to overload the street network outside the planned unit development;
- D. Any proposed commercial development can be justified at the locations proposed;

- E. Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accord with the Planned Unit Development and the adopted policy of the Commission and Council;
- F. The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development;
- G. The planned unit development is in general conformance with the Comprehensive Plan of the Town; and
- H. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

## **Section 26 - SUPPLEMENTARY CONDITIONS AND SAFEGUARDS**

In approving any Planned Unit Development District, Council may prescribe appropriate conditions and safeguards, which when made a part of the terms under which the final development plan is approved, shall be deemed a violation of this Ordinance if not observed. The Plan Commission may recommend to the Council and the Council may require the posting of a performance bond in an amount sufficient to safeguard the interests of the Town and the public.

## **Section 27 - EXPIRATION AND EXTENSION OF APPROVAL PERIOD**

- A. The approval of a final development plan for a Planned Unit Development District shall be for a period not to exceed two years to allow for preparation and recording of the required subdivision plat and the development of the project. If no construction has begun within two years after approval is granted, the approved final development plan shall be void and the land shall revert to the district regulations in which it is located. The Plan Commission may recommend an extension of the time limit or modification of the approved final development; and
- B. No zoning amendment passed during the time period granted for the approved final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

## **Section 28 - RECORDING OF APPROVED DEVELOPMENT PLANS**

Upon final approval of a PUD Development Plan by Council, the applicant shall file with the County Recorder of Perry County a copy of the Development Plan approved by Council. The Administrator shall not issue a Location Improvement Permit for a PUD without first verifying that the approved Development Plan has in fact been filed in the office of the Perry County Recorder.

## **ARTICLE XXIII – PL PUBLIC LANDS DISTRICT**

### **Section 1 - PURPOSE**

The purpose of the PL Public Lands District is to permit public uses on publicly owned land. One the land or structure is no longer used for a public purpose or the land is no longer in public ownership, the property must be rezoned to another district that permits the proposed use.

### **Section 2 - PRINCIPALLY PERMITTED USES**

- A. Government Offices
- B. Public Recreation Facilities
- C. Parks
- D. Public Works and Utility Facilities
- E. Public Docks

### **Section 3 - PERMITTED ACCESSORY USES**

- A. Signs: see Article XXVII.
- B. Off-Street Parking and Loading: see Article XXVI.
- C. Fences and Walls: see Article X, Section 6 for regulations
- D. Refuse Facilities (Dumpsters): see Article X, Section4 for regulations
- E. Garages
- F. Uses which are similar or clearly incidental to the Principally Permitted Uses on the Lot

### **Section 4 - CONDITIONALLY PERMITTED USES**

- A. Blank

### **Section 5 - SCREENING REQUIREMENTS**

- A. When adjacent to a residential district, public works and utility facilities shall observe the front yard setback of the residential district for a distance of 55 feet from the side lot line. When adjacent to a residential district, public works and utility facilities side and rear yards must be buffered and screened. A strip of at least ten (10) feet in width and running the length of the side and rear yards shall be landscaped and planted for screening purposes.

### **Section 5 - MINIMUM LOT AREA**

All uses shall have at least 5,445 square feet.

### **Section 6 - MINIMUM LOT WIDTH AT THE BUILDING SETBACK LINE**

The minimum lot width at the building setback line shall be not less than 55 feet.

**Section 7 - MINIMUM LOT FRONTAGE**

The minimum frontage shall not be less than 55 feet.

**Section 8 - LAND USE INTENSITY**

The following land use intensity standards shall apply:

- A. The floor area ratio for properties shall not exceed 0.60.

**Section 6 - DEVELOPMENT PLAN REVIEW**

This is a requirement for all proposed uses in this district, for permitted and conditionally permitted uses, All Development Plans shall be reviewed by the Planning Commission according to the standards, criteria and regulations of this Ordinance in Article XI.

## **ARTICLE XXIV - SAO -SENSITIVE AREAS OVERLAY ZONE**

### **Section 1 - PURPOSE**

The purpose of the Sensitive Areas Overlay Zone is to provide a more rigorous level of scrutiny to development occurring in designated areas where there has been determined to be a special public interest that does not coincide with previously designated use districts. Such areas may include flood plain, steep slopes, areas of unstable soils, or be areas of especially high public value and/or visibility.

The intent is to assure that development of land and structures will be accomplished in a manner that protects the public and property owners in the area:

- A. From blighting influences which might be caused by application of conventional land use regulations to properties and areas having sensitive environmental qualities;
- B. From the destruction of valuable public vistas;
- C. From unsafe buildings on unstable land which would be caused by, uncontrolled development;
- D. From significant damage or destruction of prominent hillsides and/or valleys caused by improper development thereof;
- E. From soil erosion and stream siltation;
- F. From the destruction of mature and/or valuable trees and other vegetation; and
- G. From flooding and flood hazards by locating within areas subject to flooding.

### **Section 2 - APPLICABILITY**

Where applicable by provisions of this Ordinance, requirements imposed herein shall be in addition to those of the underlying zoning district. Where there happens to be a conflict between the provisions or requirements of the Sensitive Areas Overlay Zone and the existing underlying district (s) as shown on the Official Zoning Map, the more restrictive provisions pertaining to the Development Review Sensitive Areas Overlay Zone shall prevail. Areas of applicability shall be determined by Council following recommendation by the Plan Commission, and shall be indicated on the Official Zoning Map. Any parcel having a portion of its area within the area shown on the Official Zoning Map as being within the Sensitive Overlay Zone shall be subject to the provisions of the Overlay Zone.

### **Section 3 - GENERAL STANDARDS**

Prior to the commencement of any development subject to this Article, plans and other information reasonably necessary to identify and verify the existence of any of the natural resource features noted above shall be submitted to the Planning Commission as well as to the Administrator. All plans for development shall account for such features and fully comply with the natural resource protection standards applicable to each feature. Site alterations, regrading, filling, and clearing of vegetation prior to the submission and approval of such plans shall be a violation of this Ordinance.

### **Section 4 - REGULATED DEVELOPMENT**

- A. Any use or activity of land or buildings/structures that may be detrimental to the natural, scenic and environmental characteristics described herein are regulated by the provisions of this Ordinance and subject to the review process set out below;



- B. If any of the above uses involves Development Plan Review or conditional approvals, then environmental review shall occur in conjunction with Development Plan Review using the applicable regulations of this Ordinance in addition to the underlying district regulations and other Articles of this Ordinance as appropriate;
- C. All other activities/uses not subject to Development Plan review or conditional approvals of land or structures and potentially posing development problems due to the above listed environmental constraints shall require review of the Plan Commission to determine the extent of potential or existing environmental impacts prior to any permits issued by the Administrator. The Plan Commission may utilize other governmental agency resources to assist in this determination such as the Soil and Water Conservation District, the local Resource Conservation and Development Council, and the Indiana Department of Natural Resources, Division of Water, Division of Forestry and Division of Soil Conservation. These Agencies should also be utilized as reviewers in helping to assess these potential environmental impacts in the process of Development Plan review or in the granting of conditional approvals;
- D. All requests for a location improvement permit shall be referred to the Technical Advisory Committee for review. The committee shall review the application to insure that all new construction in Flood Plain areas has a ground floor elevation at least 1 foot above the base flood elevation as defined by the Flood Insurance Rate Maps for Troy and Troy Township, and that all regulations of the Indiana Department of Natural Resources pertaining to flood plains are observed. The Technical Advisory Committee shall also review applications to insure that the guidelines contained in Section 5 for areas of steep slopes are observed.

## **Section 5 – REVIEW MINIMUM GUIDELINES IN AREAS OF STEEP SLOPES**

- A. Soils which are indicated by the Soil Survey of Perry County as unstable and/or subject to slippage shall not be built upon in order to protect personal and real property and lives. On site test borings may be utilized to verify the exact extent of such soil units;
- B. The Plan Commission shall use the following review criteria in evaluating proposed development on steep slopes:
  - 1. The site is physically suitable for the design and siting of the proposed development. The proposed development will result in minimum disturbance of sensitive areas;
  - 2. The grading and excavation proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect health, safety and general welfare;
  - 3. Structures should be designed to fit into the hillside rather than altering the hillside to fit the structure. Grading outside of the building footprint and driveway area should be discouraged;
  - 4. Development shall be sited on the least sensitive portion of the site to preserve the natural land forms, geological features and vegetation;
  - 5. Limit the amount of impervious surfaces. Design and site such surfaces to support the natural system of drainage;
  - 6. The site should be replanted with trees, shrubs, and ground cover that is compatible with existing surrounding vegetation and post construction site conditions;
  - 7. In cases where cut and fill grading are required, the slopes shall avoid straight and unnatural slope faces; and
  - 8. To minimize the possibility of erosion, retain existing vegetation and tree cover as much as possible by site sensitive development and by phasing the planned development in stages;

- C. Any development proposed on steep slopes must also develop an erosion control plan which shall be reviewed by the Perry County Soil and Water Conservation District Office and must then be followed if affecting those slopes.

## **ARTICLE XXV - GRADING AND SOIL EROSION CONTROL**

### **Section 1 - PURPOSE**

The purpose of this Article is to prevent soil erosion and sedimentation from occurring as a result of nonagricultural development by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health, and general welfare of the community.

### **Section 2 - GRADING PERMIT**

A grading permit is required prior to any grading or earth-disturbing activities except as exempted in Section 3. The owner of record shall develop and submit for review an erosion and sediment control plan.

Such a plan shall contain sufficient information, drawings, and notes to describe how soil erosion and off-site sedimentation will be kept to a minimum, and conflicts with existing public utilities in the area will be avoided. No earth-disturbing activities shall commence prior to approval of the grading plan and obtaining a grading permit. The Administrator may require, in the Administrator's sole discretion, an Indiana registered professional engineer's endorsement of the proposed grading plan.

### **Section 3 - EXEMPTED WORK**

Upon notice to the Administrator, the following do not require a grading permit:

- A. Any excavation for a basement of a building, or other structure, either privately or publicly owned, authorized by a valid building permit, provided:
  - 1. The excavation does not exceed:
    - a. 12 feet in vertical depth at its deepest point; or
    - b. One (1) cubic yard per each eleven (11) square feet of work area;
  - 2. The excavation is made within an area described as the upper 25% of the vertical distance between the top of slope and toe of slope with a slope not greater than four horizontal to one vertical (4:1), or in the lower 75% of the vertical distance between the top of slope and toe of slope with a slope not greater than five horizontal to one vertical (5:1);
- B. The subsequent filling of this excavated material on the same site, provided:
  - 1. The fill, excluding building backfill material, does not exceed:
    - a. 5 feet in vertical depth at its deepest point; or
    - b. One (1) cubic yard per each eleven (11) square feet of work area;
  - 2. The fill is placed on site area with a slope not greater than five horizontal to one vertical (5:1);
  - 3. The fill does not result in a finished slope steeper than three horizontal to one vertical (3:1);
- C. Grading of land for the purpose of agriculture;
- D. Temporary excavations for underground utility lines, wells, tunnels, tanks, vaults or sign foundations;
- E. Public work performed by or under control of any governmental agency, work with street right-of-way or easements, except for ancillary excavating or filling for the project which is

performed outside the project limits. Provided such operations do not cause instability of any adjacent or contiguous property and applicable sediment control policies are no less restrictive than these regulations;

- F. Exploration excavations under the direction of a qualified geotechnical engineer, engineering geologist, contractor or builder; all such excavations shall be promptly backfilled and restored to the existing terrain.
- G. Normal cemetery operations involving opening or closing graves;
- H. Any other excavation or fill that:
  - 1. Does not exceed:
    - a. 5 feet in vertical depth; or
    - b. One (1) cubic yard per each fourteen (14) square feet of work area;
  - 2. Is made within an area with a slope less than five horizontal to one vertical (5:1);
  - 3. Does not result in a finished slope steeper than four horizontal to one vertical (4:1);
  - 4. Does not necessitate any adjustment, relocation, addition or other modification to any existing utilities, streets, alleys and drainage pattern.

In any enforcement proceeding, including an inquiry by the Administrator, the burden of proving the exemption from submitting a grading plan and procuring a grading permit shall be on person or persons redeveloping the land.

#### **Section 4 - MULTIPLE EXCAVATIONS**

A permit shall be required where a succession of small excavations or fills, individually not requiring a permit, constitutes a continuing operation and the accumulation of such excavations or fills will exceed;

- A. An average 5 feet in vertical depth; or
- B. An average 350 cubic yards per each 5000 square feet within the area of excavation.

#### **Section 5 - COMPLIANCE WITH DEVELOPMENT PLAN REVIEW**

No Development Plan shall be approved unless said Development Plan includes soil erosion and sediment control measures consistent with the requirements of this Ordinance.

#### **Section 6 - COMPLIANCE WITH CERTIFICATE OF OCCUPANCY**

No Certificate of Occupancy for any building shall be issued unless the applicant for said certificate shall have obtained a certification of compliance indicating compliance with all grading plans and specifications and completion of permanent soil erosion control measures from the Administrator.

#### **Section 7 - PERMIT REQUIRED**

A separate application shall be required for each grading permit. Plans, specifications and timing schedules shall be submitted with each application for a grading permit. The plans and specifications accompanying the grading permit application shall contain the following data.

- A. A vicinity sketch at the scale of 1 inch = 200 feet indicating the site location as well as the adjacent properties within 1,000 feet of the site boundaries;

- B. A boundary line survey of the site on which the work is to be performed;
- C. A plan of the site at a scale of 1 inch = 20 feet showing:
  - 1. Name, address, and telephone number of the land owner, and/or developer;
  - 2. A timing schedule indicating the anticipated starting and completion dates of the development's construction sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures;
  - 3. A reasonable estimate of the quantity of excavation and fill involved;
  - 4. Existing and proposed topography at contour intervals of five feet;
  - 5. The location of any structure or natural feature on the site, on the land adjacent to the site, and within 500 feet of the site boundary line;
  - 6. Location of any proposed additional structures or development on the site;
  - 7. Elevations, dimensions, location, extent and the slope of all proposed grading;
  - 8. Plans of all drainage provisions, retaining walls, cribbing, planting, erosion control measures, or other temporary or permanent soil erosion control measures to be constructed in connection with the proposed work together with a map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains; and
  - 9. Other information or data as may be required by the Administrator, or Plan Commission.

## **Section 8 - FEES**

At the time of filing an application for a grading permit, a filing fee shall be paid to the Administrator as established by Council.

## **Section 9 - DENIAL OF PERMIT**

Circumstances in which grading permits shall not be issued include, but are not limited to, the following:

- A. The proposed work would cause hazards to the public safety and welfare;
- B. The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property; and
- C. The land area for which the grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability, or other such hazard.

## **Section 10 - GENERAL REQUIREMENTS**

- A. Any earth changes shall be conducted in such a manner so as to effectively reduce accelerated soil erosion and resulting sedimentation;
- B. All persons engaged in earth changes shall design, implement, and maintain acceptable soil erosion and sedimentation control measures, in conformance with all applicable Indiana laws and requirements of the Plan Commission pertaining to soil erosion and sedimentation control, which effectively reduce accelerated soil erosion;

- C. All earth changes shall be designed, constructed and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest possible period of time;
- D. Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change;
- E. Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the earth change area shall be designed to limit the water flow to a non-erosive velocity;
- F. Temporary soil erosion control facilities shall be removed and earth change areas graded and stabilized with permanent soil erosion control measures pursuant to approved standards and specifications as prescribed by the Indiana Department of Natural Resources rules;
- G. Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within 30 calendar days after final grading or the final earth change has been completed. When it is not possible to permanently stabilize disturbed area after an earth change activity ceases, temporary soil erosion control measures shall be implemented within 10 calendar days. All temporary soil erosion measures shall be maintained until permanent soil erosion control measures are implemented.

## **Section 11 - MAINTENANCE REQUIREMENTS**

Persons carrying out soil erosion and sediment control measures under this Article, and all subsequent owners of property concerning which such measures have been taken, shall maintain all permanent erosion control measures, retaining walls, structures, planting and other protective devices.

## **ARTICLE XXVI - OFF-STREET PARKING AND LOADING**

### **Section 1 - GENERAL REQUIREMENTS**

Any building, structure or use of land, when erected or enlarged, shall provide for off- street parking spaces for automobiles in accordance with the following provisions of this Ordinance. A parking plan shall be required for all uses except single family detached dwellings and two family dwellings. The parking plan shall be submitted to the Town as part of the application for the Improvement Location Permit. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, boundary walls, fences and a screening plan, as appropriate.

Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of fifty (50) percent or more in floor area or in the area used, such building or use shall then comply with the parking requirements set forth herein.

### **Section 2 - OFF-STREET PARKING AND DESIGN STANDARDS**

All off-street parking facilities including entrances, exits, circulation areas and parking spaces shall be in accordance with the following specifications:

- A. *Parking Space Dimensions.* A parking space shall have a minimum rectangular dimension of not less than nine feet in width and nineteen feet in length for any ninety degree parking; nine feet in width and twenty-three feet in length for parallel parking; ten feet in width and nineteen feet in length for sixty degree parking; and twelve feet in width and nineteen feet in length for forty-five degree parking. All dimensions shall be exclusive of driveways, aisles and other circulation areas;
- B. *Access.* There shall be adequate provisions for ingress and egress to all parking spaces. Where the lot or parking spaces do not provide direct access to a public street or alley, an access drive shall be provided, with a dedicated easement of access as follows:
  - 1. For single family detached dwellings or two family dwellings, the access drive shall be a minimum of eight (8) feet in width;
  - 2. Driveways serving individual parking spaces shall not be less than twenty-five feet wide for ninety degree parking; twelve feet wide for parallel parking; seventeen and one-half feet wide for sixty degree parking; and thirteen feet wide for forty-five degree parking;
  - 3. All parking spaces, except those required for single family detached dwellings and two family dwellings, shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or onto a public street or alley shall be traveling in a forward motion;
  - 4. Parking for uses not permitted in a residential zone shall not be permitted in a residential zone, nor shall any residential district property be utilized as access for uses not permitted in that residential district;
- C. *Minimum Distance and Setbacks.* No part of any parking area for more than ten vehicles shall be closer than twenty feet to any dwelling unit, school, hospital or other institution for human care located on an adjoining lot, unless separated by an acceptably designed screen. If on the same lot with a one-family residence, the parking area shall not be located within the front yard required for such building;
- D. *Screening and/or Landscaping.* Whenever a parking area is located in or adjacent to a residential district, it shall be effectively screened on all sides which adjoin or face any property



used for residential purposes, by an acceptably designed fence or planting screen. Such fence or planting screen shall be not less than four feet nor more than six feet in height and shall be maintained in good condition. In the event that terrain or other natural features are such that the erection of such fence is not possible, a planting screen and/or landscaping shall be required;

- E. *Paving.* Any required off-street parking area and its driveway shall be surfaced with a pavement having an asphalt or concrete binder of sufficient strength to support vehicular loads imposed on it while providing a durable, dustless surface;
- F. *Drainage.* All parking spaces, together with driveways, aisles and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system;
- G. *Barriers.* Wherever a parking lot extends to a property line, fencing, wheel stops, curbs or other suitable barriers shall be provided in order to prevent any part of a parked vehicle from extending beyond the property line and or from destroying the screening materials;
- H. *Visibility.* Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible by any pedestrian or motorist approaching the access or driveway from a public street, private street or alley;
- I. *Designation.* All parking areas with a capacity over twelve (12) vehicles shall have individual parking space designated with painted lines between stalls to facilitate the movement into and out of the parking stalls. Lines shall be maintained in a good, visible condition;
- J. *Maintenance.* Any owner of property used for parking areas shall maintain such areas in good condition without holes and free from all dust, trash, weeds and other debris; and
- K. *Lighting.* Any lights used to illuminate a parking lot shall be so arranged as to reflect the light away from the adjoining property and right-of-way.

### **Section 3 - LOCATION OF PARKING SPACES**

- A. Parking spaces for all detached residential uses shall be located on the same parcel as the use which they are intended to serve;
- B. Parking spaces for commercial, industrial or institutional uses shall be located not more than 700 feet from the principal use; and
- C. Parking spaces for apartments or similar residential uses shall be located not more than 300 feet from the principal use.

### **Section 4 - JOINT USE**

Two or more uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that a written agreement, approved by the Administrator, is filed with the application for a Location Improvement Permit.

### **Section 5 - COLLECTIVE PARKING FACILITIES**

The collective parking provision of required off-street parking areas shall comply with the following standards and requirements:

- A. All required parking spaces shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or jointly by two (2) or more buildings or establishments, the required spaces may be located not farther than 700 feet from the building served;
- B. The total of such off-street parking spaces supplied collectively shall be not less than the sum of the requirements for the various uses computed separately; and
- C. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by legal counsel of the Town and filed with the application for a Improvement Location Permit.

## **Section 6 - HANDICAPPED PARKING REQUIREMENTS**

Parking facilities serving buildings and facilities required to be accessible to the physically disabled shall have conveniently located designated parking spaces to be provided as follows:

<b>Total Spaces in Parking Area</b>	<b># of Designated Accessible Spaces</b>
1-100	1 space, plus 1 space per 25 parking spaces
101-200	5 spaces, plus 1 space per each 50 spaces over 100
Over 200	7 spaces, plus 1 space per each 75 spaces over 200

Requirements herein shall be in addition to any requirements of State or Federal law including but not limited to the Americans with Disabilities Act.

## **Section 7 - DETERMINATION OF REQUIRED SPACES**

In computing the number of parking spaces required by this Ordinance, the following shall apply:

- A. Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross leasable horizontal area of all floors of a non-residential building;
- B. Where seating capacity is designated as the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or, indicated for each twenty (20) lineal inches of seating facilities;
- C. Fractional numbers shall be increased to the next highest whole number;
- D. Parking space requirements for a use not specifically mentioned in this Ordinance shall be determined by using the most similar and restrictive parking space requirement as specified by the Plan Commission; and
- E. When the building floor area is designated as the standard for determining parking space requirements and that number is less than the minimum standard, at least one parking space shall be provided on the premises.

## **Section 8 - PARKING SPACE REQUIREMENTS**

For the purpose of this Ordinance, the following parking space requirements shall apply:

A. Auditoriums, theaters and similar uses.	One space for each four seats.
B. Automotive filling station.	One space for each two pumps.
C. Automotive repair.	Two spaces for each service bay.
D. Automotive sales.	One space for each 800 square feet floor area.
E. Bed and breakfast establishments.	One space for each guest room plus two spaces for the permanent residence.
F. Club.	Four spaces for each 1,000 square feet of floor area.
G. Convalescent care facility.	One space for each two beds.
H. Convenience store.	One space for each 100 square feet of floor area.
I. Child Care Facility.	One space for each staff member plus one space for each ten (10) children at design capacity. Provided; however, that Child Care Home Class I and Class II -Resident Operator are subject only to the family dwelling unit parking requirements that apply for each particular zoning district.
J. Eating and drinking establishments.	One space for each 100 square feet of floor area plus sufficient stacking space for five vehicles at each drive thru window.
K. Educational institutions.	Two spaces for each classroom plus one space for each four seats in the auditorium. High schools shall also include one space for each ten students at design capacity.
L. Financial Institutions.	One space for each 250 square feet of floor area plus sufficient stacking space to accommodate the number of automobiles equal to five times the number of teller windows.
M. Funeral Home	One space for each 50 square feet of floor area plus one reserved space for each hearse or company vehicle.
N. Group home.	One space for each four beds.
O. Hospital.	One space for each two beds.
P. Hotel/Motel	One space for each sleeping room plus one space for each 400 square feet of public meeting area and/or restaurant space.
Q. Industrial/ manufacturing.	One space for each 1,000 square feet of floor space.
R. Medical or dental clinic.	One space for each 250 square feet of floor area of examination room, treatment room and waiting room.
S. Office.	One space for each 200 square feet of floor area.
T. Personal services.	One space for each 200 square feet of floor area.
U. Public assembly hall.	One space for each 50 square feet of floor area.
V. Public buildings.	One space for each 200 square feet of floor area.
W. Recreation, commercial.	One space for each three seats or one space for each 100 square feet, whichever is greater.
X. Recreation non-commercial.	One space for each participant at maximum utilization.

Y.	Religious places of worship.	One space for each five seats in the place of assembly.
Z.	Residential, mobile home.	Two spaces for each dwelling unit.
AA.	Residential, multi-family.	Two spaces for each dwelling unit, except in the central business district (C-2) where one parking space per unit is required.
BB.	Residential, single family.	Two spaces for each dwelling unit.
CC.	Residential, two-family.	Two spaces for each dwelling unit.
DD.	Restaurants.	One space for each 100 square feet of floor area.
EE.	Restaurants, fast-food.	One space for each 100 square feet of floor area plus sufficient stacking space for five vehicles at each drive thru window.
FF.	Retail business.	One space for each 250 square feet of floor area.
GG.	Shopping center.	Five spaces for each 1,000 square feet of floor area.
HH.	Swimming club.	One space for each 300 square feet of pool and promenade area.
II.	Warehousing.	One space for each 1,000 square feet.

## Section 9 - LOADING SPACE REQUIREMENTS AND DIMENSIONS

One off-street loading space shall be provided and maintained on the same lot requiring delivery of goods and having a modified gross floor area of up to 5,000 square feet. One loading space shall be provided for each additional 10,000 square feet or fraction thereof of ground floor area.

All off-street loading spaces shall be in accordance with the following standards and specifications:

- A. *Dimensions* -Each loading space shall have a minimum dimension of not less than 12 feet in width, fifty feet in length and a vertical clearance of not less than 15 feet in height;
- B. *Screening* -In addition to the setback requirements specified above, screening shall be provided on each side of an off-street loading space that abuts any residential district. Such screen shall not be less than four feet or more than six feet in height and shall be maintained in good condition;
- C. *Access* -All required off-street loading spaces shall have access from a public street or alley in such a manner that any vehicle leaving the premises shall be traveling in a forward motion;
- D. *Paving* -Any required off-street loading spaces, together with its appurtenant driveways, aisles and other circulation areas, shall be surfaced with a pavement having an asphalt or concrete binder of sufficient strength to support vehicular loads imposed on it while providing a durable, dustless surface;
- E. *Drainage* -All loading spaces, together with driveways, aisles and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system; and
- F. *Lighting* -Any lights used to illuminate a loading area shall be so arranged as to reflect the light away from any adjacent properties or right-of-way.

## **Section 10 - GENERAL INTERPRETATIONS**

In the interpretation of this Ordinance, the following rules shall govern:

- A. Parking spaces for other permitted or conditional uses not listed in this Ordinance shall be determined by the Board of Zoning Appeals upon an appeal from a decision of the Administrator;
- B. Fractional numbers shall be increased to the next whole number; and
- C. When a reason for parking demand is unusually low, then the parking space provisions cited above may be reduced proportionately by the Board of Zoning Appeals upon an appeal from a decision of the Administrator.

## **ARTICLE XXVII - SIGNS**

### **Section 1 - APPLICATION**

No sign, billboard or exterior graphic display will be permitted in any district until Permits are obtained therefore, except as specified otherwise in this Section.

- A. The following signs shall be exempted from the requirements of this Section, subject to the conditions specified:
  1. Signs not exceeding one square foot in area and bearing only property numbers, address numbers, names of occupants of premises, or other identification of premises not denoting commercial activity;
  2. Flags and insignias of any governmental unit, or civic, educational or religious organization, except when displayed in connection with promotion;
  3. Legal notices, identification, informational, warning, trespassing, or directional signs erected or required by governmental units;
  4. Memorial plaques, historical markers, integral decorative or architectural features of buildings, except trademarks, moving parts or moving lights;
  5. One real estate sign for each lot frontage not exceeding six (6) square feet in area, indicating the sale, rental or lease of the premises on which displayed. A sold sign may be attached to such real estate sign; both signs shall be removed within seven (7) days from the time the premises were sold, rented or leased;
  6. Such signs may be illuminated but not flashing or animated.
- B. The following signs shall be permitted subject to the requirements of this Subsection.
  1. Signs directing and guiding traffic, pedestrian or other control designating entrances or exits to or from a parking or loading area, or indicating parking or loading spaces, on private property, not exceeding four (4) square feet in surface area for each such sign and not bearing any advertising matter, limited to two (2) such signs for each entrance or exit;
  2. One identification sign for a parking or loading area not exceeding sixteen (16) square feet in surface area for each street frontage of such area. Said sign shall include only the name and address of the owner or name and address of the use for which it is provided, the hours of operation, and similar such information;
  3. Temporary signs in connection with a special event.
  4. One temporary announcement sign for each street frontage of premises or buildings which are under construction, demolition, remodeling or rebuilding, which sign announces the character of the building enterprise, including names of architects, engineers or contractors. Such sign shall not exceed sixty-four (64) square feet of surface area, and shall be removed when said indicated purpose is completed, in accordance with Article IV Section 14;
  5. One temporary subdivision sign for each street entrance to the Subdivision, on not less than 200 feet of street frontage, which sign is both incidental and necessary to advertise the sale, rental or lease of real property in the district. Such sign shall not exceed 200 square feet of surface area and shall not be erected until the subdivision has been approved and recorded;
  6. One temporary office, model home or model apartment sign for each such use, which sign is both incidental and necessary to identify or promote said use. Such sign shall not exceed sixteen (16) square feet of surface area; and

7. Such signs may be illuminated but not flashing or animated. Such signs shall conform to all the requirements of the District, provided, however, in the case of (I), (2),(3) and (4), above, said signs may encroach into required setback distance but not closer than fifteen (15) feet to any adjoining property line, provided, further said signs shall not project higher than sixteen (16) feet above the lot ground level.

## **Section 2 - ADVERTISING SIGNS OR BILLBOARDS**

- A. It is the intent of this Article to establish reasonable and uniform limitations, safeguards and controls for the operation and use of advertising in highway oriented business locations. Such requirements are deemed necessary in the public interest to protect the use and value of adjoining properties, as well as the best interests of the community.
- B. One advertising sign shall be permitted on any lot of at least 300 feet of frontage on a street designated as a secondary arterial or primary arterial in the C-2 and C-3 Districts, and one additional advertising sign shall be permitted for each 300 feet of additional frontage.
- C. Minimum setback lines shall be provided in accordance with the requirements of the applicable District.
- D. No advertising sign shall be permitted within 100 feet of a residential district unless said sign is provided and maintained with landscape screening.
- E. The number of traffic access points shall not exceed one for each such sign frontage.
- F. The face of an advertising sign shall not be greater than eighteen (18) feet in vertical dimension nor greater than fifty-five (55) feet in horizontal dimension, except as provided in (I) below and shall not contain more than two (2) advertising signs per facing.
- G. The full face of the sign shall be viewed along the line of travel to which it is exposed for a distance of at least two hundred fifty (250) feet along the centerline of the frontage street measured from a point opposite the center of the sign and perpendicular to the street's centerline; provided, however:
  1. In the case of a sign parallel (or within 20 degrees of parallel) to a one-way street, the required viewing distance shall be at least 400 feet;
  2. In the case of a sign which is from 3 to 20 degrees of parallel to a two-way street, the required viewing distance shall be at least 400 feet;
  3. In the case of a sign parallel (or within 3 degrees of parallel) to a two-way street, the required viewing distance shall be at least 250 feet in each direction; and
  4. In the case of a sign so placed that it can be viewed from more than one street, the above viewing distance requirements shall be applicable to only one street;
- H. The vertical dimension of the sign face may be increased to twenty-two (22) feet provided the required viewing distance in (H), above, is increased to five hundred (500) feet and said facing contains only one sign, and the sign is perpendicular or within 15 degrees of being perpendicular to the frontage street.
- I. The maximum height of advertising signs erected upon the ground shall not exceed forty (40) feet above the street elevation to which the sign is oriented.

## **Section 3 - BUSINESS SIGNS**

- A. The number and size of business signs for uses permitted in a business or industrial district shall be limited as follows:



1. The total number of signs for a lot having a business use located thereon shall be based upon the following formula: For each 10 lineal feet of property constituting frontage on a street, 20 square feet of sign surface area shall be allowed, provided that this total surface area may be allocated into any number of signs and provided further, that in no case shall the total number of such signs exceed 2 per street frontage for each occupant therein; and
  2. The minimum size allotment for signs for each lot having a business use located thereon, shall be at least 300 feet of total surface area, and this area may be divided into two signs.
- B. For unified centers, including Shopping Centers, Planned Business Areas and Enclosed Industrial Parks, in single ownership or under unified control, or individual uses with a collective and contiguous minimum frontage of 400 feet, one additional business sign in addition to those signs permitted in this Section shall be permitted for each main entrance to such center subject to the following:
1. Such sign shall indicate only the name and location of such center and the name and type of business of the occupants of such center;
  2. The maximum surface area of such sign shall not exceed 300 square feet; and
  3. Such sign may be illuminated, but shall be neither flashing nor animated.

#### **Section 4 - CERTAIN IDENTIFICATION SIGNS**

- A. The following provisions shall apply to residential uses in any zone district:
1. Two sign structures identifying and/or providing information regarding residential subdivision or project area shall be permitted for each main entrance to such residential area;
  2. Said sign shall not exceed sixty-four (64) square feet in surface area, and may be illuminated but not flashing or animated;
  3. Said sign shall indicate only the name and address of the building or use, the name and address of the management thereof, or associated information, but not including permanent promotional information; and
  4. Provisions for maintenance shall be made for permanent residential identification signs in platted subdivision. Said signs shall be constructed of ornamental metal, stone, masonry or other permanent material.

#### **Section 5 - MAINTENANCE AND REMOVAL**

- A. All signs shall be kept in repair and in proper state of preservation.
- B. Signs which are no longer functional or are abandoned shall be removed or relocated in compliance with the regulations of this Code within thirty (30) days following such abandonment. Signs shall be considered no longer functional and abandoned when such sign is materially obstructed from view, when its essential elements are no longer readable, or when a condition of dilapidation is in evidence.
- C. Any legally established non-conforming sign shall be permitted without alteration in size or location, unless movable or unattached, in accordance with Article VII, Section 7 E of this Ordinance. If such sign is damaged or dilapidated to an extent of more than fifty percent (50%) of its replacement cost at time of damage or repair, it shall not be rebuilt, provided, however, that nothing herein shall prevent maintenance, repainting or normal repair of legally established non-conforming signs.



- D. Whenever any movable or unattached sign is erected or maintained in violation of this Code, said sign may be removed by action of the Administrator after due notice is given to the person in interest.

## **Section 6 - GENERAL PROVISIONS**

- A. No sign or sign structure shall be placed on private or public property without the written consent of the owner or agent thereof.
- B. No sign or sign structure other than official highway signs shall be placed upon, over or in any street or highway right-of-way or any sidewalk, except as provided in Paragraph (E) below.
- C. No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. No rotating beam, beacon or flashing illumination resembling any emergency lights shall be used in connection with any sign display, nor shall any sign make use of the words "Stop", "Look", "Danger", or any other word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.
- D. No sign or sign structure shall be located in such a manner as to materially impede the view of any street or highway intersection, or in such a manner as to materially impede the view of the intersection of a street or highway with a railroad grade crossing.
- E. It shall be unlawful to erect and maintain:
  - 1. Any sign which is not included under the types of signs permitted in this Ordinance;
  - 2. Any portable or movable sign, except as permitted under the provisions of this Ordinance;
  - 3. Any sign which projects more than eighteen (18) inches over public property except where such a sign is necessary and convenient and so authorized by the applicable governmental unit;
  - 4. Any sign or sign structure affixed to a roof top or known as a roof top sign, which superstructure extends above the highest point of the roof; and
  - 5. A business sign and advertising sign on the same lot.
- F. Signs or sign structures located on a marquee or canopy shall be affixed flat to the surface thereof, and shall not:
  - 1. Be greater than three (3) feet in vertical measurement above the marquee or canopy; or
  - 2. Extend vertically below or horizontally beyond more than eighteen (18) inches from the marquee or canopy limits.
- G. Signs located on awnings shall be affixed flat to, or painted upon the surface thereof, shall not extend vertically or horizontally beyond the limits of said awning, and shall not be illuminated. Only the name and address of the use shall be indicated.
- H. No sign or sign structure, except a projecting sign structure, attached to the wall of a building shall extend more than eighteen (18) inches horizontally from such wall.
- I. No sign or sign structure attached to the wall of a building shall extend above the roof or parapet lines of such building provided, however, in the case of unified centers including Shopping Centers, Planned Business Areas and Industrial Parks, in single ownership or under unified control, the Board of Zoning Appeals may grant a Conditional Use in accordance with Article IX of this Ordinance for one such sign per occupant extending not more than four (4) feet above the roof or parapet line of such building.
- J. Business and advertising signs may be illuminated, unless specified otherwise, provided, however, light reflectors shall not extend more than twelve (12) feet from the face of the sign.

Where a sign is illuminated by light reflected upon it, direct rays of light shall not beam upon any part of adjoining property.

- K. Not more than one projecting business sign structure shall be allowed for each lot or occupant thereof and the maximum surface area of such sign shall not exceed 240 square feet per side. Only one side of a projecting sign shall be considered in computing total allowable sign surface area. In no case shall the sign structure extend more than eight (8) feet from or beyond its supporting building. No projecting sign shall be at its lowest point less than eight (8) feet above grade level.
- L. Free standing signs shall not be higher than forty (40) feet above the street elevation to which the sign is oriented, and the maximum surface area of such sign shall not exceed 300 square feet per side.
- M. Signs or sign structures shall be set back in accordance with the building setback lines required by the District, provided, however;
  - 1. In case the supporting building for a projecting sign is located closer than eight (8) feet to the building setback line, the projecting sign may extend in front of said setback line, but in no case shall such sign extend beyond the property line, in accordance with the standards of this Subsection; or
  - 2. In the case of free standing signs where graphic illustration is exhibited to the Board of Zoning Appeals, indicating extensive landscaping, compliance with all other standards of this Code and appropriate safeguards for the public safety, such sign or sign structure located no closer than twenty (20) feet to the front property line shall be deemed a sign setback Conditional Use, and in accordance with Article IV, the Board of Zoning Appeals may approve such Conditional Use.
- N. Signs advertising Filling Stations or Restaurants proposed to be located in the vicinity of Highway Interchanges, may be erected to any height, provided that the Administrator determines that the proposed signs are safe.
- O. All signs shall be erected, installed and used in accordance with the provisions of the National Electric Safety Code (NESC), updates and supplements thereto.