

JAY COUNTY ZONING & SUBDIVISION ORDINANCE

WITH RULES AND PROCEDURES



**ORDINANCES 1991-4 AND 1991-5
AMENDED ORD. 2000-4 / MAY 2000
AMENDED ORD. 2002-4 / MAY 2002
AMENDED ORD. 2007-8 / MAY 2007
AMENDED ORD. 2009-8 / APR 2009
AMENDED ORD. 2010-1 / JAN 2010
AMENDED ORD. 2012-6 / SEPT 2012
AMENDED ORD. 2014-7 / NOV 2014
AMENDED ORD. 2016-7 & 9 / OCT 2016**

JAY COUNTY ZONING ORDINANCE

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ZONING ORDINANCE **JAY COUNTY, INDIANA**

A Zoning Ordinance establishing regulations for Jay County, Indiana, and providing for the administration, enforcement, and amendment thereof, and prescribing penalties for violations in accordance with the provisions of Indiana Code §§36-7-4 et. seq. And all acts supplemental and amendatory thereto.

ARTICLE 1 -- GENERAL PROVISIONS

Article 1

101 TITLE

The official title of this Ordinance is: "The Zoning Ordinance of Jay County, Indiana."

102 AUTHORITY

This Ordinance is adopted pursuant to Indiana Code 36-7-4 and all acts supplemental and amendatory thereto.

103 COMPLIANCE

No structure, permanent or temporary, shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Ordinance which shall include the Subdivision Control Ordinance (Ordinance No. 1995-1 as amended), and after the lawful issuances of the permits required by this Ordinance. A confined feeding operation, as defined, shall nevertheless be regulated as spelled out in Section 216.

104 SEVERABILITY

If any provision of this Ordinance or the application of any provision to articulate circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.

105 APPLICATION

It is not intended by this Ordinance to interfere with, abolish or amend any existing easements, covenants, or other agreements, between parties, nor is it intended by this Ordinance to repeal, abrogate, annul or in any way interfere with any existing provisions of laws or ordinances not specifically repealed by this Ordinance, or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this Ordinance shall control; but where such private covenants, permits, agreements, rules or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.

106 JURISDICTIONAL AREA

This Ordinance shall apply to all land within Jay County not covered by the ordinances of Portland, Dunkirk, Bryant, or Redkey, Indiana.

107 CONFLICT

Whenever there is a difference between minimum standards or dimensions specified herein and those contained in other regulations, resolutions or ordinances, including any subdivision control ordinance, of the Towns, City, County or State, the most restrictive standards shall govern.

108 REQUIRED NOTIFICATIONS

In order that the Board of Commissioners of Jay County may be cognizant of the development within its jurisdiction, the Plan Commission shall forward a copy, when submitted, of the primary plats of all subdivisions, either minor or major upon receipt thereof, to the Board of commissioners of Jay County and will, ten (10) days before secondary approval of either major or minor subdivisions is anticipated, notify said Board of Commissioners of said anticipated action.

ARTICLE 2 -- DISTRICT REGULATIONS

Article 2

201 ZONING MAPS

A map of Jay County, Indiana, by township, is to be adopted as part of this Ordinance. Maps of all incorporated cities and towns in Jay County, Indiana, within the Jurisdictional area are also to be adopted as a part of this Ordinance. These Ordinance Maps shall be kept on file and available for examination at the offices of the Jay County Recorder and the Jay County Plan Commission.

202 ZONING DISTRICTS

All areas of Jay County, Indiana, Salamonina, and Pennville not covered under the ordinances of Portland, Dunkirk, Redkey, or Bryant, Indiana, are to be divided into the districts stated in this Ordinance as shown by the district boundaries on the Zoning Maps. Planned Unit Development Districts are governed under Article 3, Section 310 of this Ordinance. The Districts are:

"FP"	Flood Plain
"AR"	Agriculture/Residential
"RR"	Rural/Residential
"UR"	Urban Residential
"COM"	Commercial
"IND"	Industrial
"EP"	Environmental Protection
"PUD"	Planned Unit Development

Additional Districts for Pennville are stated in Article 8

203 DISTRICT BOUNDARIES

District boundaries shown within the lines of streets, streams, and transportation rights-of-way shall be deemed to follow their centerlines. The vacation of streets shall not affect the location of such district boundaries. When the zoning administrator cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Board of Zoning Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this Ordinance.

204 PERMITTED USES AND SPECIAL EXCEPTIONS

The Permitted Uses for each district are shown in Sections 205 through 211 of this Article, 310 of Article 3, and Article 8 of this Ordinance. The uses that are listed for the various districts shall be according to the common meaning of the term or according to definitions given in Article 7. Uses not specifically listed or defined to be included in the categories under this Article shall not be permitted. The Special Exceptions for each district that may be permitted by the Board of Zoning Appeals are also shown in sections 205 through 211, 310 and Article 8 of this Ordinance. The Board of Zoning Appeals shall follow the provisions of Section 504 and any other applicable sections when considering any application for special exception.

205 FP - FLOOD PLAIN DISTRICT REGULATIONS
"FP" District Intent, Permitted Uses, and Special Exception Uses

Article 2

205.1 Purpose

The purpose of the Flood Plain, "FP", District is to guide development of the Flood Hazard areas of Jay County, Indiana, which could result in the potential loss of life and property, create health and safety hazards and lead to extraordinary public expenditures for flood protection and relief. The development of these areas is not essential to the orderly growth of the county, and such areas are suitable for open space uses that do not require structures or fill.

205.2 Permitted Uses

- A. Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.
- B. Forestry, wildlife areas, and nature preserves.
- C. Parks and recreational uses, such as golf courses, driving ranges, and play areas.

205.3 Special Exceptions (see Section 504)

The following special exception uses may be permitted in the Flood Plain District only after a proper permit for same has been granted by the Indiana Department of Natural Resources. All terms and conditions imposed by the Department of Natural Resources will be incorporated in any permit issued by the Plan Commission.

- A. Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, grains, marinas, piers, wharves, levees, seawalls, floodwalls, weirs, and irrigation facilities.
- B. Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe lines, railroads, and utility transmission facilities.
- C. Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands, and transient amusement facility sites.
- D. Water-related urban uses, such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities, and water treatment facilities.
- E. Other flood-tolerant or open space urban uses, such as flood-proofed industrial and commercial buildings, race tracks, tennis courts, park buildings, outdoor theaters, fills, truck freight terminals, radio or TV towers, parking lots, and mineral extractions.
- F. Any other such intended uses.

Lot & Yard Standards

Minimum Lot Size:

Served by wells & septic system -- 2 Acres
Served by public or other approved
community sewer systems -- as required
in overlaid district

Roadway Setback Regulations:

30 feet from the road right-of-way, unless
otherwise stated in this Ordinance

Height Regulations:*

As required in overlaid Districts

*** Note: Height Regulations /Variances**

Additional Development Standards
That Apply

Accessory Uses & Structures	Section 302
Confined Feeding	Section 216
Fences, Hedges and Walls	Section 302
Home Occupation	Section 308
Industrial Standards	Section 309
Non-conforming Uses	Section 301
Visual Clearance Standards	Section 303
Temporary Uses of Land or Structures	Section 304
Mobile Homes	Section 301.8
Mobile Home Parks	Section 305
Recreational Vehicles	Section 306
Campgrounds	Section 307
Performance Standards	Section 309
Waste Pits and Lagoons	Section 302.6
Wind Farms/Towers	Section 217
Small Wind Energy System - Privately Owned	Section 218

***Note: Height Regulation / Variances:**

1. No accessory building shall exceed sixteen (16) feet in height above average ground level unless approved by the Board of Zoning Appeals.
2. The Board may authorize a variance to these height regulations in any district provided the following conditions:
 - a. All front and side yard depths are increased one foot for each additional foot or height.
 - b. The structure is any of the following and does not constitute a hazard to an established airport; television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyers, flag poles, and electrical substations structures.

206.1 Purpose

The Agricultural/Residential District, "AR", is intended to permit agriculture as defined; preserve the natural environment; prevent the adverse change of wildlife habitat, wildlife, plants, animals, water and the air; and to protect agricultural land from unrestricted growth. Limited residential development may be permitted when it does not adversely affect an agricultural use, adversely displace cropland acreage, or adversely create unsanitary conditions, and if located on large-size lots which provide adequate space for private water and sewer facilities.

206.2 Permitted Uses

- | | |
|--|---|
| a. Accessory Uses (<i>see 1 below</i>) | h. Public Parks and Playgrounds |
| b. Agriculture (<i>see 1 & 2 below</i>) | i. Roadside Agricultural Produce Stands |
| c. Child Day Care Homes | j. Schools - Public and Private |
| d. Churches and Cemeteries | k. Small Wind Energy System -
Privately Owned |
| e. Dwellings/ Single-Family (<i>see 3 & 4 below</i>) | l. Wind Farms/Wind Towers Commercial -
Subject to Section 217 Requirements |
| f. Essential Services | |
| g. Pond (<i>see 5 below</i>) | |

1. All agricultural operations as listed in the definitions section of this Ordinance. A confined feeding operation shall be regulated separately as defined and listed in Section 216.

An agricultural packing, treating, processing, or storing operation can be defined as an agricultural accessory use if it meets all the conditions of the definition of an accessory use (Section 702) and thus not be regulated. However, if an agricultural packing, treating, processing, or storing operation can not be defined as an agricultural accessory use (Section 702), it shall be regulated as a "COM" - Commercial District manufacturing special exception.

2. It is the policy of Jay County to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural and non-agricultural conflicts, Jay County hereby incorporate herein the provisions of Indiana Code 34-1-52-4.
3. Single-family dwellings provided they are occupied by a family engaged in agriculture; or, single-family dwellings provided they are on a lot of record in the Jay County Records Office or land contracts dated prior to the effective date of the adoption of this Ordinance; or, single-family dwellings which have been occupied by a family engaged in agriculture and subsequently divided from the farm.
4. Single-family dwellings not occupied by a family engaged in agriculture, provided the lot is two (2) or more acres in size. A variance of lot size may be allowed by the Board of Zoning Appeals. The Board of Zoning Appeals shall consider the ability of the lot to sustain a viable septic system with sufficient area to support a second septic system if necessary, as well as any other relevant factors, in granting any variance in lot size. The Board of Zoning Appeals may require an expert analysis of the proposed lot at the expense of the landowner in making a determination on the variance.
5. If a pond is maintained on the property, either a retaining pond or a recreational pond, there shall be a setback of 50' from the property line to the edge of the dam and 50' from the road right-of-way, if applicable. If there is not dam or levee then the water must be 50' from the property line and 50' from the road right-of-way if applicable.

206.3 Special Exceptions (AR - Agricultural/Residential District)

- | | |
|---|---|
| a. Auction or Sale Barns (<i>see 2 below</i>) | n. Mineral Excavations (<i>see 2 below</i>) |
| b. Campgrounds | o. Mobile Homes |
| c. Child Day Care Centers | p. Municipal Buildings and Libraries |
| d. Commercial Recreational Uses | q. Nursery Schools |
| e. Dwellings / Two-Family | r. Nursing Homes |
| f. Feed Mills & Fertilizer Sales (<i>see 2 below</i>) | s. Private Air Strips (<i>see 2 below</i>) |
| g. Fire Stations | t. Private Clubs and Camps |
| h. General Stores (<i>see 1 below</i>) | u. Supply Yards |
| i. Golf Courses | v. Swimming Pools (Public) |
| j. Grain Elevators (<i>see 2 below</i>) | w. Truck Terminals (<i>see 2 below</i>) |
| k. Greenhouses and Nurseries | x. Veterinary Hospitals and Kennels |
| l. Home Occupations | y. Warehouses |
| m. Hospitals and Clinics | z. Any other such intended uses |

1. Building shall not exceed 2,500 square feet and merchandise shall be confined to building unless otherwise stated in appeal.
2. Use or facility must be 500 feet from any residence, church or school or 250 feet from any property line.

206 AR - AGRICULTURAL/RESIDENTIAL DISTRICT
Development Standards

Article 2

Lot & Yard Standards

Minimum Lot Size:

Served by wells & septic systems -- 2 Acres
Served by public or other approved
community sewer systems -- No Regulations

Roadway Setback Regulations:

30 feet from the road right-of-way, unless
otherwise stated in this Ordinance.

Yard Setback Regulations:

5 feet from property lines, unless otherwise
stated in this Ordinance

Height Regulations:*

Maximum Height: 100 feet
Wind Energy Tower / Privately Owned 100 feet
***Note: Height Regulations / Variances**

**Additional Development Standards
That Apply**

Accessory Uses & Structures	Section 302
Confined Feeding	Section 216
Fences, Hedges and Walls	Section 302
Home Occupation	Section 308
Industrial Standards	Section 309
Non-conforming Uses	Section 301
Visual Clearance Standards	Section 303
Temporary Uses of Land or Structures	Section 304
Mobile Homes	Section 301.8
Mobile Home Parks	Section 305
Recreational Vehicles	Section 306
Campgrounds	Section 307
Performance Standards	Section 309
Waste Pits and Lagoons	Section 302.6
Wind Farms/Towers	Section 217
Small Wind Energy Systems - Privately Owned	Section 218

***Note: Height Regulation Variances:**

1. No accessory building shall exceed sixteen (16) feet in height above average ground level unless approved by the Board of Zoning Appeals.
2. The Board may authorize a variance to these height regulations in any district provided the following conditions:
 - a. All front and side yard depths are increased one foot for each additional foot of height; or
 - b. The structure is any of the following and does not constitute a hazard to an established airport; television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyers, flag poles, and electrical substation structures.

207 RR - RURAL/RESIDENTIAL DISTRICT REGULATIONS
"RR" District Intent, Permitted Uses, and Special Exception Uses

Article 2

207.1 Purpose

The Rural/Residential District, "RR", is intended to differentiate between a rural dwelling which is on and part of an established agricultural enterprise and one that is occupied by persons that are not engaged in agricultural operations or are not engaged in agricultural operations at that particular location.

207.2 Permitted Uses

- | | |
|--------------------------------|---------------------------------|
| a. Accessory Uses | f. Dwellings / Two-Family |
| b. Boarding Houses and Rentals | g. Dwellings / Multi-Family |
| c. Child Day Care Homes | h. Essential Services |
| d. Churches | i. Public Parks and Playgrounds |
| e. Dwellings / Single-Family | j. Schools - Public and Private |

207.3 Special Exceptions (see Section 504)

- | | |
|---------------------------|---|
| a. Beauty Shops | l. Private Clubs |
| b. Child Day Care Centers | m. Professional Offices |
| c. Craft Shops | n. Public Utility Structures |
| d. Funeral Homes | o. Real Estate Offices |
| e. Home Occupations | p. Small Wind Energy System - Privately Owned |
| f. Hospitals and Clinics | q. Swimming Pools (Public) |
| g. Mobile Home | r. Veterinary Offices |
| h. Mobile Home Parks | s. Water and Wastewater Treatment Plants |
| i. Nursery Schools | (see 1 & 2 below) |
| j. Nursing Homes | t. Any other such intended uses |
| k. Ponds (see 3 below) | |

1. Water Treatment Plants shall:

- a. Have 250 feet setback from property line and any dwelling within this district.
- b. Have adequate on-site parking so as to prevent the parking or standing of vehicles waiting to be unloaded or loaded.
- c. Be returned to an A/R District once the operations has ceased and prohibit dwellings, businesses or industries thereafter.
- d. Limit earthen structures to 20 feet maximum in height and excavations to 20 feet maximum in depth.

2. Wastewater Treatment Plants shall:

- a. Have 500 feet setback from property line and any dwelling within this district.
- b. Have adequate on-site parking so as to prevent the parking or standing of vehicles waiting to be unloaded or loaded.
- c. Be returned to an A/R District once the operations has ceased and prohibit dwellings, businesses or industries thereafter.
- d. Limit earthen structures to 20 feet maximum in height and excavations to 20 feet maximum in depth.

3. If a pond is maintained on the property, either a retaining pond or a recreational pond, there shall be a setback of 50' from the property line to the edge of the dam and 50' from the road right-of-way, if applicable. If there is not dam or levee then the water must be 50' from the property line and 50' from the road right-of-way if applicable.

Lot & Yard Standards

Minimum Lot Size:

Served by wells & septic systems -- 2 Acres
Served by public or other approved
community sewer systems -- 5,000 Sq. Ft.

Roadway Setback Regulation:

30 feet from the road right-of-way

Front Yard Limits:*

Each lot shall have a front yard with a minimum depth measured from, and parallel to, the property line adjacent to the road of 15 feet.

*** Note: Front Yard Limit Exceptions**

Side Yard Limits:

Each lot shall have two (2) side yards with each having a minimum width of 5 feet measured from, and parallel to, the property line. **Exception:** Row dwellings and/or buildings with common party walls shall be considered as one (1) building occupying one (1) lot.

Rear Yard Limits:

5 feet minimum rear yard depth per lot

Height Regulations: Maximum Height:

Primary Structures* 30 Feet
Secondary Structures* 16 Feet
Wind Energy Tower / Privately Owned 100 feet

***Note: Height Regulations / Variances:**

**Additional Development Standards
That Apply**

Accessory Uses & Structures	Section 302
Confined Feeding	Section 216
Fences, Hedges and Walls	Section 302
Home Occupation	Section 308
Industrial Standards	Section 309
Non-conforming Uses	Section 301
Visual Clearance Standards	Section 303
Temporary Uses of Land or Structures	Section 304
Mobile Homes	Section 301.8
Mobile Home Parks	Section 305
Recreational Vehicles	Section 306
Campgrounds	Section 307
Performance Standards	Section 309
Waste Pits and Lagoons	Section 302.6
Wind Farms/Towers	Section 217
Small Wind Energy System - Privately Owned	Section 218

***Note: Height Regulations / Variances:**

1. No accessory building shall exceed sixteen (16) feet in height above average ground level unless approved by the Board of Zoning Appeals.
2. The Board may authorize a variance to these height regulations in any district provided the following conditions:
 - a. All front and side yard depths are increased one foot for each additional foot of height; or
 - b. The structure is any of the following and does not constitute a hazard to an established airport; television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyers, flag poles, and electrical substation structures.

***Note: Front Yard Limit Exceptions:**

1. Where a lot is situated between two (2) lots, each of which has an existing main building thereon, the front yards of which are less than the minimum required front yards established herein, the front yard limit of such lot shall be the average of the front yards of said existing buildings.
2. Where a lot abuts only one (1) lot having an existing main building thereon, the front yard of which is less than the minimum required front yard established herein, the front yard limit of such lot shall be the average of the front yard of said existing building and 15 feet.
3. In the case of a corner lot the side yard width to the side street line shall be equal to at least 7 1/2 feet.

208 UR - URBAN/RESIDENTIAL DISTRICT REGULATIONS
“UR” District Intent, Permitted Uses, and Special Exception Uses

Article 2

208.1 Purpose

The Urban/Residential District. “UR”, is intended to establish and preserve low density urban dwellings free from other land uses except those which are compatible with and convenient to the residents of such a zone.

208.2 Permitted Uses

- | | |
|------------------------------|---------------------------------|
| a. Accessory Uses | e. Dwellings / Two-Family |
| b. Child Day Care Homes | f. Essential Services |
| c. Churches | g. Public Parks and Playgrounds |
| d. Dwellings / Single-Family | h. Schools - Public and Private |

208.3 Special Exceptions (see Section 504)

- | | |
|--------------------------------------|---|
| a. Boarding Houses | j. Nursery Schools |
| b. Cemeteries | k. Nursing Homes |
| c. Dwellings Multiple-Family | l. Parking Lots |
| d. Fire Stations | m. Ponds (see 1 below) |
| e. Funeral Homes | n. Private Clubs |
| f. Home Occupations | o. Public Utility Structures |
| g. Hospitals and Clinics | p. Small Wind Energy System - Privately Owned |
| h. Mobile Homes (see 2 below) | q. Swimming Pools (Public) |
| i. Municipal Buildings and Libraries | r. Any other such intended uses |
-
1. If a pond is maintained on the property, either a retaining pond or a recreational pond, there shall be a setback of 50' from the property line to the edge of the dam and 50' from the road right-of-way, if applicable. If there is not dam or levee then the water must be 50' from the property line and 50' from the road right-of-way if applicable.
 2. No mobile homes will be allowed in incorporated areas, except in a qualified mobile home park

Lot & Yard Standards

Minimum Lot Size:

Served by wells & septic systems -- 2 Acres
Served by public or other approved
community sewer systems -- 5,000 Sq. Ft.

Roadway Setback Regulation:

30 feet from the road right-of-way

Front Yard Limits:*

Each lot shall have a front yard with a minimum depth measured from, and parallel to, the property line adjacent to the road of 15 feet.

***Note: Front Yard Limit Exceptions**

Side Yard Limits:

Each lot shall have two (2) side yards with each having a minimum width of five (5) feet measured from, and parallel to, the property line. **Exception:** Row dwellings and/or buildings with common party walls shall be considered as one (1) building occupying one (1) lot.

Rear Yard Limits:

5 feet minimum rear yard depth per lot

Height Regulations: Maximum Height:

Primary Structures* 30 Feet
Secondary Structures* 16 Feet
Wind Energy Tower / Privately Owned 100 feet

***Note: Height Regulations / Variances**

Additional Development Standards That Apply

Accessory Uses & Structures	Section 302
Confined Feeding	Section 216
Fences, Hedges and Walls	Section 302
Home Occupation	Section 308
Industrial Standards	Section 309
Non-conforming Uses	Section 301
Visual Clearance Standards	Section 303
Temporary Uses of Land	
or Structures	Section 304
Mobile Homes	Section 301.8
Mobile Home Parks	Section 305
Recreational Vehicles	Section 306
Campgrounds	Section 307
Performance Standards	Section 309
Waste Pits and Lagoons	Section 302.6
Wind Farms/Towers	Section 217
Small Wind Energy System - Privately Owned	Section 218

***Note: Height Regulations / Variances:**

1. No accessory building shall exceed sixteen (16) feet in height above average ground level unless approved by the Board of Zoning Appeals.
2. The Board may authorize a variance to these height regulations in any district provided the following conditions:
 - a. All front and side yard depths are increased one foot for each additional foot of height; or
 - b. The structure is any of the following and does not constitute a hazard to an established airport; television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyers, flag poles, and electrical substation structures.

***Note: Front Yard Limit Exceptions:**

1. Where a lot is situated between two (2) lots, each of which has an existing main building thereon, the front yards of which are less than the minimum required front yards established herein, the front yard limit of such lot shall be the average of the front yards of said existing buildings.
2. Where a lot abuts only one (1) lot having an existing main building thereon, the front yard of which is less than the minimum required front yard established herein, the front yard limit of such lot shall be the average of the front yard of said existing building and 15 feet.
3. In the case of a corner lot the side yard width to the side street line shall be equal to at least 7 1/2 feet.

209 COM - COMMERCIAL DISTRICT REGULATIONS
"COM" District Intent, Permitted Uses, and Special Exception Uses

Article 2

209.1 Purpose

The Commercial District, "COM", is limited to business, public, and certain residential uses. By establishing compact districts for such uses, more efficient traffic movement, parking facilities, fire protection and police protection may be provided. Industrial uses are excluded in order to reduce the hazards caused by extensive truck and rail movements normally associated with such uses. The purpose of these districts is to provide unified shopping districts conveniently located.

209.2 Permitted Uses

- | | |
|---------------------------------------|---------------------------------------|
| a. Accessory Uses | g. Offices and Banks |
| b. Automobile Sales, Service & Repair | h. Personal and Professional Services |
| c. Child Day Care Centers | i. Private Utilities |
| d. Eating and Drinking Establishments | j. Public Parks and Playgrounds |
| e. Essential Services | k. Public Utility Structures |
| f. Hotels and Motels | l. Retail Business |

209.3 Special Exceptions (see Section 504)

- | | |
|--|---|
| a. Adult Bookstore & Video Store (see 1 below) | o. Mineral Excavation (see 1 below) |
| b. Animal Boarding/Kennel | p. Mobile Home (see 4 below) |
| c. Animal Hospital/Veterinarian | q. Mobile Home Parks |
| d. Campgrounds | r. Private Utilities |
| e. Churches | s. Public Transportation Terminal |
| f. Commercial Recreation | t. Schools - Public and Private |
| g. Dwelling / Single-Family | u. Small Wind Energy System-Private Owned |
| h. Dwelling / Two-Family | v. Supply Yards |
| i. Dwelling / Multi-Family | w. Theater (Indoor and Outdoor) |
| j. Farm Implement Sales, Service & Repair | x. Towers (see 5 below) |
| k. Grain Elevator (see 1 below) | y. Truck/Railroad Terminals (see 1 & 2 below) |
| l. Hospitals and Clinics | z. Warehouses |
| m. Livestock Auction (see 1 below) | aa. Wholesale Business |
| n. Manufacturing (see 3 below) | bb. Any other such intended uses |
1. Use or facility must be 500 feet from any residence, church or school or 250 feet from any property line.
 2. Operation shall be a minimum of five (5) acres and not to exceed ten (10) acres.
 3. Building shall not exceed 2,500 square feet and materials shall be confined to building unless otherwise stated in appeal. An agricultural processing facility that cannot be defined as an agricultural accessory shall be defined as a "COM" manufacturing special exception.
 4. No mobile homes will be allowed in the incorporated areas, except in a qualified mobile home park.
 5. Should a tower or similar structure be utilized on the property the Board of Zoning Appeals may require additional setbacks to assure the tower does not cause damage to neighboring buildings or property in the event the tower falls.

Lot & Yard Standards

Minimum Lot Size:

Served by wells & septic systems -- 3 Acres
Served by public or other approved
community sewer systems -- No minimum

Roadway Setback Regulation:

30 feet from the road right-of-way

Front Yard Limits:

No limits

Side Yard Limits:

Each lot shall have two (2) side yards with each having a minimum width of five (5) feet measured from, and parallel to, the property line. **Exception:** Row dwellings and/or buildings with common party walls shall be considered as one (1) building occupying one (1) lot.

Rear Yard Limits:

5 feet minimum rear yard depth per lot

Other Regulations:

1. Accessory Buildings shall not be located less than five (5) feet from any property line.
2. The minimum distance between structures and/or excavations to adjacent residential or agricultural structures and/or excavations shall be one hundred (100) feet.

Height Regulations: Maximum Height:

Primary Structures* 50 Feet
Secondary Structures* 16 Feet
Wind Energy Tower / Privately Owned 100 feet

***Note: Height Regulations / Variances**

Additional Development Standards That Apply

Accessory Uses & Structures	Section 302
Confined Feeding	Section 216
Fences, Hedges and Walls	Section 302
Home Occupation	Section 308
Industrial Standards	Section 309
Non-conforming Uses	Section 301
Visual Clearance Standards	Section 303
Temporary Uses of Land	
or Structures	Section 304
Mobile Homes	Section 301.8
Mobile Home Parks	Section 305
Recreational Vehicles	Section 306
Campgrounds	Section 307
Performance Standards	Section 309
Waste Pits and Lagoons	Section 302.6
Wind Farms/Towers	Section 217
Small Wind Energy System - Privately Owned	Section 218

***Note: Height Regulation Variances:**

1. No accessory building shall exceed sixteen (16) feet in height above average ground level unless approved by the Board of Zoning Appeals.
2. The Board may authorize a variance to these height regulations in any district provided the following conditions:
 - a. All front and side yard depths are increased one foot for each additional foot of height; or
 - b. The structure is any of the following and does not constitute a hazard to an established airport; television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyers, flag poles, and electrical substation structures.

210 IND - INDUSTRIAL DISTRICT REGULATIONS
"IND" District Intent, Permitted Uses, and Special Exception Uses

Article 2

210.1 Purpose

The Industrial District, "IND", is intended to provide suitable space for existing industries and their expansion as well as for future industrial development. Performance standards, parking specifications, and yard regulations, are set forth in the Ordinance in order to insure safe industrial development that is compatible with adjacent uses. The locations of the districts should be near railroads or highways in order to meet the transportation needs of industry.

210.2 Permitted Uses

- | | |
|------------------------------------|--|
| a. Accessory Uses | g. Offices |
| b. Commercial bulk propane storage | h. Supply Yards (<i>see 1 below</i>) |
| c. Essential Services | i. Truck and Railroad Terminals |
| d. Grain Elevators | j. Warehouses |
| e. Lumber Yards | k. Wind Farms / Wind Towers Commercial |
| f. Manufacturing | l. Wholesale Businesses |
1. Materials shall be stored in a safe and orderly manner and the property shall be fenced in.

210.3 Special Exceptions (*see Section 504*)

- a. Airports
 - b. Child Day Care Centers
 - c. Concrete Manufacturing and Mixing
 - d. Fertilizer and Herbicide Manufacturing Operations (*see 1 through 5 below*)
 - e. Fire Stations and Municipal Buildings
 - f. Outdoor Storage (*see 5 below*)
 - g. Small Wind Energy System - Privately Owned
 - h. Stockyards and Slaughter Houses (*see 1 through 3 below*)
 - i. Towers (*see 6 below*)
 - j. Water and Wastewater Treatment Plants (*see 1 through 4 below*)
 - k. Any other such intended uses
1. Shall have 500 foot buffer between property line and any facility or excavation.
2. Adequate on-site parking must be provided to prevent the parking or standing of vehicles waiting to be unloaded or loaded.
3. Earthen structures may be built to 20 feet maximum height and excavations to 20 feet or less are permissible.
4. Once the operation has ceased, the property shall be returned to an AR District where no dwelling, business, or industry shall be permitted on the property.
5. Materials shall be stored in a safe and orderly manner and the property shall be fenced in.
6. Should a tower or similar structure be utilized on the property the Board of Zoning Appeals may require additional setbacks to assure the tower does not cause damage to neighboring buildings or property in the event the tower falls.

Lot & Yard Standards

Minimum Lot Size:

Served by wells & septic systems -- 5 Acres
Served by public or other approved
community sewer systems -- 3 Acres

Roadway Setback Regulation:

30 feet from the road right-of-way

Front Yard Limits:

No limits

Side Yard Limits:

Each lot shall have two (2) side yards with each having a minimum width of five (5) feet measured from, and parallel to, the property line. **Exception:** Row dwellings and/or buildings with common party walls shall be considered as one (1) building occupying one (1) lot.

Rear Yard Limits:

5 feet minimum rear yard depth per lot

Other Regulations:

1. Accessory Buildings shall not be located less than five (5) feet from any property line.
2. The minimum distance between structures and/or excavations to adjacent residential or agricultural structures and/or excavations shall be three hundred (300) feet.

Height Regulations: Maximum Height:

Primary Structures* 70 Feet
Secondary Structures* 16 Feet
Wind Energy Tower / Privately Owned 100 feet

***Note: Height Regulations / Variances**

Additional Development Standards That Apply

Accessory Uses & Structures	Section 302
Confined Feeding	Section 216
Fences, Hedges and Walls	Section 302
Home Occupation	Section 308
Industrial Standards	Section 309
Non-conforming Uses	Section 301
Visual Clearance Standards	Section 303
Temporary Uses of Land	
or Structures	Section 304
Mobile Homes	Section 301.8
Mobile Home Parks	Section 305
Recreational Vehicles	Section 306
Campgrounds	Section 307
Performance Standards	Section 309
Waste Pits and Lagoons	Section 302.6
Wind Farms/Towers	Section 217
Small Wind Energy System - Privately Owned	Section 218

***Note: Height Regulation Variances:**

1. No accessory building shall exceed sixteen (16) feet in height above average ground level unless approved by the Board of Zoning Appeals.
2. The Board may authorize a variance to these height regulations in any district provided the following conditions:
 - a. All front and side yard depths are increased one foot for each additional foot of height; or
 - b. The structure is any of the following and does not constitute a hazard to an established airport; television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyers, flag poles, and electrical substation structures.

211.1 Purpose

The Environmental Protection District, "EP", is intended to provide safe locations for potentially environmentally hazardous uses, to regulate such uses so as to protect the environment, and to protect the citizens of Jay County, Indiana.

211.2 Permitted Uses

- | | |
|---|---|
| a. Accessory Uses (See Article 302) | j. Materials Recovery Facility |
| b. Agriculture | k. Pond |
| c. Commercial Bulk Fuel Storage | l. Prison and Correctional Facilities |
| d. Commercial Fertilizer & Pesticide Operations | m. Sanitary Landfills |
| e. Commercial Incinerators | n. Stockyards and Slaughter Houses |
| f. Essential Services | o. Transfer Stations |
| g. Explosive Material Manufacturing Operations | p. Water and Wastewater Treatment Plant |
| h. Intermediate Processing Facility | q. Any other such intended uses |
| i. Licensed Salvage Yard | r. Satellite Manure Storage Structure
"SMSS" (2) |

211.3 Concerning all Permitted Uses above, the following regulations shall apply:

1. Local Reporting Requirements:

A copy of all required State and/or Federal permit application shall be filed with the Jay County Plan Commission before Jay County shall issue an Improvement Location Permit or a Certificate of Compliance.

2. Concerning any Satellite Manure Storage Structure / "SMSS"

Any SMSS must also comply with the regulations as set forth in Section 216 of this Ordinance

3. Setbacks:

- a. For Permitted Uses c and k, the operation shall have a 1,000 foot buffer between its property line and the facility or excavation. For permitted uses d-i, l-n, and q, a 100 foot buffer shall be maintained between the property line and the facility or excavation. For permitted uses a, b, and o, a 30' buffer shall be maintained.
- b. If a pond is maintained on the property, either a retaining pond or a recreational pond, there shall be a setback of 50' from the property line to the edge of the dam and 50' from the road right-of-way, if applicable. If there is not dam or levee then the water must be 50' from the property line and 50' from the road right-of-way if applicable.

4. Screening:

For Permitted Uses c through g, the operation shall provide a screen of vegetation. This screen shall be identified and located on a site map and submitted to and approved by the Plan Commission prior to the issuance of a Certificate of Compliance. In lieu of a screen of vegetation a fence may be employed to screen the operation. The fence must be sufficient to screen the operation from sight as well as provide for public safety. The proposed fence must be submitted to and approved by the Plan Commission prior to the issuance of a Certificate of Compliance.

5. Lot Requirements:

The minimum lot size or all of the above Permitted Uses shall be five (5) acres. Adequate on-site parking must be provided to prevent the parking or standing of vehicles on public thoroughfares waiting to be unloaded or loaded. Once the operation has ceased, the property shall be returned to an AR District where no new dwelling, business or industry shall be permitted on the property.

211.3 Concerning all Permitted Uses (EP - Environmental Protection District) Continued...

6. Height Requirements:

Height regulations shall be fifty (50) feet, with the following exception: all earthen structures shall be built to a 20 foot maximum height and excavations of a 20 foot maximum depth.

7. Public Hearings:

A public hearing prior to the issuance of the Improvement Location Permit shall be required even though rezoning is not necessary for the development.

8. Performance Standards:

All EP uses shall conform to the Performance Standards as established in Section 309 of this Ordinance.

9. Concerning Sanitary Landfills:

It is not the proper use of the land to convert a solid waste disposal site into a hazardous waste (as defined in State of Indiana Environmental Rules, 329 IAC 3-.3-3) disposal site either during the granting of the Improvement Location Permit or Certificate of Compliance.

Therefore, a solid waste landfill, transfer station or depository. It is also not the proper use of the land to accept special waste (as defined in State of Indiana Environmental Rules, 329 IAC 2-21-1) to a solid waste landfill, transfer station or depository. A solid waste landfill, transfer station or depository shall not be converted to a special waste landfill, transfer station or depository.

211.4 Special Exception Uses:

There are no special exception uses for EP-Environmental Protection District

Lot & Yard Standards

Minimum Lot Size:

Served by wells & septic systems -- 5 Acres
Served by public or other approved
community sewer systems -- 5 Acres

Roadway Setback Regulation:

30 feet from the road right-of-way

Other Regulations:

Accessory Buildings shall not be located less than five (5) feet from any property line.

Height Regulations:*

Maximum Height:

Primary Structures 50 Feet
Secondary Structures 16 Feet

Exception – All earthen structures shall be built to a twenty (20) foot maximum height and excavations of a twenty (20) foot maximum depth.

***Note: Height Regulations / Variances**

Additional Development Standards
That Apply

Accessory Uses & Structures	Section 302
Confined Feeding	Section 216
Fences, Hedges and Walls	Section 302
Home Occupation	Section 308
Industrial Standards	Section 309
Non-conforming Uses	Section 301
Visual Clearance Standards	Section 303
Temporary Uses of Land or Structures	Section 304
Mobile Homes	Section 301.8
Mobile Home Parks	Section 305
Recreational Vehicles	Section 306
Campgrounds	Section 307
Performance Standards	Section 309
Waste Pits and Lagoons	Section 302.6
Satellite Manure Storage Structure / "SMSS"	Section 216
Wind Farms/Towers	Section 217
Small Wind Energy System - Privately Owned	Section 218

***Note: Height Regulation Variances:**

1. No accessory building shall exceed sixteen (16) feet in height above average ground level unless approved by the Board of Zoning Appeals.
2. The Board may authorize a variance to these height regulations in any district provided the following conditions:
 - a. All front and side yard depths are increased one foot for each additional foot of height; or
 - b. The structure is any of the following and does not constitute a hazard to an established airport; television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyers, flag poles, and electrical substation structures.

216 CONFINED FEEDING REGULATIONS

Definitions and Regulations

Ordinance #2016-7 & #2016-9

Article 2

216 CONFINED FEEDING OPERATION (CFO) REGULATIONS

PURPOSE: The purpose of this Section is to impose construction and operational requirements for Animal Feeding Operations (AFO's) and Confined Feeding Operations (CFO's) and to provide standards to help safe-guard life, human health and the environment. The purpose of setback regulations is to separate the homeowner and others from the normal noises and odors which may accompany a confined feeding operation.

216.1 CONFINED FEEDING PERMITS REQUIRED

1. A person, firm or corporations may not start:
 - a. construction of a confined feeding operation (CFO); or
 - b. the expansion of a confined feeding operation (CFO) including any alterations to and/or any additional structures and manure/waste storage structure/facility;without first obtaining a Building Permit from the Zoning Administrator/Director.
2. Any animal feeding operation that falls under the definition of a CFO as defined in Section 216.2(C) shall comply with all regulations as set forth in this Ordinance.
3. Any manure/waste storage structure/facility will require a permit and must meet all setback requirements that are applicable to the permitted AFO/CFO, including any IDEM requirements
5. Any animal composting structure/facility will require a permit and must comply with the regulations as set forth in Section 216.5, including any IDEM requirements.
6. Any Satellite Manure Storage Structure (SMSS) will require a permit and must comply with the regulations as set forth in Section 216.6, including any IDEM requirements.

216.2 DEFINITIONS

The following words and terms shall, for the purpose of this Section and used elsewhere in this Ordinance, have the meaning shown herein.

A. Animal Feeding Operation or "AFO" defined

327 IAC 19-2-3 "Animal feeding operation" or "AFO" defined

Animal feeding operation or "AFO" means a lot or facility, other than an aquatic animal production facility, where all of the following conditions are met:

- (1) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period.
- (2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over at least fifty percent (50%) of the lot or facility.

B. Confined Feeding defined:

327 IAC 19-2-6 "Confined feeding" defined

(a) Confined feeding, *as defined in IC 13-11-2-39*, means the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:

- (1) animals are confined, fed, and maintained for at least forty-five (45) days during any twelve (12) month period; and
- (2) ground cover or vegetation is not sustained over at least fifty percent (50%) of the animal confinement area.

(b) The term does not include the following:

- (1) A livestock market:
 - (A) where animals are assembled from at least two (2) sources to be publicly auctioned or privately sold on a commission basis; and
 - (B) that is under state or federal supervision.
- (2) A livestock sale barn or auction market where animals are kept for not more than ten days.

C. Confined Feeding Operation of "CFO" is further defined as:

1. Any existing or proposed animal feeding operation or an expansion of an existing animal feeding operation regardless of acreage on which there are animal numbers equal to or exceeding:
 - a. 100 Cattle or Horses
 - b. 300 Swine or Sheep
 - c. 500 Ducks or Turkeys
 - d. 5,000 Chickens
2. Any AFO or CFO using open waste storage and/or a waste holding pit.
3. Where any animal feeding operation involves less than 100 cattle or horses, 300 swine or sheep, 500 ducks or turkeys, 5,000 chickens *but there is more than one species of animal*, the total number of animals in each category shall be divided by 100 in the case of cattle or horses, 300 in the case of swine or sheep, 500 in the case of ducks or turkeys and 5,000 in the case of chickens. The resulting percentages shall be added together. If the total of such percentages equals or exceeds 100, then the operation is a confined feeding operation as defined herein, and as such, shall be subject to the provisions of this ordinance.
4. Any animal feeding operation facility where the owner and/or operator elects to be subject to IDEM, IC 13-18-10 / Chapter 10 Confined Feeding Control.
5. Any animal feeding operation facility causing a violation of water pollution control laws and/or any rules of the water pollution control board; or as determined by the Water Pollution Control Board or its successors.

D. Construction defined:

327 IAC 19-2-9 "Construction" defined

"Construction", as defined in IC 13-11-2-40.8, for purposes of IC 13-18-10, means the fabrication, erection, or installation of a facility or manure control equipment at the location where the facility or manure control equipment is intended to be used. The term does not include the following:

- (1) The dismantling of existing equipment and control devices.
- (2) The ordering of equipment and control devices.
- (3) Off-site fabrication.

E. Feedlot defined:

327 IAC 19-2-14 "Feedlot" defined

"Feedlot" means an outside lot or pen used for confined feeding, including areas that may be covered, partially covered, or uncovered.

F. Flood Plain defined per FEMA:

FEMA: Floodplain--Any land area susceptible to being inundated by floodwaters from any source.

Flood Hazard Boundary Map (FHBM)--Official map of a community issued by FEMA, where the boundaries of the flood, mudflow and related erosion areas having special hazards have been designated.

G. Manure/Waste defined:

327 IAC 19-2-25 "Manure" defined

"Manure", as defined in IC 13-11-2-126.5, means the following:

- (1) Liquid or solid animal excreta.
- (2) Waste liquid generated at a livestock or poultry production area, including the following:
 - (A) Excess drinking water.
 - (B) Cleanup water.
 - (C) Contaminated livestock truck or trailer washwater.
 - (D) Milking parlor wastewater.
 - (E) Milk house washwater.
 - (F) Egg washwater.
 - (G) Silage leachate.
- (3) Any precipitation or surface water that has come into contact with the following:
 - (A) Liquid or solid animal excreta.
 - (B) Used bedding.
 - (C) Litter.
 - (D) Liquid described in subdivision (4).
- (4) Any other materials generated at a livestock or poultry production area commingled with the materials listed in subdivisions (1) through (3).

H. Manure/Waste Storage Facility defined:

327 IAC 19-2-28 "Manure storage facility" defined

"Manure storage facility" means any:

(1) pad; (2) pit; (3) pond; (4) lagoon; (5) tank; (6) building; or (7) manure containment area; used to store or treat manure, including any portions of buildings used specifically for manure storage or treatment.

I. Mortality Management / "Animal Composting"

327 IAC 19-7-6 Mortality management (Water Pollution Control Division)

(a) CFOs must carry out proper management of dead livestock as required by 345 IAC 7-7 to ensure that there shall be:

(1) no discharge of mortality or liquids that have been in contact with mortality to waters of the state; and Indiana Administrative Code Page 17(2) no disposal in a manure storage facility that is not specifically designed to treat animal mortalities.

(b) Mortality composting sites must meet all of the following criteria:

(1) Be constructed and operated:

(A) to prevent:

(i) leaching, either through the use of earthen compaction or a concrete pad; and
(ii) run-on and runoff of storm water; and

(B) in accordance with IC 15-17-11.

(2) Comply with setbacks listed in 327 IAC 19-12-3.

J. Owner/Operator defined:

327 IAC 19-2-32 "Owner/operator" defined

"Owner/operator" means the person:

(1) that owns the waste management systems at the CFO;

(2) that:

(A) owns the livestock at the CFO; and

(B) applies for or has received an approval under this Section; or

(3) in direct or responsible charge or control of one (1) or more CFOs..

K. Process Wastewater defined:

327 IAC 19-2-33 "Process wastewater" defined

(a) "Process wastewater" means water directly or indirectly used in the operation of the AFO for any or all of the following:

(1) Spillage or overflow from animal or poultry watering systems.

(2) Washing, cleaning, or flushing any of the following:

(A) Pens; (B) Barns; (C) Manure pits; (D) Other AFO facilities.

(3) Direct contact swimming, washing, or spray cooling of animals.

(4) Dust control at the production area.

(b) The term includes any water that comes into contact with or is a constituent of any raw materials, products, or byproducts, including the following:

(1) Manure; (2) Litter; (3) Feed; (4) Milk; (5) Eggs; (6) Bedding.

L. Production Area defined:

327 IAC 19-2-34 "Production area" defined

"Production area" means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins, and areas within berms and diversions that separate uncontaminated storm water. The term includes any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

M. Surface Water defined

327 IAC 19-2-45 "Surface water" defined

"Surface water" means waters present on the surface of the earth, including:

- (1) streams; (2) lakes; (3) ponds; (4) rivers; (5) swamps; (6) marshes; or (7) wetlands.

N. Waste Management System defined

327 IAC 19-2-48 "Waste management system" defined

"Waste management system" means any approved method of managing manure or process wastewater at the CFO, including:

- (1) manure storage facilities;
- (2) manure transfer systems;
- (3) manure treatment systems, such as a:
 - (A) constructed wetland;
 - (B) vegetative management system; or
 - (C) wastewater treatment system under a valid national pollutant discharge elimination system (NPDES) permit;
- (4) feedlots;
- (5) confinement buildings; or
- (6) waste liquid handling, storage, and treatment systems.

O. Waters defined

327 IAC 19-2-49 "Waters" defined

(a) "Waters", as defined in IC 13-11-2-265, means:

- (1) the accumulations of water, surface and underground, natural and artificial, public and private; or
- (2) a part of the accumulations of water; that are wholly or partially within, flow through, or border upon Indiana.

(b) The term does not include:

- (1) an exempt isolated wetland;
- (2) a private pond; or
- (3) an off-stream pond, reservoir, wetland, or other facility built for reduction or control of pollution or cooling of water before discharge.

(c) The term includes all waters of the United States, as defined in Section 502(7) of the federal Clean Water Act (33 U.S.C.1362(7)), that are located in Indiana.

216.3 JAY COUNTY REGULATIONS: Setback requirements For CFO's without the use of any open waste storage: For confined feeding operations *without* the use on any open waste storage, all confined lots, feedlots and structures designed to house or contain livestock shall meet the following setbacks applicable to the operation:

A. SETBACKS USING 2 TIER SYSTEM

TIER 1	100 –	500	Cattle or Horses
	300 –	10,000	Swine or Sheep
	500 –	24,000	Ducks
	500 –	30,000	Turkeys – Finishers
	500 –	48,000	Turkeys – Starters
	5,000 –	1,000,000	Chickens

Tier 1 Setbacks: 750' from any Residence not owned by the CFO owner/operator;
 1,250' from church, school, business, public building and any area zoned Commercial (COM);
 1,550' from Rural Residential (RR);
 100' from Property lines;
 100' from Road right of way
 300' from Flood Plain as designated on the FEMA Flood Hazard Boundary Map (FHBM).
 300' from any surface waters of the state, including any county ditch, stream, or waterway.
 See 216.3(B) for additional setback requirements

TIER 2 Any animal number greater than those numbers listed in Tier 1

Tier 2 Setbacks: 1,320' from any Residence not owned by the CFO owner/operator;
 1,750' from church, school, business, public building and any area zoned Commercial (COM);
 2,050' from Rural Residential (RR);
 150' from Property lines;
 150' from Road right of way
 350' from Flood Plain as designated on the FEMA Flood Hazard Boundary Map (FHBM).
 350' from any surface waters of the state, including any county ditch, stream, or waterway.
 See 216.3(B) for additional setback requirements

B. Additional Setback Requirements for CFO's without the use of any open waste storage:

1. 1 mile (5,280 ft) from the corporate limits of Pennville, 1 mile (5,280 ft) from the corporate limits of Redkey, 1/2 mile (2,640 ft) from the corporate limits of Salamonina and 2 miles (10,560 ft) from the corporate limits of Portland. (See City of Portland Zoning Ordinance for regulations).
2. 1 mile to the west, 1 mile to the south, 1/2 mile to the north, and 1/2 mile to the east of the property lines of any Commercial (COM) zoned Recreational Area.
3. 2,000 feet from any nature preserve, park and/or recreational use including such uses as permitted in the Floodplain (FP) District, Section 205 of the Jay County Zoning Ordinance; to include property owned by IDNR, Friends of the Limberlost and/or any such property associated with the Loblolly reconstruction project/area.

216.4 JAY COUNTY REGULATIONS: Setback Requirements for any Open Waste Storage:

ALL open waste storage facilities and/or structures shall meet the following setbacks applicable to the operation based on the number of animals:

A. SETBACKS USING 2 TIER SYSTEM

TIER 1	100 – 500	Cattle or Horses
	300 – 10,000	Swine or Sheep
	500 – 24,000	Ducks
	500 – 30,000	Turkeys – Finishers
	500 – 48,000	Turkeys – Starters
	5,000 – 1,000,000	Chickens

Tier 1 Setbacks: 1,250' from any Residence not owned by the CFO owner/operator;
1,500' from church, school, business, public building and any area zoned Commercial (COM);
2,000' from Rural Residential (RR);
100' from Property lines;
100' from Road right of way
300' from any surface waters of the state, including any county ditch, stream, or waterway
See 216.4(B) for additional setback requirements

TIER 2 Any animal number greater than those numbers listed in Tier 1

Tier 2 Setbacks: 1,500' from any Residence not owned by the CFO owner/operator;
2,000' from church, school, business, public building and area zoned Commercial (COM);
2,500' from Rural Residential (RR);
150' from Property lines;
150' from Road right of way
350' from any surface waters of the state, including any county ditch, stream, or waterway
See 216.4(B) for additional setback requirements

B. Additional Setback Requirements for CFO's with any open waste storage

1. 1 mile (5,280 ft) from the corporate limits of Pennville, 1 mile (5,280 ft) from the corporate limits of Redkey, 1/2 mile (2,640 ft) from the corporate limits of Salamonia and 2 miles (10,560 ft) from the corporate limits of Portland. (See City of Portland Zoning Ordinance for regulations).
2. 1 mile to the west, 1 mile to the south, 1/2 mile to the north, and 1/2 mile to the east of the property lines of any Commercial (COM) zoned recreational area.
3. 2,000 feet from any nature preserve, park and/or recreational use including such uses as permitted in the Floodplain (FP) District, Section 205 of the Jay County Zoning Ordinance; to include property owned by IDNR, Friends of the Limberlost and/or any such property associated with the Loblolly reconstruction project/area.
4. Setback from any Floodplain area as designated on the FEMA Flood Hazard Boundary Map (FHBM) as listed below:
 - a. 1 million gallon lagoon -- 500 feet from the flood plain
 - b. 5 million gallon lagoon -- 1,200 feet from the flood plain
 - c. 10 million gallon lagoon -- 1,800 feet from the flood plain
 - d. 15 million gallon lagoon -- 2,000 feet from the flood plain

In a case where the gallon amount falls between two of the stated amounts listed above, the further setback distance will be used.

5. Setbacks for any new and/or expansion of existing open waste storage facility will be based on the number of animals of the operation per the 2 Tier System.

216.5 Animal Composting Structure/Facility Regulations & Setbacks

Any animal composting structure/facility shall meet the setbacks as required for the permitted CFO as stated in Subsections 216.3 and 216.4 *and/or* shall comply with the following setbacks including all setbacks required by IDEM per 327 IAC 19-7-6 Mortality Management/Animal Composting (Water Pollution Control Division) and 327 IAC 19-12-3 Setbacks.

1. 1,000 feet from a public water supply well or public water supply surface intake structure.
2. 300 feet from the following:
 - a. Surface water.
 - b. Drainage inlets, including water and sediment control basins.
 - c. Sinkholes, as measured from the surficial opening or the lowest point of the feature.
 - d. Off-site water wells
3. 100 feet from the following:
 - a. On-site water wells.
 - b. Property lines.
 - c. Public roads.
4. 400 feet from any existing off-site residential and public buildings.

216.6 Satellite Manure Storage Structure/Facility "SMSS"

A satellite manure storage structure (SMSS) means a structure and any associated structures that are designed to store off site manure, both solid and liquid (regardless of the size or storage capacity), and is not located at a privately owned livestock or poultry production area. A SMSS includes, but is not limited to a building, pad, lagoon, pit, pond or tank. A SMSS must also comply with all regulations as set forth by IDEM along with the regulations as set forth in this Section and Ordinance.

A. Zoning Classification:

A SMSS is considered a business and shall only be permitted on property with a zoning classification of Environmental Protection (EP) per Section 211 of this Ordinance.

B. Setback Requirements:

All SMSS structures and/or manure storage structures (open and/or enclosed) must comply with the following setback requirements:

1. 2,640' (1/2 Mile) from any residence;
2. 3,000' from any church, school, business, public building and area zoned Commercial (COM);
3. 3,500' from Rural Residential (RR);
4. 1,000' from Property lines;
5. 1,000' from Road right of way;
6. 1 mile from the corporate limits of Bryant, Dunkirk, Pennville, Redkey, Salamonia, and 2 miles from the corporate limits of Portland (Portland has a 2-mile jurisdictional area);
7. 1 mile from the property lines of any Commercial (COM) zoned Recreational Area;
8. 500 feet from any surface waters of the state, including any county ditch, stream, or waterway;
9. 2,640 feet from any nature preserve, park and/or recreational use including such uses as permitted in the Floodplain (FP) District, Section 205 of the Jay County Zoning Ordinance. This includes property owned by IDNR, Friends of the Limberlost and/or any such property associated with the Loblolly reconstruction project/area;
10. Setback from any Floodplain area as designated on the FEMA Flood Hazard Boundary Map (FHBM) as listed below:

a. 0 - 1 million gallon lagoon	--	750 feet from the flood plain
b. 5 million gallon lagoon	--	1,500 feet from the flood plain
c. 10 million gallon lagoon	--	2,250 feet from the flood plain
d. 15 million gallon lagoon	--	3,000 feet from the flood plain

In a case where the gallon amount falls between two of the stated amounts listed above, the further setback distance will be used.

C. Screening:

The SMSS facility shall provide a screen of vegetation and/or a fence may be employed to screen the operation. The vegetation and/or fence must be sufficient to screen the operation from sight as well as provide for public safety. The proposed vegetation and/or fence shall be identified and located on a site map and submitted to and approved by the Zoning Administrator/Director prior to the issuance of a Certificate of Compliance.

D. Application and Permitting:

The application and permitting process for a proposed SMSS shall be the same as for a proposed confined feeding operation (see Subsection 216.8).

216.7 SETBACK PROTECTION FOR THE CONFINED FEEDING OPERATOR

No residence (except that of the confined feeding owner/operator), no church, school, business, public building, area zoned Commercial (COM) or any recreational area under public or private ownership zoned Commercial (COM) may be constructed within the setback requirements applicable to an existing or granted (permitted or otherwise) confined feeding operation per the Tier System as set forth in Sections 216.3 and 216.4 of this Ordinance without an approved variance from the Board of Zoning Appeals.

216.8 CONFINED FEEDING OPERATION APPLICATIONS & PERMITS

A. Intent to Build/Confined Feeding Application Requirements:

Prior to any construction or expansion of a confined feeding operation (CFO), the applicant/operator shall file with the Zoning Administrator/Director an application referred to in this Ordinance as a "Intent to Build/Confined Feeding Application". The filing shall include, but not limited to, the following:

1. The completed application signed by the applicant/operator and property owner (when applicable)
2. A site plan drawn to scale to include the following:
 - a. The entire property and the features of the property including all rights-of-way, easements, property lines and setbacks;
 - b. All existing and proposed buildings, structures, waste containment areas and/or other site improvements with the dimensions of such improvements including the number of stories and/or the height of proposed buildings and/or structures;
 - c. The use to be made of the proposed buildings, structures and/or land;
 - d. The distances from all proposed buildings, structures and/or site improvements to the property lines and right-of-ways;
 - e. The location of any existing or proposed water well and/or septic field;
 - f. The location of any existing or proposed driveway(s) and/or parking areas;
3. If the applicant/operator elects to be, or the operation is required to be subject to IDEM regulations, a copy of such proposal as submitted to IDEM may be required at the time of filing.
4. If the proposed animal feeding operation does not meet the requirements to be subject to IDEM regulations, a copy of the supplier's contract certifying the number of animals to be supplied to the confined feeding operation may be required.
5. Any other information required by the Zoning Administrator/Director for the proper enforcement of this Ordinance.
6. Payment of all required fees for filing of the Intent-To-Build/Confined Feeding Application including those fees for all notices published and/or mailed.

B. Intent To Build/Confined Feeding Application Review & Approval:

1. Upon receiving the application and site plan, the Zoning Administrator/Director shall:
 - a. Contact the Jay County Surveyor, Jay County Engineer and Jay County Highway Department. All will review the site plan and make a site inspection and report back to the Zoning Administrator/Director within two (2) weeks of any concerns they may have with the proposed plan;
 - b. Notify all property owners and/or tenants within a 1/2 mile radius of the proposed construction site via regular mail of the proposed plan. A legal notice shall also be published in the local newspaper of the proposed plan. All required notices will be paid for by the applicant along with the applicable filing fee at the time of filing;
 - c. Accept public comments, in writing only, for a period of 30 days from the date of the notice. All public comments will be reviewed by the Zoning Administrator/Director, Jay County Surveyor, Jay County Engineer, Jay County Highway Department and the Jay County Commissioners.
2. After reviewing the application, results of the site inspection and public comments received, if the applicant is in compliance with the regulations as set forth in this Section and Ordinance, along with approval from, but not limited to, the following Departments applicable to the project,
 - a. Jay County Soil & Water Conservation District (*local IDEM Rule 5 Regulations*),
 - b. Indiana Department of Environmental Management (*IDEM*),
 - c. Jay County and/or Indiana Health Department (*septic systems & water wells*).

The applicant/operator may then obtain a Building Permit and shall pay the applicable fees associated with the construction and/or expansion of the project.

3. If the applicant/operator is subject to IDEM regulations and has received IDEM approval for the project, the Intent to Build/Confined Feeding Application and Building Permit will be valid for the length of time the IDEM approval is valid.
4. If the applicant/operator is subject to IDEM regulations but does not file with IDEM, the Intent to Build/Confined Feeding Application will only be valid for a period of 1 year (12 months) from the date of application.
5. If the applicant/operator is not subject to IDEM approval, the Intent to Build/Confined Feeding Application will be valid for a period of 1 year (12 months) from the date of application approval. The Building Permit will be valid for a period of 12 months/1 year from the date of issuance.

C. Confined Feeding Operation Permits & Fees:

The Intent to Build/Confined Feeding Application, including all required documentation shall be filed with the Zoning Administrator/Director together with the application filing fee as specified in the Official Fee Schedule along with payment for all notices published and/or mailed.

When the project has final approval from the Zoning Administrator/Director, prior to the undertaking of any construction, expansion or alteration on the subject site, the applicant must obtain a Building Permit and pay the applicable permit fee(s) as specified in the Official Fee Schedule, which is maintained by the Zoning Administrator/Director.

No Building Permit will be issued unless the project is in conformity with the provisions of this Section and/or Ordinance, and no construction may begin at the project site without the proper permit(s) issued by the Zoning Administrator/Director.

216.9 Violations:

Any person/operator/owner in violation of this Section and/or Ordinance will be subject to the provisions as set forth in Article 4, Section 404 of this Ordinance.

217 WIND FARM STANDARDS - COMMERCIAL

PURPOSE: This Article is adopted to assure that any development and production of wind-generated electricity in Jay County is safe and effective, to facilitate economic opportunities for local residents, and to provide a regulatory scheme for the construction and operation of Wind Energy Facilities in the county, subject to reasonable restriction, this will preserve the public health and safety.

DEFINITIONS:

WIND ENERGY CONVERSION SYSTEMS (WECS) - COMMERCIAL - All necessary devices that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower, the substations, switching stations, meteorological towers, communications facilities and other required facilities and equipment, as related to the WECS project.

SUBSTATION (WECS) - An apparatus that connects the electrical collection system of the WECS and increases the voltage for connection with the utility's transmission lines.

SWITCHING STATION (WECS) - An apparatus / structure in the system similar to a substation but not necessarily increasing voltage into the grid.

WECS PROJECT - The collection of WECS (as defined) as specified in the siting approval application pursuant to this ordinance.

WECS TOWER - The support structure to which the nacelle and rotor are attached, freestanding or guyed structure that supports a wind turbine generator.

WECS TOWER HEIGHT - The distance from the rotor blade at its highest point to the top surface of the WECS foundation.

WIND TURBINE GENERATOR (WTG) - Includes only the WTG nacelle, tower and blades

APPLICANT - The entity or person who submits to the County, an application for the siting of any WECS or Substation or thereafter operates or owns a WECS.

FINANCIAL ASSURANCE - Means reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.

OPERATOR - Means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

OWNER - Means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS; or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) within one year of such event.

PRIMARY STRUCTURE - Means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

PROFESSIONAL ENGINEER - Means a qualified individual who is licensed as a professional engineer in any state in the United States.

217.1 APPLICABILITY

This Article governs the siting of WECS(s) and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECS(s) with an aggregate generating capacity of 3MW or less who locate the WECS(s) on their own property must obtain a variance to this Article. WECS may be sited in any area under the jurisdiction of the Jay County Zoning Ordinance.

217.2 PROHIBITION

No entity shall construct or operate a wind energy conversion system (WECS) without having fully complied with the provisions of this Ordinance.

217.3 APPLICATION REQUIREMENTS

Prior to the construction of a WECS, the Applicant shall obtain approval for the following:

1. An Application for approval of the WECS development plan project to the Jay County Planning Commission.
2. An Application for variances or special exceptions for any variances anticipated on the WECS Project.
3. An Improvement Location Permit from the Jay/Portland Building and Planning Department.

217.4 APPLICATION TO JAY COUNTY PLANNING COMMISSION

1. A WECS Project summary, including, to the extent available:
 - a. a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), types(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and
 - b. a description of the Applicant, Owner, and Operator, including their respective business structures.
2. The names(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with WECS on their properties, if known.
3. A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five foot intervals
4. A site plan at an appropriate scale (standard sheet of 36 inches by 24 inches and individual tower site not greater than 1 inch equals 20 feet or a scale approved by the Building and Planning Department) showing the proposed location of the wind energy facility (including planned locations of each WECS tower, guy lines and anchor bases (if any); WECS access roads; substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: primary structures within one quarter of one mile of any WECS; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) time the WECS tower height of any WECS tower; location of all existing underground utility lines associated with the WECS site; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines.
5. Location of all existing underground utility lines associated with the WECS site.
6. The fee applicable to the application shall be payable at the time of submission of the application, and such fee shall be \$20,000.00. The Application fee shall be used to defray the costs associated with the Application, including professional fees and expenses

217.5 APPLICATION FOR VARIANCES AND SPECIAL EXCEPTIONS

Application for Variances or Special Exceptions shall include the above information and the stated Variances or Special Exception desired. An application for variance or special exception approval may be a combined application provided all property owners subject to the variance or special exception where the WECS facilities are to be located are co-applicants. The applicant may also submit a joint application for any variances that are needed for the project area.

217.6 APPLICATION FOR IMPROVEMENT LOCATION PERMIT

The Applicant shall apply to the Jay/Portland Building and Planning Department for an Improvement Location Permit. In addition to the information required on the Improvement Location Permit Application, the Applicant shall provide the following information to the Building department prior to the issuance of an Improvement Location Permit:

1. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS.
2. Location of all underground utility lines associated with the WECS site.
3. Dimensional representation of the structural components of the tower construction including the base and footings.
4. Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.
5. Manufacturer's specifications and installation and operation instructions or specific WECS design information.
6. Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirement for structure as defined by International Code Council.
7. All turbines shall be new equipment commercially available. Used, experimental or proto-type equipment still in testing shall be approved by the BZA as per the normal special exception process.
8. Necessary recorded setbacks, access easements and necessary recorded utility easements, copies of which shall be submitted to the Building and Planning Department.
9. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the BZA.
10. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.
11. A re-vegetation plan for restoring areas temporarily disturbed during construction.
12. A fire protection plan for construction and operation of the facility.
13. Any other item reasonably requested by the Building Department.
14. A drainage plan for construction and operation must be developed and approved by the Jay County Drainage Board.
15. An erosion control plan must be developed in consultation with the Indiana Department of Environmental Management Department (Rule 5).

Each WECS Tower shall require an Improvement Location Permit. The fee for each improvement Location Permit shall be \$2,500.00, which shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of Improvement Location Permits

217.7 DESIGN AND INSTALLATION - WIND ENERGY CONVERSION SYSTEM (WECS) COMMERCIAL

Design Safety Certification - A Wind Energy Conversion System shall meet the following standards

- A. WTG shall conform to applicable industry standards. Applicant shall submit certificates of design compliance that wind turbine manufactures have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or and equivalent third party.
- B. Following the granting of siting approval under this Ordinance, a Professional Engineer shall certify, as part of the improvement location permit application that the foundation and tower design of the WTG is within accepted professional standards, given local soil and climate conditions.

217.8 Controls and Brakes: All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

217.9 Electrical Components: All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards. All WECS electrical collection cables between each WECS shall be located underground unless they are located on public or utility rights-of-way or with prior County approval. All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground line standards or as negotiated with the land owner or the land owner's designate until the same reach the property line or a substation adjacent to the property line.

217.10 Color: Towers and blades shall be painted with non-reflective white or gray color. The applicant shall comply with all applicable FAA requirements.

217.11 Warnings: A visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of not more than 15 feet from the ground.

217.12 Climb Prevention: All WECS tower designs must include features to deter climbing or be protected by anti-climbing devices such as: 1) fences with locking portals at least 6 feet high, 2) anti-climbing devices 15 feet vertically from the base of the WECS tower, and/or 3) locked WECS tower doors.

217.13 Blade Clearance: The minimum distance between the ground and any protruding blade(s) utilized on a WTG shall be 15 feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

217.14 Noise and Vibration Standards: At no point within 200 feet of a primary residence may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by American National Standards Institute (ANSI). This standard shall supersede any noise standard(s) set forth in any Article of the Jay County Zoning Ordinance.

Octave Bands for Jay County in Hertz (Hz), per ANSI	Maximum Permitted Sound Level (in decibels) measured 200 feet from edge of any Primary Structure.
63	75
125	70
250	65
500	59
1000	53
2000	48
4000	44
8000	41

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

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

217.17 Lighting: All lighting shall also be in compliance with applicable FAA regulations. All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the wind farm facilities.

217.18 Compliance with Additional Regulations: Any WECS thereof declared to be unsafe by the Jay/Portland Building and Planning Director by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal. Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

217.19 Setbacks: Setbacks for WTG shall be as follows:

- A. No WTG shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the county.
- B. Installation of any WTG may not be nearer than 350 feet or 1.1 times the height of the WECS tower. Whichever is greatest to any property lines, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Distance shall be measured from the center of the foundation at the base of the tower. New structures built adjacent to wind power facilities shall maintain these same minimum setback requirements. Participating landowners within the area comprising the WTG may waive side and rear property line setbacks with written approval from the landowners sharing such property line.
- C. Except as provided herein the setback distance for all turbines with a rated capacity of 1.0 MW or less shall be 1,000 feet or more from any existing or occupied residence and turbines with a greater rated capacity shall be set back 1,000 feet or more from any existing or occupied residence or from the boundary of any to which as of the date of approval of the WTG is in a platted subdivision and shall be setback from a property line 1.1 times the height of the turbine with the blade tip at its highest point. Distance shall be measured at the time of application for building permit from the center of the foundation at the base of the tower. A turbine with a capacity of 1.0 MW or less may be placed as near as 600 feet from an occupied residence with the prior written approval of the owner. The setback distance will be followed except in specific instances allowed by the Jay County Planning Commission.
- D. The setback distance from the WTG will be 1,500 feet from any platted community. Distance shall be measured from the center of the foundation at the base of the WTG to the closest Corporate Limit Boundary line.

217.20 Use of Roads/Services

An applicant, owner, or operator proposing to use any county road for the purpose of transporting WECS or substation parts and/or equipment for construction, operation, or maintenance of the WECS or substations, shall prior to construction:

- A. Identify all such public roads and services.
 - 1. Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Jay County Highway Supervisor. The Supervisor shall conduct a pre-construction baseline survey to determining existing road conditions for assessing potential future damage.

2. Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Jay County Highway Supervisor. The supervisor may choose to require either remediation of road damage upon completion of the project or is authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a Professional Engineer may be required by the Supervisor to insure the county that future repairs are completed to the satisfaction of the county. The cost of bonding is to be paid by the applicant.
 3. Newly constructed WECS access roads may not impede the flow of water and shall comply with the County Drainage Ordinance.
- B. Requirements of the Indiana Department of Environmental Management Rule 5 will be required during construction of the WECS.
 - C. Any facility shall comply with existing septic and well regulation as required by the Jay County Health Department and the Indiana Department of Public Health.
 - D. All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to original or better condition, and so as not to impede the flow of water. All repairs must be completed within a reasonable amount of time.

217.21 Operation, Maintenance, and Inspection: The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests. The following operation, maintenance and inspection standards shall be met.

- A. **Maintenance:** Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modifications (other than a like-kind replacement), the owner or operator shall confer with the Building Inspector to determine whether the physical modification requires re-certification
- B. **Inspection:** The Jay County Building Inspector, along with licensed 3rd party professionals retained by the County for the specific purpose of conducting inspections of the WECS shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or operator, or his agent, on the premises where a WECS has been constructed, to inspect all parts of said WECS installation and to require that repairs or alterations be made. The owner or operator of a WECS may retain a licensed 3rd party professional engineer familiar with WECS systems to prepare and submit to the Jay County Building Inspector which addresses the repairs or alterations requested and which suggest alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within thirty (30) days after receiving notice from the Jay County Building Inspector that repairs or alterations are requested, or within a longer period of time mutually acceptable to both parties. The Jay County Building Inspector will consider any such written report and determine whether the repairs or alterations should be made as originally requested or as suggested in the written report. In the event of a dispute between the Jay County Building Inspector and the owner or operator, or a 3rd party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the Building Inspector shall be final. Inspections, at a fee to be determined from time to time by the Jay County Commissioners and paid by the applicant, may be made by the Jay/Portland Building and Planning Department, or by a qualified inspector for equipment of this type selected by the Jay County Commissioners, no more than once annually to certify the safety and maintenance of the WECS and accessory structures.

- C. **Interference:** If, after construction of the WECS, the owner or operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to respond to minimize the complaint.
- D. **Coordination with Local Fire Department:** The applicant, owner or operator shall submit to the local fire department, the owner or operator shall cooperate with the local fire department to develop the fire department's emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
- E. **Materials Handling, Storage and Disposal:**
 - 1. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
 - 2. All hazardous materials or waste related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

217.22 Liability Insurance: The owner or operator of the WECS shall maintain a current general liability policy covering bodily injury and property damage and name Jay County as an additional insured with limits of at least \$2 million per occurrence and \$5 million in the aggregate with a commercially reasonable deductible agreed to by Jay County and the applicant.

217.23 Decommissioning Plan: Prior to receiving siting approval under this Article, the County and the applicant, owner and/or operator must formulate a Decommissioning Plan to ensure that the WECS Project is properly decommissioned. The Decommissioning Plan shall include:

- A. Assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. Applicant's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to the same or better condition that existed immediately before construction of such improvements. The property will then be returned from Industrial (I) to its original zoning designation. Prior to issuance of a building permit, the applicant shall provide a contractor cost estimate for demolition and removal of the WECS facility and will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the County, the cost of decommissioning each tower to be constructed under the building permit, which security shall be released when such tower is properly decommissioned as determined by the Jay County Building Inspector. In the event of abandonment by the owner or operator, the Applicant will provide an affidavit to the Jay County Building and Planning Department representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.
- B. The applicant's, owner's, or operator's failure to comply with, or make reasonable progress in getting into compliance any of the above provisions shall constitute a default under this Ordinance.
- C. Prior to implementation of the existing county procedures for the resolution of each default, the appropriate county body shall first provide written notice to the owner and operator, setting forth the alleged default. Such written notice shall provide the owner and operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default.
- D. If the county determines, in it's discretion, that the parties cannot resolve the alleged default within the good faith negotiation period, the existing county ordinance provisions addressing the resolution of such default shall govern.

217.24 Waiving Requirements: Requirements of these Articles may be waived by the Jay County Board of Zoning Appeals upon application and after public hearings.

218 SMALL WIND ENERGY CONVERSION SYSTEMS - PRIVATELY OWNED

PURPOSE: It is the purpose of this regulation to allow the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

FINDINGS: Jay County finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Small wind systems also make the electricity supply market more competitive by promoting customer choice.

DEFINITIONS

SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility power.

TOWER HEIGHT: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

TOWER EXTENDED HEIGHT: The height above grade to a blade tip at its highest point of travel.

STANDARDS AND REGULATIONS

218.1 Allowed Use: Small wind energy systems shall be allowed as a permitted use in areas zoned Agricultural/Residential (AR) and a Special Exception use in Rural Residential (RR), Urban Residential (UR), Commercial (COM), Industrial (I), and Light Industrial (LI) districts; subject to the requirements of this Article. Not allowed in Single Family Residential (SFR) or Multi Family Residential (MFR) districts.

218.2 Setback: The base of the tower shall be set back from all property lines, public right-of-ways, and public utility lines equal to 1.1 times the Tower Extended Height, which is defined as the height above grade to a blade tip at its highest point of travel.

218.3 Tower Height: So long as the total extended height meets sound and set-back requirements, there shall be no specific height limitation, except as imposed by Federal Aviation Administration regulations as stated in 218.8.

218.4 Sound: Sound produced by the turbine under normal operating conditions, as measured at the property line, shall not exceed the zoning performance standards. Sound levels, however, may be exceeded during short-term events out of anyone's control such as utility outages and/or severe wind storms.

218.5 Wind Turbine Equipment: Small wind turbines must have been approved under the state public benefits program or any other small wind certification program recognized by the American Wind Energy Association.

218.6 Requirement for Engineered Drawings: Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Wet stamps shall not be required.

218.7 Soil Studies: For standard soil conditions (not including gravel, sand, or muck), foundations developed by the wind turbine manufacturer shall be acceptable for turbine installations of 20kW or less and will not require project-specific soils studies or an engineer's wet stamp.

218.8 Compliance with FFA Regulations: No WEC shall be constructed, altered or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.

218.9 Compliance with National Electric Code: Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturing, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

218.10 Utility Notification: No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

218.11 Insurance: Additional insurance beyond homeowners' coverage shall not be required.

218.12 Abandonment: If a wind turbine is inoperable for six consecutive months the owner shall be notified that they must, within six months of receiving the notice, restore their system to operation condition. If the owner(s) fails to restore their system to operating condition within the six-month time frame, then the owner shall be required, at his expense, to remove the wind turbine from the tower for safety.

218.13 Signage: All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.

218.14 Lighting: No illumination of the turbine or tower shall be allowed unless required by the FAA.

218.15 Access: Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood may be fastened to the bottom tower section such that it cannot readily be climbed.

218.16 Improvement Location Permit: The applicant shall apply to the Jay/Portland Building and Planning Department for an Improvement Location Permit prior to construction of a privately owned wind energy system.

ARTICLE 3 -- GENERAL REGULATIONS

Article 3

301 NON-CONFORMING USES OF LAND AND STRUCTURES

If a lawful use of land, a structure, or of a structure and land in combination exists at the effective date of the adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, that use may be continued subject to the following provisions.

301.1 No existing land or 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 land or structure to a use permitted in the district in which it is located. This provision may be modified by the Board of Zoning Appeals

301.2 Any non-conforming use may be extended throughout any parts of a building, accessory use, earthen or excavation which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building, accessory use, earthen structure or excavation.

301.3 Any non-conforming use of land, a structure, or structure and land together, may be changed to another non-conforming use provided that the Board, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.

301.4 Any land, structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the non-conforming use may not thereafter be resumed.

301.5 When a non-conforming use of land, a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

301.6 Where non-conforming structure 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.

301.7 Any non-conforming structure damaged by fire, flood, explosion, or other casualty may be reconstructed and used as before if such reconstruction is undertaken within 12 months of such casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before such casualty.

301.8 Mobile Homes - Temporary Installations & Permanent Installations

All mobile homes installed before the effective date of this Ordinance on any lot within Jay County, but outside of the zoning areas of Portland and Dunkirk, Indiana, are hereby specifically declared to be legal non-conforming uses. Such mobile homes may be enlarged or replaced without Board approval upon the condition that such enlargement or replacement conforms with all other provisions of this Ordinance and the necessary permits are obtained. **No mobile homes will be allowed in the incorporated areas under the jurisdiction of the Jay County Zoning Ordinance, except in a qualified mobile home park.**

All other mobile homes shall comply with the following conditions:

1. That said mobile home shall be placed on a permanent foundation, that it be secured by tie-downs, and complies with the Indiana Residential Code.
2. That said mobile homes, exclusive of carports, partitions, and other necessary additions, shall have a floor space of not less than 600 square feet.
3. Each mobile home shall be skirted on all sides with a permanently attached, substantial material, such as painted metal, fiberglass, concrete, or masonry, that will not detract from the appearance of the mobile home.
4. That all other requirements relating to permanent housing and special exceptions, within the respective district, be fulfilled.
5. A Certificate of Compliance is required.

Mobile Homes Classified as:**A. Type I (T1) Temporary for Construction Purposes**

A mobile home may be moved on to a lot, plot or tract of land and be used as a temporary residence for a period of one year during the construction time of a permanent residence on the same lot, plot or tract.

1. Prior to the moving of any mobile home onto any lot, plot or tract, for said purpose, the owner shall obtain a temporary use permit from the Zoning Administrator. Said permit shall run for a period of one year. Upon expiration, the grant may be extended for one additional year by the Zoning Administrator, upon adequate showing by the owner that the construction of the residence has not progressed to a livable stage due to conditions beyond his control. Only one such extension shall be allowed for said grant; after the final expiration of said grant one year extension, the owner must appear before the Board of Zoning Appeals and show just cause said mobile home shall not be vacated and removed.
2. The temporary residence shall comply with all county and state health requirements which would be imposed upon a permanent residence on the same lot, plot or tract.
3. All those conditions listed under 301.8 (A) 1 through 5 shall apply to a Type I mobile home except that, with respect to (A) 1, that no permanent foundation is required but that the remaining conditions of (A) shall apply.

B. Type II (T2) Temporary For Family Member

A mobile home is permitted as a temporary accessory use without regard to the other provisions of this ordinance except as specified in this subsection, and providing that the following conditions are met:

1. Such mobile home shall be permitted only on property having an existing permanent dwelling.
2. Such mobile home shall be occupied by a member of the property owners family (father, mother, son or daughter, etc.) residing in the permanent dwelling and being within the Agricultural/Residential District.
3. Such mobile home shall not be permitted to encroach on the required yard or setback as specified by the zoning ordinance.
4. Such mobile home shall not be moved onto a property unless an improvement location permit has been issued, and it shall not be used for dwelling purposes until a certificate of occupancy has been issued.
5. The application for the improvement location permit and the certificate of occupancy shall be accompanied by a letter or permit from the County Board of Health stating that the proposed method of water supply and sanitary waste disposal meets their requirements.
6. The Zoning Administrator has the authority to issue the improvement location permit and certificate of occupancy if the above and all other applicable regulations and requirements are met.
7. Mobile Home shall remain on the property, no longer than 60 days after the end of the permitted need.
8. Notice to Adjacent Property-owners: In this instance the applicant shall be required to notify all immediately adjacent property-owners of his or her intent. The notice shall include a complete description of the proposed intent. The notice shall be sent by Certified Mail and the signed receipts returned to the Planning Commission Office prior to the issuance of the permit. Property-owners will have thirty (30) days from the date the certified letters are sent, to send objections in writing to the Planning Commission Office. If legitimate objections are received by the Zoning Administrator the application shall be denied and a new application can be submitted as a Type IV (T4), under this section.

C. Type III (T3) Permanent Installations

A mobile home may be moved onto a lot, plot or tract of land and be used as a dwelling in an Agricultural/Residential District. Prior to moving any mobile home onto any lot, the owner or his agent shall first obtain an improvement location permit. The Zoning Administrator may issue the permit subject to the following conditions:

1. Each mobile home shall be located on a lot and shall be the only principal structure on the lot.
- 2.. The mobile home shall be at least three hundred (300) feet from an adjoining Rural Residential or Urban Residential District.
3. The minimum lot and yard requirement shall be the same as required by this ordinance.

4. Each mobile home shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities and plumbing and electrical connections designed for and attached to appropriate external systems.
5. All health and sanitary regulations of the Jay County and the Indiana State Boards of Health are met.
6. Notice to Adjacent Property-owners: In this instance the applicant shall be required to notify all immediately adjacent property-owners of his or her intent. The notice shall include a complete description of the proposed intent. The notice shall be sent by Certified Mail and the signed receipts returned to the Planning Commission Office prior to the issuance of the permit. Property-owners will have thirty (30) days from the date the certified letters are sent, to send objections in writing, to the Planning Commission Office. If legitimate objections are received by the Zoning Administrator the application shall be denied and a new application can be submitted as a Type IV (T4), under this section.

D. Type IV (T4) All Other

1. All other Mobile Home installations will be treated as a non-conforming use special exception, application to be submitted to the Jay County Board of Zoning Appeals.
2. Any mobile home that does not comply with the conditions of Types I, II, or III above shall be treated as a non-conforming use special exception as a Type IV mobile home and require an application to be submitted for consideration before the Jay County Board of Zoning Appeals.

302 ACCESSORY USES AND STRUCTURES

302.1 Fences, hedges, walks, driveways, curbs, retaining walls, latticework screens, trees, flowers, plants, mail boxes, nameplates, lamp posts, bird baths, benches, and landscaping of a like nature are permitted in or on any lot provided they do not violate the requirements of Section 303 of this Ordinance.

302.2 Accessory structures shall be permitted on any lot provided any structure over 100 square feet in area (whether temporary or permanent) shall require a permit and the structure shall not be located less than five (5) feet from any property line.

302.3 Migrant housing facilities of all types may be permitted as accessory uses in conjunction with an agricultural operation provided that the housing is not occupied more than six (6) months in any calendar year, that the migrant housing conforms to all applicable County and State requirements, and is located at least 200 feet from a residential lot or district boundary line.

302.4 A private swimming pool shall be permitted as an accessory use.

302.5 Fences shall be setback one (1) foot from the property line unless it is a joint fence, in which case the fence shall be placed on the property line, and provided the fence shall conform to Section 303 of this Ordinance.

302.6 Animal waste pits and lagoons are only allowed in an Agricultural District, Environmental Protection District or an Industrial District, and must comply with the regulations as set forth in these specific districts along with Section 216 of this Ordinance.

303 VISUAL CLEARANCE ON CORNER LOTS**Article 3****303 VISUAL CLEARANCE ON CORNER LOTS**

On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such manner as to materially impede vision between a height of two (2) and ten (10) feet above the center line grade of the intersecting roads or streets for a distance of fifty (50) feet in either direction from any driveway or entrance way or exit way along said roads or streets. It shall be the property owner's responsibility to keep these areas of his or her property clear.

304 TEMPORARY USES OF LAND OR STRUCTURES

A permit for a temporary structure or land use such as carnivals, revival meetings, construction facilities, seasonal sales, or use of a similar nature may be issued by the Zoning Administrator provided the following conditions are adhered to:

- 304.1** The use is, in fact, temporary and will terminate at a specific time.
- 304.2** The proposed site is of adequate size to accommodate the use without creating congestion in the streets or inadequate circulation for fire and other emergency vehicles.
- 304.3** Adequate parking, both off-street and on-street, is available for the proposed site.
- 304.4** Outdoor lighting, if necessary, will be shielded or directed away from adjoining residential property and streets.
- 304.5** Neighboring uses are not adversely affected.

305 MOBILE HOME PARKS

In any district in which mobile home parks are permitted, the following minimum requirements shall apply:

305.1 The construction of a mobile home park shall not be permitted without an approved development plan and a license to operate a mobile home park from the State Board of Health.

305.2 Conditions of soil, groundwater level, drainage, geologic structures and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence, sudden flooding or severe erosion.

305.3 The minimum area of a mobile home park shall be five (5) acres.

305.4 The density of a park shall not exceed eight (8) mobile homes per acre of gross site area.

305.5 All sites within the park must be served by a community sanitary sewer systems, approved by the State Board of Health. Water must be provided to all sites within the park. Public utilities must be provided for hookup to all sites within the park. Fire hydrants shall be installed in the mobile home park so that no mobile home lot or structure is further than 500 feet from a fire hydrant.

305.6 Each mobile home site shall be provided with adequate quality hookups for water, sewage, electricity, gas (if available), and telephone.

305.7 Each mobile home site shall be provided with a solid concrete slab and two concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons.

305.8 Each mobile home lot shall contain a mobile home slab. The slab shall provide adequate support for the placement and tie-down of the mobile home so that it is secure against uplift, sliding, rotation, and overturning. The slab shall be constructed so that it does not heave, shift, or settle unevenly under the weight of the mobile home due to freeze/thaw cycles, inadequate drainage, or vibration. The slab shall be provided with anchors and tie-downs such as cast-in-place "dead men", eyelets embedded in concrete foundations, or other devices securing the stability of the mobile home, as per Indiana Building Code, as amended.

305.9 Each mobile home lot shall contain two parking spaces, a minimum of 10 feet wide by 20 feet deep.

305.10 No mobile home and enclosed accessory structures designed for living space shall be located closer than twenty (20) feet from any other mobile home or permanent building within the mobile home park.

305.11 Mobile home parks shall have direct access to an adequate public thoroughfare with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of mobile homes into and out of the park.

305.12 All mobile homes shall be located 25 feet or more from the right-of-way line of an abutting dedicated public thoroughfare and 10 feet or more from other boundary lines of the park.

305.13 Internal mobile home park streets, if dedicated to public use, shall meet the minimum standards for design and construction as required by State Law.

305.14 Each mobile home shall be supported under the I-beams and shall be skirted on all sides with a permanently attached, substantial material, such as painted metal, fiberglass, concrete, or masonry, which will not detract from the appearance of the mobile home.

305.15 The storage, collection, and disposal of refuse in mobile home parks shall be conducted as to create no health hazards, opportunities to harbor rodents or insects, or to create the potential for accidents, fire hazards, or pollution. All refuse shall be stored in water tight, rodent-proof containers that are located not more than 150 feet from any mobile home lot. The containers shall be designed to prevent spillage, tipping, and deterioration. Refuse shall be collected at least once weekly. All refuse shall be transported in covered vehicles or containers.

305.16 Each mobile home park shall provide a recreational area or areas equal to the size of at least 10 percent of the area of the mobile home park. Streets, parking areas, and park service facilities shall not be included in the required recreational area.

306 RECREATIONAL VEHICLES

Recreational vehicles shall not be occupied continuously for longer than twelve (12) weeks in any county location other than approved campground.

307 CAMPGROUNDS

In any district in which campgrounds are permitted, the following requirements shall apply:

307.1 Campgrounds shall have direct access to a public highway or road with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of recreational vehicles into and out of the park.

307.2 Conditions of soil, groundwater level, drainage, geologic structure and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence, sudden flooding or severe erosion.

307.3 Unless listed as a "Primitive" campsite, all sites within a campground must have access to electricity, water, and a sanitary sewer system approved by the State Board of Health within the campground.

307.4 "Primitive" campsites must be provided with sanitary dumping facilities within the park.

307.5 The density of a campground shall not exceed 15 campsites per acre of gross site area.

307.6 The minimum area of a campground shall be 5 acres.

307.7 Recreational vehicles shall be separated from each other and from other park buildings or structures by at least 10 feet.

307.8 No campsite shall be nearer than twenty-five (25) feet to the right-of-way line of highway or road.

307.9 Where the boundary line of a campground coincides with that of a residential district other than along a thoroughfare or alley, a yard separation of at least 25 feet in width shall be required.

307.10 At least one centrally located recreational play area shall be provided in each campground. In addition, food stores, restaurants, sporting good, Laundromats, dry-cleaning pick-up stations and similar convenience and service shops may be permitted in campgrounds containing 50 or more spaces, provided such shops and the area required for their use shall be primarily for the use of occupants of the campground.

307.11 Management offices and storage, playground and picnic equipment, sanitation and laundry facilities, informational signs and other structures customarily incidental to a campground shall be permitted as necessary uses.

308 HOME OCCUPATIONS**308.1 General Restrictions and Limitations**

Home occupations shall be permitted as an accessory use to a permitted residential use, in Rural/Residential or Urban/Residentially zoned districts subject to the requirements of this Section. **Agricultural/Residential zoned districts must meet the requirements of this Section if the home occupation area is within one thousand (1,000) feet of a Residentially Zoned Area or any area that has a recorded residential plot. Home Occupation requirements in the Pennville, Indiana jurisdictional area are described in Article 8.**

308.2 Home Occupations as a Permitted Use

A home occupation is a permitted use in all unincorporated areas, if it complies with the following requirements:

- A. It is a gainful occupation carried on by occupants of a dwelling unit as a use which is secondary to the use of the dwelling unit for residential purposes.
- B. Any "home occupation" shall be conducted wholly within the principal building or within a building accessory to it, and only by occupants of the residence.
- C. There shall be no article sold or offered for sale on the premises.
- D. There shall be no service sold or offered for sale on the premises that would generate vehicle or customer/client traffic to the premises.
- E. There shall be no signs.
- F. There shall be no display or exterior storage of materials or products or other exterior indication of the "home occupation" or variation from the residential character of the principal building.
- G. The home occupation shall not produce any noise, vibration, smoke, dust, odors, heat or glare which can be detected beyond the premises as defined in Section 309 of this ordinance.
- H. Any home occupation meeting these standards shall be a permitted use in all districts. A Home Occupation Permit is required.

308.3 Home Occupations as a Special Exception

A home occupation requires a Special Exception from the Jay County Board of Zoning Appeals (BZA) under all other conditions, including but not limited to the following conditions:

- A. One (1) person other than the residents of the dwelling unit on the subject premises named in the application may be engaged in such home occupation.
- B. No more than twenty-five (25) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. The home occupation may not utilize more than fifty (50) percent of any one floor of the dwelling unit.
- C. No outdoor storage or display of products, equipment or merchandise is permitted.
- D. Retail sales are permitted only as an accessory use to the primary home occupation.

- E. Exterior evidence of the conduct of a home occupation is not permitted except one (1) non-illuminated sign not to exceed six (6) square feet in area. The required front setback of the sign shall not be less than fifteen (15) feet from the front or side right-of-way.
- F. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
- G. No equipment, process, or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical or television interference which is detectable to the normal senses outside the dwelling unit or accessory structure, as defined in Section 309 of this ordinance.
- H. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one (1) dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
- I. A minimum of two (2) off-street parking spaces, in addition to those required for the dwelling unit, shall be provided for use by patrons of the home occupation. The Board of Zoning Appeals may require additional off-street parking based upon the use and location of the property.
- J. No use, storage, or parking of tractor trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises.

308.4 Home Occupation Permits

No building or structure or part thereof shall hereafter be used for the purposes of a home occupation without first having applied, at least thirty (30) days in advance, in writing to the Plan Commission's designated Administrator for a home occupation permit to do so, and the required permit is issued.

****NOTE:** In those instances where a special exception is required, the home occupation permit shall not be issued until after the special exception has been granted by the Board of Zoning Appeals. Application must be received at least 35 days prior to the Board of Zoning Appeals scheduled meeting.

308.5 Home Occupation Permits Non-Transferable

All home occupation permits shall be approved for the originating applicant for a specific location, and may not be transferred to any other location by that applicant. Should the property upon which the home occupation is conducted be sold or conveyed to a different ownership or resident, a renewal of the home occupation permit will be required.

308.6 Revocation of Home Occupation Permit

Upon a finding that an approved home occupation permit has become unsuitable or incompatible with the residential nature of the property or neighborhood where it is located through non-compliance with any of the requirements of this Ordinance, the Plan Commission reserves full authority to revoke the permit at anytime.

308.7 Notice to Adjacent Property-owners

In those instances where a special exception is required, the applicant for a home occupation permit shall be required to notify all immediately adjacent property-owners of his intent to pursue said occupation. The notice shall include a complete description of the proposed home occupation as well as a copy of the "General Restrictions and Limitations" under which it must operate as contained within the Ordinance. The notice shall be sent by Certified Mail and the signed receipts returned to the Plan Commission Office prior to issuance of the home occupation permit. Property-owners will have thirty (30) days from the date the certified letters are sent, to send objections in writing, to the Planning Commission Office, or attend the stated public hearing of the Board of Zoning Appeals.

309 PERFORMANCE STANDARDS

All commercial/business, industrial and environmental protection uses established or placed into operation after the effective date of this Ordinance shall comply with the following performance standards in the interests of protecting the public health, safety and welfare, and lessen injury to property. No use in existence on the effective date of the Ordinance shall be so altered or modified to conflict with these standards. Additional standards for the Pennville jurisdictional area are listed in Article 8.

309.1 Fire Protection

Fire fighting equipment and prevention measures acceptable to the local Fire Department shall be readily available and apparent when activity involving the handling or storage of flammable or explosive materials is conducted.

309.2 Electrical Disturbance

No use shall cause electrical disturbance adversely affecting radio, television, or other equipment in the vicinity.

309.3 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 otherwise controlled so as not to become detrimental, provided, however, public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.

309.4 Vibration

No use shall cause vibrations or concussions detectable beyond the lot lines with the aid of instruments.

309.5 Odor

No use shall emit across the lot lines malodorous gas or matter in such quantity as to be readily detectable at any point along lot lines.

309.6 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 as to be detrimental to health, animals, vegetation or property.

309.7 Heat and Glare

No use shall produce heat or glare in such a manner as to create a nuisance perceptible from any point beyond the lot lines.

309.8 Water Pollution

No use shall produce erosion or other pollutants in such quantity as to be detrimental to adjacent properties and conflict with water pollution standards established by the public agencies.

309.9 Waste Matter

No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of applicable public health, safety and welfare standards and regulations.

309.10 Surface Water Runoff

No use shall produce increased rate of surface water runoff into any legal open drain or tile so that any flooding or ponding occurs.

309.11 Loose Material

No use shall allow any loose material to be blown, carried, fall or otherwise leave the use property.

310 PLANNED UNIT DEVELOPMENT DISTRICT – INTENT OF PLANNED UNIT DEVELOPMENT DISTRICTS

The purposes of these regulations are to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and intent of the Jay County Zoning Ordinance. The use of Planned Unit Development zoning classifications shall be encouraged when the use of such regulations promotes a harmonious variety of uses, and/or provides for an economy of shared services and facilities, and/or are compatible with surrounding areas and/or foster the creation of attractive, healthful, efficient and stable environments for living, shopping or working.

The Planned Unit Development regulations and procedures may apply to the development of existing developed lands, or vacant lands, and may apply to small and large scale parcels and their relationship with other surrounding uses and the overall characteristic of the area in which it is located.

Planned Unit Development regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life. Planned Unit Development projects should also encourage a more efficient use of land, which reflects the changes in the technology of land development, so that resulting economies may accrue to the benefit of the community at large. Examples of this concept would include the preservation of existing trees and inclusion of recreation areas within new subdivisions.

310.1 Standards and Classifications of Planned Unit Developments

- A. Residential Planned Unit Development PUD-R:
Any development in which the primary use of the land will be for residential purposes or those accessory purposes customarily related to residential use.
- B. Business Planned Unit Development PUD - B
Any development in which the primary use of the land included in the development will be for Business/Commercial purposes.
- C. Industrial Planned Unit Development PUD-I
Any development in which the primary use of the land and interior and exterior area of all sites and structures will be uses for manufacturing, warehousing, or other light to medium intensity industrial uses.
- D. Extraordinary Planned Unit Development PUD-E
A development not otherwise distinguishable under any previous classification in which the proposed uses of interior and exterior spaces require unusual design flexibility to achieve a completely logical and complementary conjunction of uses and functions.

310.2 Origination of Proposals

Any person or group of persons united in interest, acting jointly, and pursuant to an agreement to carry out a proposal may propose a Planned Unit Development District in accordance with the procedures hereinafter established. Such person or group of persons making such proposal, however, must demonstrate the requisite capabilities to carry out such a proposal.

A parcel or site proposed for Planned Unit Development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners have given their expressed intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the Commission.

310.3 Filing Procedures

The authorization of a Planned Unit Development (PUD) shall be subject to the following procedures:

- A. A petition for rezoning to an appropriate PUD classification shall be submitted, which shall be signed by the owner or owners of all real estate involved in the petition for the Planned Unit Development, which petition shall have attached thereto letters of consent of all such owners prior to the filing of such petition, and to the change to a PUD classification of the real estate included.
- B. The petition, which shall include a Preliminary Development Plan and plat for any area proposed for development as a Planned Unit Development, shall be filed with the Zoning Administrator.

310.4 Preliminary Development Plan

The following shall be included in the Preliminary Development Plan:

- A.. Proposed layout of streets, open space and other basic elements of the plan;
- B. General description of, location of, and types of structures on the site;
- C. Proposals for handling traffic, parking, sewage disposal, drainage, tree preservation and removal, lighting, signage, landscaping, and other pertinent development features;
- D. A separate location map, to scale, shall show the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land;
- E. A general statement of the covenants to be made a part of the Planned Unit Development as well as the order and estimated time of development;
- F. A statement of the proposed order of development of the major elements of the project, including whether the development will be in phases, and, if so, the order and content of each phase;
- G. The use categories within the area, including proposed densities of said uses.
- H. Twelve (12) copies of the preliminary plan, to a scale ratio not to exceed 100' = 1" shall be presented to the Administrator. The preliminary plan may include any additional graphics which will explain the features of the development. The Administrator may consult the following checkpoint agencies for their review and comment:

- Review Board, appointed by the Plan Commission
- Sheriff's Department
- Designated Fire Department
- Jay County Soil and Water Conservation District
- Jay County Drainage Board
- Any other individual or group with relevant knowledge or expertise

Within thirty (30) days after filing, the Administrator shall meet with the Petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide comments. After such consultation, the petitioner may make modifications to the petition.

After the meeting described above and after making any modifications to the proposed preliminary plans, the petitioner shall file twelve (12) copies of the "Final Proposed Preliminary Plan" which shall:

1. Include all documents included in the preliminary plan.
2. Include an index identifying all documents included in the preliminary plan.
3. Include a cover sheet indicating that it is the Final Proposed Preliminary Plan and indicating the date and zoning case number.
4. Be bound or stapled together and all documents therein reduced to a size no larger than 8 ½ x 14 inches except for the maps, sketches and plat (if any).
5. Include a proposed PUD District Ordinance, not included in the binding.

Such final proposed preliminary plan shall be filed with the Zoning Administrator at least twenty (20) days prior to the preliminary plan hearing.

310.5 Preliminary Plan Hearing

The Plan Commission shall consider the application at public hearing following proper notice and shall refer the PUD District application to the Jay County Commissioners with a recommendation for approval as submitted, approval with modifications and/or conditions, with no recommendation, or with a recommendation for denial.

310.6 Approval of Final Detailed Plan

- A. Before any development takes place, the petitioner shall file with the Plan Commission a minimum of twelve (12) sets of the final detailed plan specifying the location, composition, and engineering features of all lots, storm drainage, sanitary sewage, water supply facilities, public or private streets, recreation facilities, site perimeter treatment, landscaping, plat and other site development features including locations of buildings.

The petitioner shall also file the original of all signed and notarized documents pertaining to restrictive covenants, condominium declaration and/or the creation of a homeowners' association, along with financial assurance for the satisfactory installation of all public improvements in the form of bonds or such other assurances as are required in the normal procedures for platting pursuant to the provisions of the Jay County Subdivision Control Ordinance. The Plan Commission shall then approve said final detailed plans by resolution duly adopted, upon an affirmative finding that the final detailed plan is consistent with the approved Preliminary Planned Unit Development as adopted and passed by the Commissioners of Jay County upon rezoning. Having so once approved the final detailed plan, the Plan Commission shall have no further authority to review or act thereon, except as to enforcement, except as to an amendatory ordinance and except as hereafter provided for.

- B. The approved Preliminary Plan may provide for development of the property involved in phases. If such phasing is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed plans which correspond to the phases involved. Such partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire Planned Unit Development.

- C. The approved final detailed plan or phase thereof shall be stamped "Approved Final Detailed Planned Unit Development" and be signed by the President and Secretary with one copy permanently retained in the office of the Plan Commission following recording as specified in Section 310.8.
- D. Unless extended by the Plan Commission pursuant to Section 310.11 or as otherwise stated in the PUD Ordinance, approval of the first phase of the final detailed plan shall be obtained within two (2) years and approval of the balance of the final detailed plan shall be obtained within five (5) years after adoption of the Planned Unit Development District by the Commissioners of Jay County.
- E. In the event that approval of a final detailed plan is not timely obtained, the Plan Commission may initiate an amendment to the zoning map relating to said land.
- F. In the exercise of continuing jurisdiction, the Administrator may from time to time approve only minor modifications of the approved Final Detailed Planned Development in a manner consistent with the approved Preliminary Planned Development. Such modifications shall not include any increase in density, any lessening of aesthetic treatments, any alteration of frontage, setbacks, heights or building location, any change in type of use, or any change in access points. Such modifications of the final Detailed Planned Unit Development must be presented to the Plan Commission for Approval.
- G. Approval of a final detailed plan shall expire after a period of five (5) years from the approved phasing of the preliminary plan unless the development is fifty percent (50%) completed in terms of public improvements including streets, parks, walkways, utility installations and sanitary sewers. Determination of the amount of completion shall be made by the Plan Commission, upon a recommendation of the Administrator. Following expiration of the Final Detailed Plan, the County of Jay shall declare the bond to be in expiration of the Final Detailed Plan, the County of Jay shall declare the bond to be in default and cause all public improvements to be installed according to the Final Detailed Plan.
- H. In the event the Plan Commission does not approve the Final Detailed Plan submitted by the petitioner, the petitioner may appeal this decision to the Jay County Commissioners who shall have the authority to approve the Final Detailed Plan or return the Final Detailed Plan to the Plan Commission for further consideration.

310.7 Covenants and Maintenance

- A. All covenants, when required by the Plan Commission, shall be set forth in detail and shall provide for the release of such restriction by execution of a document so stating and suitable for recording, signed by the Plan Commission and President and Secretary upon authorization by the Plan commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Plan Commission and shall be specifically enforceable by the Plan Commission in addition to the property owners.
- B. The Plan Commission may require the recoding of covenants for any reasonable public or semi-public purpose, including but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other public and semi-public purposes. Such covenants shall provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specified period of time, the covenants shall automatically terminate. If such a specified period of time, the covenants shall automatically terminate. If such termination occurs, the petitioners shall then submit for approval by the Plan Commission a Modified Final Detailed Plan for such land, otherwise consistent with the approved Preliminary Plan.

- C. The Commission requires the recording of covenants for any other reasonable purpose, including, but no limited to, imposing standards for development of property in a Planned Unit Development. Such development standards include, but are not limited to, requirements as to the following:
1. Lot area
 2. Floor area
 3. Ratios of floor space to land space.
 4. Area in which structures may be built ("buildable area")
 5. Open space
 6. Setback lines and minimum yards
 7. Building separations
 8. Height of structures
 9. Signs
 10. Off street parking and loading space
 11. Design standards (including landscaping requirements)
 12. Phasing of development
 13. Road Maintenance.
- D. Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities including private streets jointly shared by such property owners if such facilities are a part of the Planned Unit Development, and, in such instance legal assurances shall be provided and recorded which show that the private organization is self-perpetuating.
- E. Common facilities that are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.
- F. All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

310.8 Recording

All approved Final Detailed Plans and Plats and modifications thereof shall be recorded in the Office of the Jay County recorder within two (2) years after approval, but before any development takes place. Failure to so record shall automatically void the approval of the Final Detailed Plan. Upon completion of all development, the exact measurements, as to the location of buildings or structures erected during the development, may be deemed desirable for the public record. At the discretion of the Zoning Administrator such an "as built" plan may be required to be recorded.

The developer shall submit an "as built" copy of the Planned Unit Development upon the request of the Administrator, with exact measurements thereon shown, and upon being satisfied that the measurements are substantially the same as indicated on the original approved Final Detailed Plan, the Plan Commission shall re-approve, date and sign said amended approved Final Detailed Plan, which the developer shall then record within fourteen (14) days of the approval.

310.9 Permit

A Location Improvement Permit shall be issued for a Planned Unit Development District upon full compliance with the approved final Detailed Plan.

310.10 Construction

- A. No construction or installation work shall be done on any public improvements until and unless the petitioner has, at least twenty-four (24) hours in advance, notified the appropriate Governmental Inspectors(s) of his intention to begin such work, in order that inspections may be made as the work progresses.
- B. All development shall be in conformity with the approved and recorded Final Detailed Plan and any material deviation from the approved and recorded Final Detailed Plan shall be subject to appropriate enforcement action as provided for in this Ordinance.

310.11 Extensions, Abandonment, and Expiration

- A. Extensions of the time for accomplishing any matters set forth herein may be granted by the Plan Commission for good cause shown.
- B. For a development which has not been completed and has been abandoned, an amendment may be initiated as provided by law to the zoning map so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories which the legislative body deems appropriate. Abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Final Detailed Plan for one year or sufficient evidence of abandonment is presented to the board, or upon the expiration of five (5) years from the approval of a Final Detailed Plan.

310.12 Rules of Procedure

All proceedings brought under this section shall be subject to the Rules of Procedure of the Plan Commission, where not inconsistent with the procedure otherwise stated herein.

310.13 Limitation of Rezoning

The Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a Planned Unit Development before completion of the development as long as the development is in conformity with the Approved Final Detailed Plan and is proceeding in accordance with the time requirements imposed herein, subject to any modification of the time requirements set out in the Approved Final Detailed Plan itself.

401 ADMINISTRATIVE RESPONSIBILITY

The County Plan Commission shall establish the procedures and responsibilities for the administration and enforcement of this Ordinance in accordance with the following provisions and State legislation.

402 PERMITS

No permit shall be issued unless the proposed structure or use of structure or land is in complete conformity with provisions of this Ordinance, or unless a written order is received from the Board of Zoning Appeals, the County Plan Commission, or a court in accordance with this Ordinance and State legislation.

402.1 General Provisions

If the work described in any permit has not begun within 90 days from the date of issuance thereof, said permit shall expire and a written cancellation notice shall be sent to the property owner via certified letter.

If the work described in any permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and a written cancellation notice shall be sent to the property owner via certified letter. If a written reason of non-compliance is presented to the Zoning Administrator, the Zoning Administrator shall have the power to renew the Improvement Location Permit for one additional six (6) month period.

If a written reason of non-compliance is presented to the Board of Zoning Appeals, the Board of Zoning Appeals may extend the permit for up to an additional year if the Board feels the delay is substantiated.

402.2 Improvement Location Permit

A. No building or structure shall be erected, reconstructed, enlarged or moved until an Improvement Location Permit shall have been applied for in writing and issued by the Zoning Administrator. Said permit shall be posted in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement, or moving. The permit shall be valid for twelve (12) months after the date of issuance. The Zoning Administrator shall have the power to renew the Improvement Location Permit for one additional six (6) month period.

The Zoning Administrator shall issue an Improvement Location Permit, upon written application, when the proposed structure, improvement or use and its location conform in all respects to the Master Plan.

B. Every application for an Improvement Location Permit shall be accompanied by:

1. A site plan drawn to scale showing the ground area of the building or structure, the building lines in relation to lot lines, the number of stories or the height of building or structure, the use to be made of the building, or structure, or land, and all other information required by the Zoning Administrator for the proper enforcement of this Ordinance.
2. The site plan shall be attached to the application for an Improvement Location Permit when it is submitted to the Zoning Administrator and shall be retained by the Plan Commission as a public record.

C. Approval of Improvement Location Permit

1. The Zoning Administrator shall endeavor to review, and make a determination on all permit applications within three (3) business days of filing. The review period may extend beyond three (3) business days where circumstances require additional review.
 2. Upon receipt of the completed permit application, payment of required permit fees, and if the proposed project otherwise conforms to applicable law, an improvement location permit shall be issued in the name of the applicant. The applicant shall then be provided a permit card authorizing the work to commence. The permit card shall be prominently posted on the property at all times and protected from the elements. A fee of \$5.00 shall be assessed to the applicant for each replacement card issued by the Department.
- D.** Any decision of the Zoning Administrator concerning the issuance of an Improvement Location Permit may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by that decision.
- E.** The issuance of an Improvement Location Permit cannot substitute for or supercede the requirement of any ordinance adopted by the Jay County Commissioners which requires the issuance of a Building Permit before the construction of any building or structure. The issuance of Improvement Location Permit does not waive any requirement of any pertinent Municipal, County, State or Federal ordinance, rule, regulation, or law.
- F.** No Improvement Location Permit for erection of any building shall be issued before application has been made for a Certificate of Compliance.

402.3 Certificate of Compliance

Certificates of Compliance and Improvement Location Permits issued on the basis of plans and applications approved by the Commission or its staff authorize only the use, arrangement, and construction set forth in such approved plans and applications; and any other use, arrangement, or construction not authorized shall be deemed as a violation of the Ordinance.

No occupancy, use or change of use shall take place until a Certificate of Compliance has been applied for, in writing, and issued by the Zoning Administrator in the following cases:

- A. Occupancy and use of a building or structure hereafter erected or enlarged.
- B. Change in use of an existing building or structure.
- C. Occupancy and use of vacant land except for agricultural operations.
- D. Change in the use of land to a use of a different classification except for agricultural operations.
- E. Any change in the use of a non-conforming use.

Written application for a Certificate of Compliance for a new building or for an existing building which will be enlarged shall be made at the same time as the application for an Improvement Location Permit.

Written application for a Certificate of Compliance shall be applied for within ten (10) days of a contemplated change in use of a building or land. If the proposed use is in conformity with the provisions of this Ordinance, the Certificate of Compliance therefore shall be issued within four (4) days after the application for the same was made.

A record of all Certificates of Compliance shall be kept on file in the office of the Commission and a copy shall be forwarded, on request, to any person having proprietary or temporary interest in the building or land affected.

Pending the issuance of such a certificate, a temporary Certificate of Compliance may be issued by the Zoning Administrator for a period of not more than six (6) months during the completion of the construction of the building or of alterations which are required under the terms of any law or ordinance. Such temporary certificate may be renewed, but it shall not be construed in any way to alter the respective rights, duties or obligations of the owner or of the County relating to the use of or occupancy of the land or building, or any other matter covered by this ordinance, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

403 FEES

Applications filed pursuant to the provisions of this Ordinance requiring Plan Commission or Board of Zoning Appeals' approval shall be accompanied by the filing fees specified by the fees schedule created by the Inter-local Board, under the Inter-local Agreement between the City of Portland and Jay County, and adopted by Commission resolution. The fee schedule shall not be a part of this Ordinance and may be revised by Commission resolution.

404 VIOLATIONS AND PENALTIES, & APPEALS

- A. It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the attorney representing the Jay County Planning Commission or the Jay County Board of Zoning Appeals, who may file a complaint against the person and prosecute the alleged violation. Any such complaint shall be filed for and on behalf of "Planning Commission of Jay County and/or Board of Zoning Appeals of Jay County," as plaintiff.
- B. The Board of Zoning Appeals by mandatory injunction in the circuit court of the county against the owner or possessor of the real estate may require the removal of a structure erected in violation of this Ordinance, or the removal of any use or condition permitted in violation of this Ordinance.
- C. A use that violates this Ordinance shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land, or premises upon which the use is maintained shall be liable for such nuisance.
- D. Any person or entity whether owner or possessor, who shall violate, or who permits or allows a violation, of any of the provisions of this Ordinance, or who fails to comply therewith or with any requirements there under, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted upon which an approval or grant is given under this Ordinance, shall, upon complaint filed in any court of the county and upon judgment finding such a violation, be fined not less than five hundred dollars (\$500.00) nor more than twenty-five hundred dollars (\$2,500.00) for a first violation. If said violation continues thereafter or in the event of any second or subsequent violation, a fine of not less than five hundred dollars (\$500.00) nor more than seventy-five hundred dollars (\$7,500.00) shall be imposed per day for such violation. Each day a violation continues shall be considered a second or subsequent violation.

The fines and penalties herein specified are imposed pursuant to Indiana Code Section 36-1-3-8 (a)(10).

- E. No Improvement Location Permit or Building Permit required under the Indiana Building Codes or this ordinance shall be issued on any property subject to this ordinance in violation of the provisions of this ordinance.

- F. **Attorney's Fees.** Notwithstanding any thing contained in this Ordinance to the contrary or appearing to be to contrary, and in addition and supplementary to other provisions of this Ordinance, if the Planning Commission, Board of Zoning Appeals or the County is required to utilize the services of the County attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this Ordinance pursuant to parts B, C, D, or E of this section, or any other Section, before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or County is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceedings, the respondent, defendant or party investigated for a violation shall pay the County's reasonable attorney fees and all costs related to the investigation of the violation and /or the enforcement of this Ordinance, unless such attorney fees or costs are specifically waived by the Board of County Commissioners of Jay County.
- G. **Costs on Appeal.** As to any appeal from a decision of the Board of Zoning Appeals, costs may not be allowed against the Board of Zoning Appeals unless it appears to the court that the Board acted with gross negligence or in bad faith in making the decision brought up for review.
- H. **The Administrator, his staff or any person or persons assisting the Administrator in the application and enforcement of this Ordinance is hereby authorized to go onto private property for the purpose of conducting inspections required by the Ordinance or any order of the Plan Commission and Board of Zoning Appeals, or required to determine if this Ordinance is being violated, or required to enforce this Ordinance. Such inspection or inspections shall occur at reasonable times and shall be conducted in a manner not to disturb the peace.**

501 GENERAL

In accordance with State Law, a Board of Zoning Appeals shall be appointed, which Board may adopt rules to govern its procedure. The Board of Zoning Appeals shall hold meetings, keep minutes, and, pursuant to notice shall conduct hearings, compel the attendance of witnesses, take testimony, and render decisions in writing, all as required by law. When permitting any appeal, variance, special exception or change of a non-conforming use, the Board may impose such conditions and requirements, as it deems necessary for the protection of adjacent property and the public interest.

501.1 With respect to appeals, variances, special exceptions or changes on non-conforming uses within the jurisdiction encompassed by the cities and towns of Jay County, Indiana that do not have their specific zoning ordinances, one of the said conditions is that the town council or governing body of said town shall be notified at least ten (10) days prior to processing of any such appeals, variances, special exceptions or changes of a non-conforming use with sufficient detail to advise the nature of such action.

502 APPEALS

The Board shall have the power to hear and decide appeals from any order, requirement, decision, grant or refusal made by the administrator of the Ordinance. The appeal shall not be granted until public notice has been given.

503 VARIANCES

The Board of Zoning Appeals, upon appeal, shall have the power to authorize variances from the requirements of this Ordinance, and to attach such conditions to the variances as it deems necessary to assure compliance with the purpose of this Ordinance. A variance may be permitted if all of the following requirements are met:

503.1 Literal enforcement of the Ordinance would result in unnecessary hardship with respect to the property; and

503.2 Such unnecessary hardship results because of the unique characteristics of the property; and

503.3 The variance observes the spirit of this Ordinance, produces substantial justice, and is not contrary to the public interest; and

503.4 The Board of Zoning Appeals may not grant a variance to any of the requirements of the FP Flood Plain District without the written approval of the Indiana Department of Environmental Management.

504 SPECIAL EXCEPTIONS

The Board of Zoning Appeals shall have the power to authorize special exceptions if the following requirements are met:

504.1 The special exception shall be listed as such in this Ordinance for the district requested.

504.2 The special exception can be served with adequate utilities, access roads, drainage, and other necessary facilities.

504.3 The special exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards section 309.

504.4 The special exception shall be sited, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

504.5 The special exception shall produce a total visual impression and environment, which is consistent with the environment of the neighborhood.

504.6 The special exception shall plan vehicle access and parking to minimize traffic congestion in the neighborhood.

504.7 The special exception shall preserve the purposes of this Ordinance.

505 NON-CONFORMING USES OF LAND AND STRUCTURES

The Board shall have the power to authorize change of lawful non-conforming uses in accordance with section 301 of this Ordinance.

506 TRANSITIONAL USES

The Board of Zoning Appeals shall have the power to authorize a Transitional Use and to attach such conditions to the Transitional Use as it deems necessary to assure compliance with the purposes of this Ordinance. A Transitional use may be permitted if all the following requirements are met:

506.1 The Board shall request and receive a recommendation concerning the proposed Transitional Use from the Advisory Plan Commission after a public hearing by the Plan Commission.

506.2 The Transitional Use shall adjoin or be across the street from a Zoning District that permits the proposed Transitional Use.

506.3 Unless otherwise modified by the Board, the Transitional Use shall meet all of the requirements of this Ordinance such as setback, yard parking and loading for the existing Zoning District.

506.4 The Transitional Use shall be capable of being served with adequate utilities, access roads, drainage, and other necessary facilities.

506.5 The Transitional use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards of Section 309.

506.6 The Transitional Use shall be sited, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

506.7 The Transitional Use shall produce a total visual impression and environment, which is consistent with the environment of the neighborhood.

506.8 The Transitional use shall plan vehicle access and parking to minimize traffic congestion in the neighborhood.

506.9 The Transitional Use shall preserve the purposes of this Ordinance.

506.10 A Transitional use may be considered only for a specific use and if granted by the Board, no other use or modification of the use shall be permitted except as authorized by the Board.

ARTICLE 6 -- AMENDMENTS

Article 6

601 AMENDMENTS TO TEXT

The proposal to amend the text of this Zoning Ordinance may be initiated by either the Plan Commission or the Jay County Commissioners, and follow the procedures according to I.C. §36-7-4-602 (b) and I.C. §36-7-4-607.

602 AMENDMENTS TO ZONING MAPS

The proposal to amend the Zoning Maps, as incorporated by reference into this Zoning Ordinance, may be initiated by the Plan Commission, the Jay County Commissioners, or by a petition signed by property owners who own at least fifty percent (50%) of the land involved, and follow the procedures according to I.C. §36-7-4-602 (c) and I.C. §36-7-4-608.

603 PETITIONS

Petitions for amendment shall be filed with the Plan Commission, and the Petitioner, upon such filing, shall, whether or not the proposed amendment is enacted, pay a filing fee and the cost of public notice that is required. Petitions initiated by the Plan Commission or the Jay County Commissioners are exempt from the filing fee.

701 WORD INTERPRETATION

For the purpose of this Ordinance, the following terms have the meanings indicated below.

- 701.1** The present tense includes the future tense.
- 701.2** The singular number includes the plural, and the plural includes the singular.
- 701.3** The word “shall” is a mandatory requirement; the word “may” is a permissive requirement; the word “should” is a preferred requirement.
- 701.4** The word “used” includes “designed” or “intended to be used”.
- 701.5** The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation or any other entity.
- 701.6** The masculine includes the feminine.

702 WORD DEFINITIONS

Certain words used in this Ordinance are defined below. Any words not defined as follows shall be construed in their general accepted meanings as defined by Webster's Dictionary.

Abandonment

The relinquishment of property or a cessation of the use of the property for a continuous period of one year by the owner without the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

Accessory Use or Structure

A building, structure, or use which:

- A. is subordinate to and serves a principal building, structure, or use in area, extent or purpose; and
- B. contributes to the comfort, convenience, or necessity of occupants of the principal buildings, structures, or principal uses served; and
- C. does not alter or change the character of the premises; and
- D. is located on the same zoning lot as the principal building, structure, or use; and
- E. conforms to the setback, height, built, lot coverage, and other requirements of this Ordinance unless otherwise provided for by this Ordinance; and
- F. may not be constructed prior or the time of construction of the principal building or structure; and
- G. is not designed for human occupancy as a dwelling or commercial use.

Administrator

The officer appointed and/or delegated the responsibility for the administration of this Ordinance's regulations.

Aesthetics

The pleasantness of the total environment related to the perceptual aspects of the surroundings including their appearance to the eye and the comfort and enjoyment offered to the other senses.

Adult Bookstore/Video Store

Any premises from which minors are excluded and in which the retail sale of books, magazines, newspapers, movie films, video tapes, devices, slides, or other photographic or written reproduction is conducted as a principal use of the premises; or as an adjunct to some other business activity, but which constitutes the primary or major attraction to the premises.

Agriculture

The use of land or structures for agricultural purposes, including farming, dairying, pasturage, aquaculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory structures and uses such as tenant housing and for the packing, treating, processing, or storing of produce; provided however, that the operation of any such accessory uses shall be secondary to that of the normal agriculture activities.

Air Pollution

Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to property or which unreasonably interfere with the comfortable enjoyment of life and property.

Alley

A public right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access to abutting properties

Animal Boarding

Any premises or portions thereof on which more than four animals, (except those properties defined as a kennel), over four months of age are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

Apartment

One (1) or more rooms in an apartment building or combination apartment and commercial building, arranged, intended, designed, or occupied on a rental basis as a dwelling unit of a single family, an individual, or a group of individuals.

Apartment Building

A multi-family housing structure designed and constructed to accommodate three (3) or more dwelling units (apartments), in contrast to a single or two-family dwelling converted for multi-family use.

Applicant

The owner, owners, or legal representative of real estate who makes application to the Plan Commission and/or Board of Zoning Appeals for action by said commission or board affecting the real estate owned thereby.

Attached Building

A building that is structurally connected to another building by a foundation, wall, or roof line is an attached building.. Carports, garages, porch awnings and the like shall be considered attached buildings and abide by all regulations pertaining to primary buildings.

Auto Repair, Major

Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair; and overall painting of vehicles.

Auto Repair, Minor

Incidental repairs, replacement of parts, and motor service to automobiles but excluding any operation specified under "Automobile Repair, Major."

Automobile Service Station

Any building or premises used for the dispensing, sale, or offering for sale at retail to the public, motor vehicle fuels stored only in underground tanks and located wholly within the lot lines.

Average Level

The average height of land above sea level as determined by the latest topographical maps for the immediate area in question.

Awning

An awning is a temporary roof-like cover that projects from the wall of a building and overhangs the public way.

Bicycle Lane

A lane at the edge of a roadway reserved and marked for the exclusive use of bicycles.

Bicycle Path

A pathway designed to be used by bicyclists.

Bed and Breakfast Facility

An owner occupied or owner employee occupied residence containing no more than six (6) guest rooms for hire, for lodging by pre-arrangement for periods not to exceed three (3) consecutive weeks and providing for occasional meals daily (usually breakfast) and not a hotel, boarding, lodging house or motel.

Block

Property abutting on one side of a street and lying between the two (2) nearest intersecting or intercepting streets, intersecting railroad, intersecting waterway, or the end of a dead end street.

Board:

The Jay County Board of Zoning Appeals.

Boarding House

A building, not available to transients, in which meals are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.

Bond

Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Plan Commission. All bonds shall be approved by the Commission wherever a bond is required by these regulations.

Buffer Landscaping

Any trees, shrubs, walls, fences, berms, space, or related landscaping features required under this Ordinance on private lots, and privately maintained, for buffering lots from adjacent properties or public rights-of-way for the purpose of increasing privacy and aesthetics.

Buffer Yards

An area adjacent to front, side and rear property lines, measured perpendicularly from adjacent property lines and/or right-of-way lines, intended to provide attractive spaces to reduce the impacts of proposed uses on adjacent property or natural features and to screen incompatible uses from each other. Buffers also help to maintain existing trees or natural vegetation, to block or reduce noise, glare or other emissions and to maintain privacy.

Buildings

A structure built for the support, enclosure, shelter, or protection of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land.

Building Area

The horizontal area of the buildings on a lot, measured from the outside exterior walls, excluding open areas or terraces, unenclosed porches or decks, and architectural features that project no more than two (2) feet.

Building Code

The County or Town ordinance establishing and controlling the standards for constructing mechanical equipment, and all forms of permanent structures and related matters within the County or Town.

Building, Detached

A building having no structural connection with another building.

Building Footprint

The profile of a building or structure as viewed from above the roof looking downward toward ground level.

Building Line

The line that establishes the minimum permitted distance on a lot between the building and property lines or right-of-way.

Building, Principal

A building in which is conducted the main or principal use of the lot on which said building is situated. Where a substantial part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

Business

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

Campground

An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, travel trailers, pick-up truck campers, and motor homes, and which is primarily used for recreational purposes and retains an open air or natural character.

Car Wash

Any permanent structure or facility used for the principal purpose of washing, cleaning, or polishing the exterior and/or interior of motor vehicles for a fee.

Cemetery

Includes any crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

Central Sewerage System

The community sewer system including collection and treatment facilities owned and maintained by the County or Town.

Central Water System

The community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities established by the developer to serve a new subdivision or commercial/industrial development.

Certificate of Occupancy

A certificate stating that the occupancy and use of a building or structure complies with the provisions of this Ordinance and the Building Code of the jurisdictional area.

Child Day Care Center

Means the facility where the care, supervision and guidance of a child, not related to the operator by blood or marriage, on a regular basis, for periods of less than 24 hours per day, in a place other than the child's own home. A child day care center serves between eight (8) and twelve (12) children with one operator or twelve (12) or more children with or without an assistant(s).

Child Day Care Home

Means the facility where the care, supervision and guidance of a child, not related to the operator by blood or marriage, on a regular basis, for periods of less than 24 hours per day, in a place other than the child's home. A child day care home serves eight (8) or fewer children with one operator (or with one operator and an assistant) or twelve (12) or fewer children with an assistant.

Clinic

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

Club

A building or portion thereof or premises owned or operated by a person for a social, literacy, political, educational or recreational purpose primarily for the exclusive use of members and their guests, but not including any organization, group or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

Commission:

The Jay County Advisory Plan Commission.

Composting Facility

Any location, structure, or facility where composting takes place.

Conditional Use

Special provisions or requirements applicable to specific uses in certain zoning districts. If specified conditions are met as determined in this Ordinance, the Planning Commission, the BZA or by the Zoning Administrator, no further approval is required.

Condominium

Real estate lawfully subject to I.C. 32-25, (Condominium), by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

Confined Feeding Operation

Refer to Section 216 of this Ordinance for definitions & regulations

Contingent Use

A use that is essential or desirable to the public convenience or welfare but is not necessarily a permitted use.

Convenience Store

Any commercial location, facility, or structure where motor vehicle fuel and groceries (including food, drink, and household items) are sold on the same premises.

Correctional Facility

A building or series of buildings used for the purpose of confining criminals.

Covenants

Private and legal restrictions of various kinds on the usage of lots within a subdivision which are proposed by the subdivider and, in the case of public health, safety and welfare, by the Commission, that are recorded with the plat and deed. Covenants can also be placed on commercial and industrial developments.

Cul-De-Sac

A short street having one (1) end open to traffic and being permanently terminated by a vehicular turn-around.

Culvert

A structure designed to convey a watercourse not incorporated in a closed drainage system under a road or pedestrian walk.

Curb

A vertical or sloping edge of a roadway.

Day Care Center

Any institution operated for the care of children, licensed pursuant to I.C. 12-17.2-4, et seq., and as defined by Indiana Code Section 12-7-2-28.4.

Dedication

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

Density

The number of buildings, offices, or housing units on a particular area of land.

Density, High

Those residential districts in which the density is not in excess of ten (10) dwelling units per acre.

Density, Low

Those residential districts in which the density is equal to or less than four (4) dwelling units per acre.

Density, Medium

Those residential districts in which the density is less than or equal to eight (8) dwelling units per acre, but not less than five (5) dwelling units per acre.

Design Standards

Standards that set forth specific improvement requirements, including but not limited to Standards for Acceptance of Municipal Improvements as adopted by the Town of Pennville, Indiana.

Detached Building

A building that has no structural connection with the principal building.

Detention Basin

A man-made or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same, gradually, at a rate not greater than that prior to the development of the property, into natural or man-made outlets.

Developer

The owner or legal representative of land proposed to be subdivided or commercially/industrially utilized. Consent for making applications for development approval shall be required from the legal owner of the premises.

Design Review Board

A group of citizens appointed by the Jay County Planning Commission for the purpose of protecting visual character and community aesthetics through the recommendation and/or establishment of published design guidelines.

Digital Dish System

A small dish of approximately one (1) to two (2) feet (.3-.6m) in diameter installed on or adjacent to a building for the purpose of receiving audio/video signals transmitted by a private telecommunications company.

District

A section for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings, as established by this Ordinance.

Drainage

The removal of surface water or groundwater from land by drains, grading, or other means.

Drainage Facility

Any component of the drainage system.

Drainage System

The system through which water flows from the land, including all watercourses, water bodies, and wetlands.

Drive-In

An establishment selling foods, desserts, or beverages to consumers, the establishment being designed, intended or used for the consumption of such items on the premises outside of the building in which they were prepared.

Duplex

Any structure which contains only two (2) dwelling units; a two-family dwelling.

Dwelling

A permanent building, or portion thereof but not a mobile home, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels, motels, or lodging homes.

Dwelling Unit

One or more common rooms, which are arranged, designed or used as living quarters for one family.

Dwelling, Single-Family

A dwelling containing one dwelling unit only.

Dwelling, Two-Family

A dwelling containing two dwelling units only.

Dwelling, Multiple-Family

A dwelling or portion thereof, containing three or more dwelling units including condominiums.

Earthen Structure

Any structure constructed of earth, either whole or in part. This includes, but is not limited to, walls, dikes, dams, sanitary landfills, fill dirt, weir, levees, animal waste pits, and riverbanks. This excludes structures of six (6) months or less duration.

Essential Services

The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, telephone, sewer, water transmission drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare but not including buildings.

Easement

A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of providing services or access to the property.

Environmental Constraints

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

Escrow

A deed, a bond, money, or a piece of property delivered to a third person to be delivered by him to the grantee only upon fulfillment of a condition.

Facility

The entire operation, including but not limited to buildings, other structures and outside storage.

Family:

One or more persons each related to the other by blood, marriage, or adoption, or a group of not more than three persons not all so related, together with his or their domestic servant, maintaining a common household in a dwelling unit. A family may include not more than two roomers, boarders, or permanent guests – whether or not gratuitous.

Fence

A structure or barrier, consisting of living or not-living material, designed and constructed to prevent escape or intrusion, mark a boundary, or for enclosures and/or screening. Such a structure or barrier being made of posts and wire or boards. A hedge serving the same purposes as a fence shall be considered a fence.

Filling Station

Any establishment supplying and selling motor vehicle fuel or oil directly to motor vehicles.

Flood Plain

Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts as approved by the Department of Natural Resources (DNR).

Flood Protection Grade

The elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.

Floor Area

The horizontal area of all floors of buildings or structures.

Foundation

The supporting member of a wall or structure.

Front Line

With respect to a building, the foundation line that is nearest the front lot line.

Front Lot Line

- A. For an interior or through lot, the line marking the boundary between the lot and the abutting street right-of-way or a lake or watercourse; and
- B. For a corner lot, the line marking the boundary between the lot and the shorter of the two abutting street right-of-way segments; except as deed restrictions specify otherwise.

Front Yard

The horizontal space between the nearest foundation of a building to the Front Lot Line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the Front Lot Line, unless deed restrictions specify otherwise.

Frontage

All property of a lot fronting on a street right-of-way, as measured between side lot lines.

Garage, Private

A detached accessory building or an accessory portion of the principal building, including a carport which is intended for and used for storing the private passenger vehicles of the family or families resident upon the premises, and in which no business, service or industry connected directly or indirectly with the automotive vehicles is carried on, provided that not more than one-half of the space may be rented for the private passenger vehicles of persons not resident on the premises, except that all the space in a garage of one or two-car capacity may be so rented.

Garage, Public

Any building, except those defined herein as a private garage, used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Grade

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

Greenhouse, Commercial

Any location, facility, or structure where plants are grown indoors for sale.

Greenhouse, Residential

Any accessory use, structure, or addition to a residential property where plants are grown indoors for hobby, personal use, or personal consumption. Also, any accessory use, structure, or addition to a residential property being primarily constructed of glass or other translucent materials.

Ground Cover

A planting of low-growing plants or sod that in time forms a dense mat covering the area, preventing both soil from being blown or washed away and the growth of unwanted plants.

Group Home

A residential facility licensed by the Community Residential Facilities Council, or its successor in authority, and authorized by I.C. 12-17.4-5 in which care is provided on a twenty-four (24) hour basis for not more than ten children in need of services or who have committed a delinquent act.

Gutter

A shallow channel usually set along a curb or the pavement edge of a road for purposes of catching and carrying off runoff water.

Hardship

A difficulty with regard to one's ability to improve land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this Ordinance; any result of land division requiring variance from the development standards of this Ordinance in order to render that site buildable.

Height of Building

The vertical distance measured from the highest ground level at the foundation to the highest point of the roof, or any projection thereof.

Historic District

An area related by historical events or themes, by visual continuity or character, or by some other special feature that helps give it a unique historical identity, which may be designated as such by local, state, or federal government. (Refer to Historic District Map)

Historic Site

A structure or place of historical significance, which may be designated as such by local, state, or federal government.

Home Occupation

An occupation or activity conducted entirely within a dwelling by the occupants thereof, which is clearly incidental and secondary to the use of the building for dwelling purposes.

Hospital

An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for three (3) or more non-related individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term “hospital” as used in this Ordinance does not apply to institutions operating primarily for treatment of insane persons, drug addicts, alcoholics, and other types of cases necessitating restraint of patients, and the term “hospital” shall not include convalescent, nursing, shelter, or boarding homes.

Hotel (Motel)

A building, group of buildings or portion thereof in which more than five (5) guest rooms are provided as temporary accommodations for compensation to transient guests.

Impervious Surface

A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, such as concrete, cement, asphalt, brick, paving block, rooftops, etc.

Integrated Center

A building containing a number of individual, unrelated and separately operated uses which share common site facilities and services such as driveway entrances and exits, parking areas, truck loading, maintenance, sewer and water utilities, or similar common facilities and services; or one or more buildings containing individual, unrelated and separately operated uses, occupying a site under one ownership of management for lease, and utilizing one or a combination of the aforementioned common services.

Intermediate Processing Facility IPF

Any facility that processes, collects or handles waste products, other than tires, which have been separated, for recycling, from the raw or general solid waste stream prior to arrival at the processing site. The processed waste is then sold to manufacturers to be used as raw materials in the production of their products.

Junk

Old, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article of material which is composed of, but not limited to, copper, brass, rags, batteries, paper, trash, rubber, stone, wrecked or dismantled automobiles, trucks, trailers, farm machinery or other vehicles or equipment, or parts thereof, iron, steel and other old or scrap ferrous or non-ferrous metal.

Junk Yard

An open area where waste or scrapped or junked materials or five or more mechanical vehicles or equipment not in running or operable condition or parts thereof are bought, sold, exchanged, stored, baled, packed, disassembled, and/or handled. This definition excludes uses established entirely within enclosed buildings and/or the storage of farming equipment within AR Districts that are used for parts.

Kennel

Any premises or portions thereof on which more than four dogs, cats, or other household domestic animals over four months of age are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

Landscaping

The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flowerbeds, berms, fountains and other similar natural and manmade objects designed and arranged to produce an aesthetically pleasing effect.

Licensed Salvage Yard

As defined and licensed by the State of Indiana. A valid license must be issued to the occupant by the State of Indiana.

Light Industrial Use

Manufacturing, processing, heavy repairing, dismantling, or storage, in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed.

Loading and Unloading Berths

The off-street area required for the receipt or distribution by vehicles of material or merchandise, which in this Ordinance is held to be, at minimum, a twelve (12) foot by thirty (30) foot loading space with a fourteen (14) foot height clearance, paved with a hard surface.

Lodging House

A building, not available to transients, in which lodgings are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.

Lot of Record

A lot which is part of a subdivision, the plat of which has been recorded in the Office of the Recorder; or a parcel of land, the deed to which was recorded in the Office of said Recorder prior to the adoption of this Ordinance.

Lot

A tract or parcel of land of at least sufficient size to meet minimum zoning requirements for use and area and to provide such yards and other open spaces as are herein required.

Lot, Corner:

A lot situated at the intersection of two or more roads or streets.

Lot Coverage

The area of a lot occupied by the principal building and any accessory buildings.

Lot Depth

The horizontal distance between the front and rear lot lines.

Lot, Interior

A lot other than a corner lot or through lot.

Lot Line, Front

In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the lot from each street or place.

Lot Line, Rear

A lot line which is opposite and most distant from the front lot line, and in case of an irregular or triangular-shaped lot, a line ten (10) feet in length within the lot, parallel to and at a maximum distance from the front lot line.

Lot Line, Side

Any lot boundary line not a front lot line or a rear lot line.

Lot, Through

A lot fronting on two (2) parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

Lot Width

The distance between the side lot lines as measured on the building line.

Maintenance Guarantee

Any security which may be required and accepted by a governmental agency to ensure that necessary improvements will function as required for a specific period of time.

Maneuvering Space

An open space in a parking area which is immediately adjacent to a parking space; is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but is not used for the parking or storage of motor vehicles.

Manufactured Home

A dwelling unit designed and constructed to the “National Manufactured Housing Construction and Safety Standards Act of 1974” as amended and published by the United States Department of Housing and Urban Development and having the HUD Manufactured Home Label attached to the unit.

Materials Recovery Facility (MRF)

A transfer station at which recyclable solid waste is separated from the raw or general solid waste stream. The recycled waste is then sold to manufacturers for use as raw materials in the production of their products. The remaining solid waste is transferred into vehicles or containers for final disposal.

Mobile Home

A factory-fabricated building built on a chassis and so constructed as to permit its being towed upon public thoroughfares and designed to be used for year-round living when connected to the required utilities. The term “manufactured home” is defined as a dwelling unit built in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards of Indiana Public Law 360, Acts of 1971, as amended, which is of at least 600 square feet of occupied space and is installed on a permanent foundation and perimeter wall. Its pitched roof and siding are of materials customarily used for site constructed dwellings. A manufactured home is a single-family dwelling for the purposes of this Ordinance.

Mobile Home Park

Any site, lot, field, or tract of land under single ownership, or ownership of two or more persons upon which two or more mobile homes to be used for human habitation are parked, either free of charge or for revenue purposes, and shall include any street used or intended for use as part of the facilities of such mobile home park. A mobile home park does not include a mobile home sales area on which unoccupied mobile homes are parked for inspection or sale.

Mobile Home Site

The area of land in a mobile home park for the parking of one (1) mobile home.

Mobile Home Subdivision

A residential subdivision designed exclusively for and occupied by mobile homes in which the same person owns the homes and the land.

Mobile Commercial Structure

A mobile structure consisting to two (2) or more single-story units.

Mobile Structure

Means any part of a fabricated unit that is designed to be towed on its own chassis and connected to utilities for year round occupancy or used as a Class 1 structure, a Class 2 structure, or another structure, as defined by the Indiana Building Code, as amended. The term includes two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units that are separately towable but designed to be joined into one integral unit. Whenever any mobile system is placed on a permanent foundation, the mobile system shall be considered an industrialized building system.

Mobile Transitory Structure

A mobile structure consisting of one (1) single-story unit certified under IC 22-15-4-2, with the Indiana Mobile Unit Insignia attached to the unit.

Modular Home

A factory-fabricated transportable building designed to be used alone or to be incorporated with similar units at a building site and designed and constructed with a perimeter frame to become a permanent structure on a site, with all outside walls supported by a permanent foundation. A modular home is a single-family dwelling for purposes of this Ordinance.

Modular Commercial Structure

A modular structure of one (1) or more units or enclosed panels to be used or occupied as a Class 1 structure or an accessory structure thereto, based upon the number of stories and a specific completed structure configuration.

Modular Residential Structure

A modular structure of one or more units or enclosed panels to be used or occupied as a one or two family dwelling (Class 2 structure, as defined by the Indiana Building Code, as amended) or an accessory structure thereto, based upon the number of stories, not to exceed three, and a specific completed structure configuration.

Modular Structure

An industrialized building system other than a mobile structure intended for placement upon a permanent foundation.

Monument (Survey)

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

Motel

An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the use and upkeep of furniture.

Natural Resources

The Indiana Natural Resources Commission.

Non-Conforming Structure

A structure designed, converted, or adapted for a use prior to the adoption of provisions prohibiting such use or structure in such location.

Non-Conforming Use

Non-conforming use is any use or arrangement of land or structures legally existing at the time of enactment of this Ordinance or any of its amendments, which does not conform to the provisions of this Ordinance.

Nuisance

The use of land or behavior that brings harm or substantial annoyance to adjacent property owners or the public in general.

Official Fee Schedule

Schedule of fees established by the Jay County Commissioners and maintained in the Jay/Portland Building and Planning Department, which specifies all current permit fees, rates, penalties, etc.

Open Space

An area of land not covered by buildings, parking structures, or accessory uses except for recreational structures. Open space may include nature areas; streams and flood plains; meadows or open fields containing baseball, football, and soccer fields; golf courses, swimming pools, bicycle paths, etc. Open Space does not include street rights-of-way, platted lot area, private yard, patio areas, or land scheduled for future development.

Open Space, Public

An open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency, or other public body for recreational or conservational uses.

Owner

Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Parcel

A piece of land having a legal description formally set forth in a conveyance together with a description of its location, shape, and size, in order to make possible its easy identification.

Parking, Off-Street

A parking space provided in a parking lot, parking structure, or private driveway.

Parking, On-Street

A parking space that is located on a dedicated street right-of-way.

Parking Area, Public

An open area, other than a street or alley, designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation or as an accommodation for clients or customers, and paved with a hard surface.

Parking Lane

A lane generally located on the sides of streets, designed to provide on-street parking for vehicular traffic.

Parking Space, Automobile

Space within a public or private parking area for the storage of one (1) passenger automobile or commercial vehicle under a one and one-half (1 ½) ton capacity.

Pavement

An asphalt, concrete, cement, or brick surface.

Performance Bond

An amount of money or other negotiable security paid by the subdivider or his surety to the County which guarantees that the subdivider will perform all actions required by the County regarding an approved plat, and provides that if the subdivider defaults and fails to comply with the provisions of an approved plat, the subdivider or his surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

Permanent Foundation

A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

Person

A corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a unit, as well as a natural person.

Pervious Surface

A surface that permits full or partial absorption of storm water, such as grass and other vegetation, soil, water bodies, gravel, approved open-center paving block, etc. Decks made of wood and other materials shall be considered pervious if not built over an impervious slab or foundation and if slats are spaced a minimum of 1/8-inch apart.

Plan

In reference to documentation, The Comprehensive Plan of Jay County, Indiana, and any other supporting or accompanying ordinances, plans, resolutions, rules, or regulations and including their provisions, except where the context clearly indicates otherwise.

Plan, Capital Improvement

A proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. Major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the capital improvements for the community are included.

Plan Commission

The Advisory Plan Commission of Jay County.

Plan, Comprehensive

A long-range plan intended to guide the growth and development of the community; inclusive physical, social, and economic analysis, recommendations, proposals, plans, and policies in graphic statement forms for the development of the jurisdiction and adopted by the Commission pursuant to the I.C. 36-7-4-500 series and including any part and/or policies separately adopted and any amendment to such plan or parts thereof.

Plan, Conceptual

A preliminary presentation and attendant documentation of a proposed subdivision or site plat showing the specific location and design of improvements to be installed for the subdivision or site in accordance with the requirements of this Plan as a condition of the approval of the plat.

Plan, Development

A drawing, including a legal or site description of the real estate involved, which shows the location and size of all existing and proposed easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining streets; all of which presents a unified and organized arrangement of buildings and service facilities and other improvements such as planting areas, which shall have a functional relationship to the real estate comprising the planned development and to the uses of properties immediately adjacent to the proposed development.

Plan, General Development

A plan outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. As such, it allows general intentions to be proposed and discussed without the extensive costs involved in submitting a detailed proposal.

Plan, Thoroughfare

A plan which includes a street plan, sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, and other thoroughfares.

Planned Development (PUD)

A large-scale unified development meeting the requirements for zoning approval under the provisions of Section 310 of this Ordinance. Generally, a planned development consists of a parcel or parcels of land, controlled by a single landowner, to be developed as a single entity which does not correspond in size of lots, bulk or type of buildings, density, lot coverage, and required open space to the regulations established in any district specified in this Ordinance. This may result in more attractive and affordable development than conventional developments would allow. Clustered housing (dwellings built in innovative lot arrangements around common open space) and zero lot line housing (dwellings built immediately adjacent to lot lines) are possible as part of planned developments. A planned development requires approval through a zoning map amendment.

Plat

A map or chart that shows a division of land and is intended to be filed for record.

Plat, Primary

The primary plat, pursuant to I.C. 36-7-4-700 series, is the plat and plans upon which the approval of a proposed subdivision are based. The primary plat and plans shall be subject to public notice and public hearing according to law and according to Plan Commission rules. (Under former State statutes, the primary plat was referred to as a "preliminary" plat.)

Plat, Secondary

The secondary plat, pursuant to I.C. 36-7-4-700 series, is the final plat document in recordable form. A secondary plat shall substantially conform to the preceding primary plat, or section thereof. The secondary plat and plans are not subject to public notices and public hearings. Secondary plat approval is an administrative function to be carried out in the manner prescribed by the written rules of the Advisory Plan Commission rules, either in public meeting or by Zoning Administrator. (Under former state statutes, the secondary plat was referred to as the "Final" Plat.)

Porch

A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

Practical Difficulty

A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship", rather it is a situation where the owner could comply with the regulations within this Ordinance, but would like a variance from the Development Standards to improve his site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the Development Standards for a new garage location.

Principal Building/Structure

The building or structure in which the principal use of the lot or premises is located or conducted, with respect to residential uses, the principal building or structure shall be the main dwelling.

Principal Use

The main use of land or buildings as distinguished from an accessory use. A principal use may be either a permitted use or a special exception.

Private School

Private preprimary, primary, grade, high or preparatory school or academy.

Professional Office

An office used by members of a recognized profession such as architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, and realtors or insurance agents and brokers.

Public Improvements

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

Public Notice

That act of notifying all interested parties to any proposed action concerning the business of the administration and enforcement of the Ordinance.

Public/Private Parking Area

A group of parking spaces in an open area not including any part of a street or alley, designed or used for temporary parking of motor vehicles.

Public Utility Structure

Electric and telephone substations and distribution centers; filtration plant, pumping station, and water reservoir; public or package sewage treatment plants; telephone exchange; radio and television transmitting or relay stations; antenna towers and other similar public utility service structures.

Recreational Vehicle

Any boat, boat trailer, trailer, any camping trailer, travel trailer, pick-up, motor coach, motor home or other unit built or mounted on a vehicle or chassis, without permanent foundation, which may legally be driven or towed by a motor vehicle on a highway or street.

Recreational Vehicle Park

Any site, lot, field, or tract of land under single ownership, or ownership of two or more people, designed with facilities for short-term occupancy by recreational vehicles only.

Regulatory Flood

A flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.

Regulatory Flood Profile

A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

Regulatory Floodway

The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

Rest Home/Nursing Home

A private home for the care of the aged or infirm, or any other person in need of nursing care and which does not contain equipment for surgical care or for treatment of disease or injury, and is not primarily designed for mental patients or alcoholics.

Retention Basin

A pond, pool, or basin used for the permanent storage of water runoff.

Right-of-Way

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

Road (Street)

A partially or fully improved public right-of-way which affords the principal means of access to abutting property.

Roadway

The actual road surface area from curb line to curb line, which may include travel lanes, parking lanes, and deceleration and acceleration lanes. Where there are no curbs, the roadway is that portion between the edges of the paved, or hard surface, width.

Rule 5

Any construction activity, which includes clearing, grading, excavation, and other land disturbing activities that results in the disturbance of one (1) or more acres of total land area which is regulated by the Jay County Soil and Water Conservation District and the Indiana Department of Environmental Management (IDEM).

Scrap Metal Yard

A general industrial use, including, but not limited to, established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, fittings, clippings, vehicle parts, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for storage, sale and shipment and use in other industries or businesses; such an establishment shall not include junk yards, dumps, or automobile graveyards.

Screen

An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, and/or beams, designed to limit continuously the view of and/or sound from the site to adjacent sites or properties.

Setback

The minimum horizontal distance between the front line of a building or structure and the street or road right-of-way or property line.

Side Lot Line

A lot boundary line other than a front or rear lot line.

Sidewalk

That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

Side Yard

The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice-enclosed fire escapes, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space.

Sight Triangle

A triangular-shaped portion of land established at street or alley intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign

A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business.

Sign, Outdoor Advertising

A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. Also called billboard or off-premises sign.

Sign, Temporary

A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

Special Exception

The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the Plan Commission and granted by the Board of Zoning Appeals.

Storage, Outdoor

The outdoor accumulation of goods, junk, vehicles, equipment, products, or materials for permanent or temporary holding.

Street, Arterial

A street designed for high volume traffic.

Street, Collector

A street designed to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways to reach arterial streets.

Street, Local

A street designed primarily to provide access to abutting properties and discourage through traffic.

Street, Private

Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with other streets within public rights-of-way and are maintained by the owner(s).

Street, Public

Any publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

Strip Development

Uncoordinated and often unsightly development that generally occurs along main highways and thoroughfares leading into and out of a community. Strip development often includes fast food restaurants, filling stations, used car lots, and shopping centers.

Structural Alterations

Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams or girders, or any substantial change in the footprint or increasing size of living space.

Structure

Anything constructed, erected or placed, the use of which requires location on the ground or attached to something having a permanent location on the ground, except public utility, communication and electrical transmission lines and equipment and facilities supporting the same and/or incidental thereto.

Supply Yards

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

Swimming Pool

A self-contained body of water at least eighteen (18) inches deep and eight (8) feet in diameter or width and used for recreational purposes. It may be above or below ground level, and shall be considered an accessory structure and use.

Tourist Home

A building in which one (1) but not more than five (5) guest rooms are used to provide or offer overnight accommodations for transients. Also known as “bed and breakfast inns.” For the purpose of this Ordinance, a tourist home shall be defined as home occupation.

Trade or Business School

A secretarial or business school or college that is not publicly owned, is not owned, conducted, or sponsored by a religious, charitable, or non-profit organization, and is not a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hairdressing, or the industrial or technical arts and like skills.

Transfer Station

Any facility at which raw or general solid waste is transferred into larger capacity vehicles or containers for shipment to a materials recovery facility or final disposal facility. This does not include neighborhood recycling centers or transfer activities at generating facilities.

Truck

Truck tractors, trucks, and tractors and trailers as the same are defined by I.C. §9-4-1-3 through I.C. § 9-4-1-5.

Use

The purposes of which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

Vegetative Screen

Planting of vegetation sufficient to obscure the sight of a passerby on foot or in a standard motor vehicle of the facility or operation. The Commission shall from time to time provide suggested plants or trees and layouts determined in conjunction with the County Agricultural Agent.

Veterinary Animal Hospital or Animal Clinic

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

Yard

A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this ordinance.

Yard, Front

The horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from the nearest foundation to the front lot line. A corner lot shall have two (2) front yards abutting both streets on which the corner lot has frontage, except as deed restrictions specify otherwise.

Yard, Rear

The horizontal space between the nearest foundation of a building to the rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the nearest foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

Yard, Side

The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice-enclosed fire escapes, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space.

**ARTICLE 8 - DISTRICT REGULATIONS AND JURISDICTIONAL AREA
FOR THE PARTICIPATING INCORPORATED AREA
OF PENNVILLE, INDIANA**

Article 8

801 ESTABLISHMENT

The purpose of this Article is to set forth in detail the Pennville development standards, jurisdictional area and restrictions for permitted uses.

The jurisdictional area of Article 8 shall be the corporate limits of Pennville, Indiana.

The Town of Pennville is divided into additional districts for purposes as stated:

SFR: Single Family Residential District

The Single Family Residential District (SFR) is established to provide areas appropriate for single family residential structures. The intended density for this district is 2 - 4 dwelling units per acre.

MFR: Multi-Family Residential District

The Multi-Family Residential District (MFR) is established to provide areas appropriate for multi-family housing (including senior housing) where residents have convenient access to commercial services and public recreation areas. The intended density for this district is 5 - 6 dwelling units per acre.

COM: Commercial District

The Commercial District (COM) is established to provide an area, in downtown Pennville, for neighborhood and specialty commercial development that meets the needs of local residents and encourages visitors to shop in Pennville. It is not the intent of this district to accommodate "big box" retailers.

LI: Light Industrial District

The Light Industrial District (LI) is established to provide appropriate areas for light industrial, larger commercial, office and research and development activities in Pennville. The Light Industrial District is intended for the types of uses that would typically be accommodated in an industrial park and those requiring more space than would be appropriate for the downtown commercial core.

Historical District

A district established by Pennville Town Ordinance to govern exterior restoration and maintenance of buildings and esthetics in the Historic District.

802 "SFR" - Single Family Residential District - Pennville
District Intent, Permitted Uses, and Special Exception Uses

Article 8

District Intent

The Single Family Residential District (SFR) is established to provide areas appropriate for single family residential structures. The intended density for this district is 2 - 4 dwelling units per acre.

Permitted Uses

Residential Uses

Single family dwellings
Manufactured Homes

Other Uses

Accessory Uses
Decks
Home Occupations
Private Swimming Pools

Special Exception Uses

Residential Uses

Adult Day Care Center
Apartment
Bed and Breakfast
Boarding or Lodging House
Child Care Home
Duplex

Special Exception Uses

Institutional/Public Uses

Community Center
Fire Station Public
Park/Recreation
Religious Institution
School

Special Exception Uses

Miscellaneous Uses

Public Wells

The Plan Commission, upon hearing a recommendation from the Zoning Administrator, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

Lot & Yard Standards

Minimum Lot Area:

7,000 Sq. Ft.

Minimum Lot Width:

40 feet

Minimum Lot Frontage:

40 feet on a public or private street with
access from the public street.

Minimum Front Yard Setback:

25 feet from Right of Way line

Minimum Side Yard Setback:

10 feet from Right of Way or property line

Minimum Rear Yard Setback:

25 feet for primary structure
10 feet for accessory structure

Maximum Height Regulations:

30 feet primary structure
17 feet accessory structure

Minimum Main Floor Area:

Total finished floor area is 950 sq. ft. or more

**Additional Development Standards
That Apply**

Accessory Uses & Structures	Page 8-10
Buffer Yard Standards	Page 8-11
Entrance & Driveway Standards	Page 8-15
Environmental Standards	Page 8-16
Fences, Hedges & Wall Standards	Page 8-19
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Industrial Standards	Page 8-23
Loading Standards	Page 8-27
Miscellaneous Standard	Page 8-28
Parking Standards	Page 8-30
Sight Visibility Standards	Page 8-33
Mobile Home Standards	Article 3 / Page 3-11
Mobile Home Park Standards	Article 3 / Page 3-11
Small Wind Energy System Privately Owned	Article 2 / Page 2-28

Notes:

- 1. Conflicts** – All conflicts concerning lot/yard regulation specified in this Article in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Article 3 (301) of this ordinance.
- 2. Setbacks** – No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the District in which it is located.

Planning Commission Development Requirements:

1. Compatibility of the development with surrounding land uses.
2. Availability and coordination of water, sanitary sewers, storm water drainage, and other utilities.
3. Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.
4. Building setback lines.
5. Building coverage.
6. Building separation.
7. Vehicle and pedestrian circulation.
8. Parking.
9. Landscaping.
10. Height, scale, materials, and style of improvements.
11. Signage.
12. Recreation space.
13. Outdoor lighting.
14. Other requirements considered appropriate by the Planning Commission.

804 "MFR" - Multi-Family Residential District - Pennville
District Intent, Permitted Uses, and Special Exception Uses

Article 8

District Intent

The Multi-Family Residential District (MFR) is established to provide areas appropriate for multi-family housing (including senior housing) where residents have convenient access to commercial services and public recreation areas. The intended density for this district is 5 - 8 dwelling units per acre.

Permitted Uses

Residential Uses

Apartments
Multi-family dwellings
Single Family Residence
Duplex
Assisted Living Facility
Nursing Home
Retirement Community

Other Uses

Accessory Uses
Private Swimming Pools

Special Exception Uses

Residential Uses

Mobile Home Park

Commercial Uses:

Adult Day Care Facility
Child Care Facility

Special Exception Uses

Institutional/Public Uses

Community Center
Fire Station
Government Buildings
Post Office
Religious Institution
School

Special Exception Uses

Miscellaneous Uses

Home Occupations
Public Wells
Pumping Facilities

The Plan Commission, upon hearing a recommendation from the Zoning Administrator, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

Lot & Yard Standards

Minimum Lot Area:

15,000 Sq. Ft.

Minimum Lot Width:

80 feet

Minimum Lot Frontage:

40 feet on a public or private street with
access from public street

Minimum Front Yard Setback:

25 feet from right-of-way line

Minimum Side Yard Setback:

20 feet from right-of-way or property line

Minimum Rear Yard Setback:

25 feet Primary Structure
10 feet Accessory Structure

Minimum Main Floor Area:

2,000 Sq. Ft. for single story primary
structures, or
1,500 Sq. Ft. for multi-story primary
structures provided finished floor area
is at least 2,000 sq. ft.

Maximum Height:

40 feet for Primary Structure
17 feet for Accessory Structure

**Additional Development Standards
That Apply**

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Home Occupation Standards	Page 8-20
Industrial Standards	Page 8-23
Loading Standards	Page 8-27
Miscellaneous Standard	Page 8-28
Parking Standards	Page 8-30
Sight Visibility Standards	Page 8-33
Mobile Home Standards	Article 3 / Page 3-11
Mobile Home Park Standards	Article 3 / Page 3-11
Small Wind Energy System Privately Owned	Article 2 / Page 2-28

Notes:

- 1. Conflicts** – All conflicts concerning lot/yard regulation specified in this Article in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Article 3 (301) of this ordinance.
- 2. Setbacks** – No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the District in which it is located.

Planning Commission Development Requirements:

1. Compatibility of the development with surrounding land uses.
2. Availability and coordination of water, sanitary sewers, storm water drainage, and other utilities.
3. Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.
4. Building setback lines.
5. Building coverage.
6. Building separation.
7. Vehicle and pedestrian circulation.
8. Parking.
9. Landscaping.
10. Height, scale, materials, and style of improvements.
11. Signage.
12. Recreation space.
13. Outdoor lighting.
14. Other requirements considered appropriate by the Planning Commission.

806 "COM" - Commercial District - Pennville**District Intent, Permitted Uses, and Special Exception Uses****Article 8****District Intent**

The Commercial District (COM) is established to provide an area in downtown Pennville, for neighborhood and specialty commercial development that meets the needs of local residents and encourages visitors to shop in Pennville. It is not the intent of this district to accommodate "big box" retailers.

Permitted Uses**Residential Uses**

Upper floors Single-Family
Upper floors Multi-Family

Commercial Uses:

ATM
Antique Shop
Apparel Shop
Arcade or Billiard Room
Architecture Office
Bakery
Bank or Credit Union
Barber Shop/Beauty Salon
Book Store
Candy Store
Clinic
Community Center
Dance Studio
Day Spa

Permitted Uses**Commercial Uses: (cont)**

Department Store
Design Services
Drug Store
Electronics Sales/Service
Fabric Shop
Flower Shop
Fruit/Vegetable Market
Gift Shop
Government Offices
Grocery Store
Gymnastics Studio
Hardware Store
Insurance Office
Jewelry Store
Law Offices
Lodge or Private Club
Martial Arts Studio
Meat Market

Permitted Uses**Commercial Uses: (cont)**

Museum
Music Store
Office Supply Store
Planning Office
Professional Offices
Real Estate Office
Religious Institution
Restaurant/Delicatessen
Secretarial Service
Shoe Sales/Repairs
Sporting Good Store
Tailor
Theater Travel Agency
Variety Store
Video Store

Special Exception Uses**Residential Uses**

Bed and Breakfast
Boarding/Lodging House

Commercial Uses:

Auto Parts Store
Convenience Store
Farmer's Market
Funeral Home/Mortuary
Gas Station
Liquor Store
Wind Energy System -
Privately Owned

Special Exception Uses**Public/Institution Uses:**

Fire Station
Parking
Police Station

Special Exception Uses**Miscellaneous Uses**

Accessory Uses
Bar/Club
Coin Laundry
Communications - Antenna
Communications -
Equipment Building
Communications - Tower
Dry Cleaners
Home Occupations
Print Shop

The Plan Commission, upon hearing a recommendation from the Zoning Administrator, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

Lot & Yard Standards

Minimum Lot Area:

2,000 Sq. Ft.

Minimum Lot Width:

25 feet

Minimum Lot Frontage:

25 feet on a public or private street with access from a public street.

Minimum Lot Coverage:

80% minimum

Minimum Front Yard Setback:

0 feet

Minimum Side Yard Setback:

0 feet

Minimum Rear Yard Setback:

0 feet

Minimum Main Floor Area:

1,500 sq. ft. for primary structure

Minimum Structure Height:

30 feet

Maximum Structure Height:

40 feet

Wind Energy Tower - Privately Owned - 100 feet

**Additional Development Standards
That Apply**

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Mobile Home Park Standards	Article 3 / Page 3-11
Small Wind Energy System Privately Owned	Article 2 / Page 2-28

Notes:

- Conflicts** – All conflicts concerning lot/yard regulation specified in this Article in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Article 3 (301) of this ordinance.
- Setbacks** – No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the District in which it is located.

Planning Commission Development Requirements:

- Compatibility of the development with surrounding land uses.
- Availability and coordination of water, sanitary sewers, storm water drainage, and other utilities.
- Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.
- Building setback lines.
- Building coverage.
- Building separation.
- Vehicle and pedestrian circulation.
- Parking.
- Landscaping.
- Height, scale, materials, and style of improvements.
- Signage.
- Recreation space.
- Outdoor lighting.
- Other requirements considered appropriate by the Planning Commission.

808 " LI " - Light Industrial District - Pennville

District Intent, Permitted Uses, and Special Exception Uses

Article 8

District Intent

The Light Industrial District (LI) is established to provide appropriate areas for light industrial, larger commercial, office and research and development activities in Pennville. The Light Industrial District is intended for the types of uses that would typically be accommodated in an industrial park and those requiring more space than would be appropriate for the downtown commercial core.

Permitted Uses

Agricultural Uses:

Agricultural Business
Commercial Greenhouse
Farm Implement -
Sales/Service/Repair
Processing of Agricultural
Products
Seed Sales

Permitted Uses

Commercial Uses:

Automotive Service
Shop (enclosed)
"Big" Box Retail
Clinic
Contractor Offices
Distribution Center
Fabrication
"Flex - Space"
Light Manufacturing
Mini Warehouses
Office

Permitted Uses

Commercial Uses: (cont)

Painting
Print Shop
Recycling
Research
Trade School
Warehousing
Welding
Wholesale Business

Special Exception Uses

Commercial Uses:

Bottle Gas Storage/Distribution
Liquid Fertilizer Production &
Distribution
Outdoor Storage
Small Wind Energy System -
Privately Owned

Special Exception Uses

Public Uses:

Communications - Antenna
Communications - Equipment
Buildings
Communications - Towers
Public Wells
Water Treatment Plant
Wastewater Treatment Plant

Special Exception Uses

Other Uses:

Miscellaneous Accessory Uses

The Plan Commission, upon hearing a recommendation from the Zoning Administrator, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

Lot & Yard Standards

Minimum Lot Area:

2 Acres

Minimum Lot Width:

200 feet

Minimum Lot Frontage:

100 feet on a public or private street with
access from public or street

Maximum Lot Coverage:

Square footage of all structures and impervious
surface cannot exceed 60% of the lot area.

Minimum Front Yard Setback:

50 feet from right-of-way line

Minimum Side Yard Setback:

40 feet from right-of-way or property line

Minimum Rear Yard Setback:

40 feet primary or accessory structure

Minimum Floor Area:

3,000 sq. ft. for primary structure

Maximum Structure Height:

40 feet for primary
30 feet for accessory

Wind Energy Tower - Privately Owned - 100 feet

**Additional Development Standards
That Apply**

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Mobile Home Park Standards	Article 3 / Page 3-11
Small Wind Energy System Privately Owned	Article 2 / Page 2-28

Notes:

- 1. Conflicts** – All conflicts concerning lot/yard regulation specified in this Article in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Article 3 (301) of this ordinance.
- 2. Setbacks** – No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the District in which it is located.

Planning Commission Development Requirements:

1. Compatibility of the development with surrounding land uses.
2. Availability and coordination of water, sanitary sewers, storm water drainage, and other utilities.
3. Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.
4. Building setback lines.
5. Building coverage.
6. Building separation.
7. Vehicle and pedestrian circulation.
8. Parking.
9. Landscaping.
10. Height, scale, materials, and style of improvements.
11. Signage.
12. Recreation space.
13. Outdoor lighting.
14. Other requirements considered appropriate by the Planning Commission.

810 ACCESSORY USES

Accessory uses such as the following are authorized in all districts subject to the provisions of any and all recorded restrictive covenants running with the land:

- A. Bird Baths and birdhouses
- B. Accessory buildings/garages ***Note 1 & 4**
- C. Curbs
- D. Driveways
- E. Fences, Hedges and Walls ***Note 2**
- F. Lamp posts
- G. Mail boxes
- H. Name plates
- I. Parking spaces
- J. Private swimming pools enclosed by a 5-foot high fence or 5-foot vertical enclosure integral with an above ground pool, or a horizontal pool cover approved as per the specifications and requirements of the Indiana Swimming Pool Code.
- K. Public utility installations for local service (such as poles, lines, hydrants, and Telephone booths)
- L. Retaining walls
- M. Trees, shrubs, plants, and flowers (Subject to the Visual Sight Triangle Requirement)
- N. Walks
- O. Temporary toilets ***Note 3**

Note 1: All accessory buildings, garages and carports must comply with the Indiana Building Code requirements. All Accessory structures must be subordinate to the primary structure. Truck Boxes, Buses and miscellaneous vehicle bodies are prohibited.

Note 2: See Standards page 8-19.

Note 3: Temporary toilets may be placed and maintained at any construction site for the duration of construction activities without a permit.

Note 4: Accessory building, structure, or use which:

- A. is subordinate to and serves a principal building, structure, or use in area, extent, or purpose; and
- B. contributes to the comfort, convenience, or necessity of occupants of the principal buildings, structures, or principal uses served; and
- C. does not alter or change the character of the premises; and
- D. is located on the same zoning lot as the principal building, structure, or use; and
- E. conforms to the setback, height, bulk, lot coverage, and other requirements of this Ordinance, unless otherwise provided for by this Ordinance; and
- F. may not be constructed prior to the time of construction of the principal building or structure; and
- G. is not designed for human occupancy as a dwelling or commercial use.

BUFFER YARD STANDARDS

Article 8

811 Buffer Yard Standards

A. General

In addition to regular setback (yard) requirements for structures, a buffer yard shall be provided and maintained by the owner or lessee of a property in accordance with this section. Buffer yards are required between most land uses on adjacent properties in order to reduce the impact of one use or another. Generally, more intensive uses require greater amounts of buffering than less intensive uses. This section applies only to changes of use, the construction of a principal structure on a lot or the expansion of any existing principal structure by thirty percent (30%) or more. In the event that residential uses are developed adjacent to legally existing industrial or commercial uses, said industrial or commercial uses shall not be required to retroactively provide required buffer yards, except in the event of a change or expansion of use, as stated above.

B. Application

Buffer yard, where required, shall be located along side and rear property lines. In the COM or I Districts, buffer yards shall also be required along the front property line when adjacent to or facing SFR, or MFR residential districts. On lots which abut a street along more than one property line, the site plan shall designate which property line shall be considered the front and buffer yards shall be provided along all other lines. Buffer yards shall have the necessary widths and planting and fencing material as required below.

C. Determining Requirements

To determine the minimum requirements for buffer yards, the following procedure shall be used:

1. Identify the Buffer Yard Classification (Buffer Class A, B, C, D, or E) of the proposed use and/or structure by referring to Buffer Yard Standards in Section 811 of this Ordinance.
2. Identify the Buffer Yard Classification (Buffer Class A, B, C, D, or E) of the existing adjacent use by referring to Section 811 of this Ordinance. For vacant land and for existing, adjacent uses, refer to the Zoning map for the district classification of the land and/or use.
3. Determine the buffer yard requirements for the proposed use and/or structure by referring to Table H. Go down the left column to the Buffer Yard Classification of the proposed use and then go across the matrix either to the land use class or the adjacent vacant land zoning district and refer to the numbers (1 through 5) in the corresponding box which indicates the buffer yard type illustrated in Figure 8.0.
4. Refer to the buffer yard type in Figure 8.0 illustrations 1 through 5. Any of the alternative buffer yards may be selected for the determined buffer yard.

D. Additional Standards

The following additional standards apply to buffer yards;

1. All buffer yards shall be maintained and kept free of debris, rubbish, weeds, and tall grass.
2. There shall be no structures, outdoor storage, parking, or loading facilities in buffer yards, except for agricultural or residential uses. However, buffer yards may be coterminous with the required front, side or rear setback areas but in case of conflict, the larger yard area regulation shall apply.
3. All plants shall be planted within one year of the Improvement Location Permit issuance or within six months of project completion, whichever is shorter, and all live landscaping required by this code shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.
4. All dead or deciduous trees shall be a minimum of eight feet in height when planted. Deciduous shrubs shall be a minimum of six feet in height when planted.
5. Evergreens shall be a minimum of four feet in height when planted.
6. Berms shall be a minimum of four feet in height.
7. Flowering trees and shrubs shall be encouraged in buffer yards.

E. Exceptions

1. On any parcel of land where there is an existing use or structure, the Zoning Administrator may waive up to fifty percent of the required buffer yard if it is physically impossible to locate the required buffer yard due to con-conforming lot size, existing structure or parking lot location, or other similar reasons.
2. No buffer yard is required when a less-intense use is newly located adjacent to a more intense and established land use.
3. Two or more undeveloped lots abutting one another are not required to provide buffer yards. However, upon development, the appropriate buffer yard will be required.

F. Responsibility

The owner of the most intense land use must be responsible for providing the necessary buffer yard, and all costs associated therewith, and contain the buffer yard completely within their property limits.

Buffer Yard Standards

Article 8

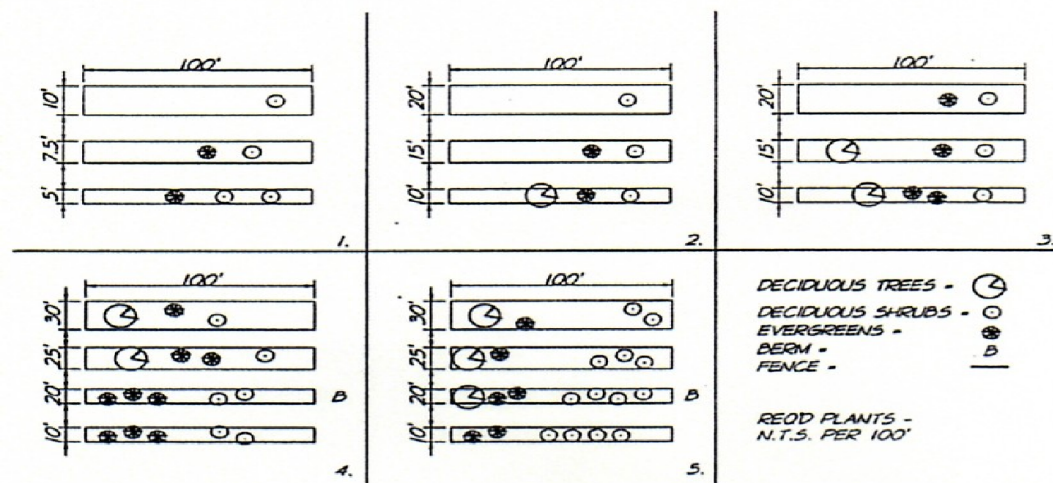
<u>Use</u>	<u>Use</u>	<u>Use</u>
<p><u>Buffer Yard Class A</u> Dwelling, Single-Family Dwelling, Two-Family Duplex Manufactured Home Artificial Lake, 3 plus Acres Cropland or Orchard Pasture & Grazing Plant Nursery Pond</p> <p><u>Buffer Yard Class B</u> Cemetery/Crematorium Church/Temple/Mosque Funeral/ Mortuary Home Museum Public Park Public or Private Parking Area</p> <p><u>Buffer Yard Class C</u> Apartment Bed and Breakfast 1-5 Rooms Boarding or Lodging House Childcare Facility Dwelling, Multi-Family Golf Course/Driving Range Group Home Nursing Home Retirement Community Riding Stable and Trails School &/or College</p> <p><u>Buffer Yard Class D</u> Accountant Adult Bookstore/Entertainment Agricultural Seed Sales Animal Clinic/Veterinarian Appliance/Electronics S & S Archery/Firearms Range-Indoor Auction House Audio/Video Sales & Service Auto Parts Store Automotive Sales & Service Bank/Credit Union/ATM Billiard Room Bingo Parlor Boat Sales/Service/Storage Bowling Alley Business Office</p>	<p><u>Buffer Yard Class D (cont)</u> Car Wash Commercial Greenhouse Convenience Store Corporate Offices Dance/Gymnastic Center Department Store Dry Cleaning Shop Equine Massage Therapy Farm Equip Sales/Service Fitness Center Gasoline Filling Station Government Offices Grocery Store Hardware/Building Supply Store Health Spa Hospital/Medical Clinic Hotel/Motel/Inn Kennel/Pet Boarding Liquor/Wine/Beer Store Livestock Auction Barn Meat Market/Butcher Shop Medical Office Mobile Home Park Night Club/Bar/Tavern Personal Services Pet Store Photography Studio Police/Fire Station Printing/Design Shop RV/Camper Sales & Service Radio/TV Station Reception Hall Restaurant Retail/Variety Store Seamstress/Shoe Repair Self-Service Laundry Sidewalk Café Small Engine Sales & Service Theater, Indoor Thrift/Second Hand Store Video Arcade</p> <p><u>Buffer Yard No Requirement</u> Allowable Livestock Operation Roadside Produce Stand Outdoor Advertising/Billboard (County Roads Only)</p>	<p><u>Buffer Yard Class E</u> Above Ground Water Tank Airport Archery/Firearm Range (Outdoor) Bottled Gas Storage/Distribution Communication Relay Tower Concrete Operation Correctional Facility Fertilizer Storage/Distribution Food Processing General Contracting General Manufacturing Gravel/Sand/Mining Operation Highway/Municipal Garage Incinerator Industrial/Commerce Park Junk/Salvage Yard Light Manufacturing Livestock &/or Feed Yard Machine Shop Manufacturing of Explosives Pipeline Pumping Station Product Assembly Recycling Center Sewage Treatment Facilities Slaughter House Storage of Explosives Theme/Amusement Park Theater, Outdoor Truck Stop Utility Substation Warehouse/Distribution Center Warehouse/Mini Storage Water Treatment Facilities Welding Shop Wood Shop Zoo</p>

TABLE H

MINIMUM BUFFER YARD REQUIREMENTS

BUFFERYARD CLASSIFICATION (FROM TABLE A)	ADJACENT EXISTING BUFFERYARD CLASSIFICATION					ADJACENT ZONING DISTRICT (IF LAND IS VACANT)			
	A	B	C	D	E	A	SFR MFR	COM	I LI
A	NA	1	2	3	4	NA	NA	3	5
B	2	1	2	2	3	1	2	2	4
C	3	2	1	2	2	2	3	3	3
D	4	3	2	1	2	3	4	3	2
E	5	4	3	2	1	4	5	4	2

Figure 8.0



Entrance and Driveway Standards

812 ENTRANCES/DRIVEWAYS

A. Spacing

Entrances and driveways must be spaced away from intersections for vehicular and pedestrian safety and to reduce traffic congestion.

Spacing should be as follows in Table G (see Figure 8.1 for reference).

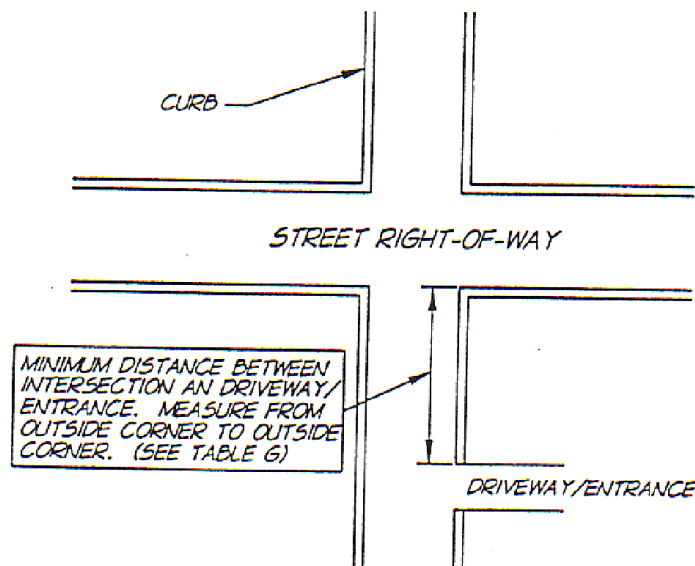
TABLE G
DRIVEWAY / ENTRANCE TO INTERSECTION REQUIREMENTS

ROAD CLASS. / DISTRICT	A	SFR	MFR	C	I
ARTERIAL	60 FT	60 FT	60 FT	70 FT	80 FT
COLLECTOR (FEEDER)	40 FT	40 FT	40 FT	50 FT	60 FT
LOCAL STREET	30 FT	30 FT	30 FT	40 FT	50 FT

B. Width

Driveway width shall be a minimum of twenty-four (24) feet for commercial and multi-family housing uses and thirty-four (34) feet for industrial uses. There are no minimum driveway widths for single-family residential uses.

Figure 8.1



813 ENVIRONMENTAL REGULATIONS

A. General

No land shall be used or structure erected where the land is unsuitable for such use or structure due to slopes greater than ten percent (10%), adverse soil or rock formation, erosion susceptibility, low percolation rate or bearing strength, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the community. In addition, the following standards must be met:

B. Surface Water

It shall be the responsibility of the owner of any lot or parcel of land developed for any use other than for agriculture to provide for adequate surface water drainage. When possible, existing natural surface drainage may be utilized. Whenever the evidence available indicates that the natural surface drainage is inadequate, the owner shall provide the parcel with an adequate surface water system, which shall be integrated into the drainage pattern of surrounding properties. When the surface drainage is adequate, easement for such surface drainage shall be provided. On-site detention shall be required where necessary to prevent harm to adjoining properties.

C. Drainage

Drainage swales (ditches) along dedicated roadways and within the right-of-way or on dedicated drainage easements are not to be altered, except for maintenance as originally constructed and as approved by the County Highway Department, the Jay County Drainage Board, City Street Department, or Indiana Department of Transportation. Driveways may be constructed over these or other approved structures as permitted by the appropriate agency. All Class 1 Commercial or Industrial structures must have the approval of the Jay County Drainage Board, before a permit can be issued.

D. Permanent Structures

No permanent structures other than a fence may be erected, and if erected in violation of this section, no such structure may be used if the location is within seventy-five feet of the centerline of any legal tile ditch or within seventy-five feet of the existing top edge of any legal open ditch or tile unless approved by the Jay County Drainage Board and the Portland Plan Commission.

E. Preservation of Natural/Historic Features

Existing natural and historic features which would add value to development of natural or manmade assets of the county such as trees, streams, vistas, lakes, historical landmarks, and similar irreplaceable assets, shall be preserved through harmonious and careful design. Land to be developed shall be designed and improved as far as practical in conformity to existing topography in order to minimize storm water runoff, and conserve the natural cover and soil.

F. Landscaping

Any part or portion of non-farm parcel which is not used for structures, loading or parking spaces, sidewalks and accessory uses shall be landscaped or left in a natural state. If landscaped, they shall be planted with an all-season ground cover and shall be landscaped with trees and shrubs in accordance with the Development Plan and/or site plan and shall be in keeping with natural surroundings. All live landscaping required by this code shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized and irrigated on a regular basis.

G. Cut/Fill Grade

No cut or fill grade shall exceed a slope of 3:1 or 33 1/3 percent. This provision shall apply to all cuts and fills exceeding 100 square feet in exposed surface area, including cuts or fills on land naturally exceeding 3:1 in slope.

H. Erosion Prevention

All land, regardless of slope, from which structures or natural cover has been removed or otherwise destroyed, shall be appropriately graded and seeded within a reasonable time of such activity to prevent erosion.

I. Alterations to Shoreline

No alteration of the shoreline or bed of a river or public lake shall be made until written approval is obtained from the Indiana Department of Natural Resources, and the provisions of this ordinance are complied with. Alterations include, among other things, filling of a river or wetlands, dredging of a riverbed, and ditch excavation within one-half mile of a water body.

J. Code Compliance/Hazardous Waste

All development must be in compliance with Title 7 of the Indiana Code, as amended, as it relates to hazardous waste, low level nuclear waste, underground storage tanks, waste tires, and other applicable chapters of said Title.

K. Code Compliance/Environmental Quality

All development must be in compliance with Title 13 of the Indiana Code, as amended, as it relates to air pollution control, water pollution control, solid waste management, and other applicable chapters of said Title.

L. Waste Disposal (Including Hazardous Waste Disposal)

No waste materials such as garbage, rubbish, gasoline, oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm the waters shall be deposited, located, stored, or discharged on any lot in a way that would be likely to run off, seep, or wash into surface or groundwater's.

M. Fuel Storage

No highly flammable or explosive liquids, solids, or gases specified by the State Fire Marshal shall be stored in bulk above ground, except tanks or drums of fuel connected directly with energy devices or heating appliances located and operated on the same lot as the tanks or drums of fuel and except for permitted agricultural uses and permitted uses in an I District.

N. Treatment of Fill

Bricks, concrete, lumber, and other material used for fill where permitted by this ordinance and/or by the IDEM, DNR, or other governmental agency, shall be promptly covered and seeded.

O. View Requirements

Where a proposed structure will eliminate more than fifty percent of an adjacent structure's view or exposure to the sun, an additional yard area setback may be required by the Zoning Administrator so that the fifty percent (50%) view or exposure may be maintained.

P. Improvement Location Permit Requirements

Requirements for Improvement Location Permits can be found in Section 11 of this Ordinance. The following activities are permitted, however, with no Improvement Location Permit required, provided all other applicable standards are met:

1. Normal plowing and preparing the land for gardens and yards.
2. Normal trimming and/or removal of trees and shrubs for maintenance and/or site preparation.
3. Earth movements related to farming and other agricultural activity, including sod farming.
4. Public and private road construction.
5. Drain tile laying and ditch cleaning.
6. Top soil removal, other than Mineral Extraction.

Q. Health and Safety

No use shall be permitted which is injurious in health and safety of humans, animals, or vegetation, or which is noxious by reason of the emission of odor, visual pollution, or other undesirable nuisances which effects extend beyond the lot line where the use exists. For purposes of this ordinance, any junkyard, whether a non-conforming use, or a conforming use, contained or existing on any lot or lots adjacent to or within five hundred (500) feet of a public street, road, highway or right-of-way is deemed to be noxious, constitutes visual pollution, and shall be abated, terminated, removed and evacuated within one year from the date of signing of this amendatory ordinance unless such junk yard shall be fenced or screened on each side visible from any public street, road, highway or right-of-way with natural objects, plantings, fences, or other appropriate means, the top of which shall be not less than eight (8) feet and which fence shall be sufficient to remove the junk yard and all contents of the junk yard from sight so as not to be visible from the main-traveled way of any street, road, highway or right-of-way. If the fencing cannot be completed within one year, the owner may obtain a one year extension by filing specifications and a surety bond sufficient to guarantee the completion of said fencing within one year after the Board of Zoning Appeals approves said specifications and surety bond.

Fences, Hedges and Wall Standards

Article 8

814 FENCES, HEDGES AND WALLS

PURPOSE

This Section is intended to provide for the regulation of the height and location of fences, hedges, and walls in order to provide adequate light, air, and privacy, and to protect the public welfare by preventing visual obstructions along public ways.

- A. **Setbacks:** Fences, latticework, screens, hedges, or walls shall be set back to the front line of the house. All district rear yard setbacks shall apply. This restriction shall also apply to corner lots that are considered to have two front yards. Such fences or hedges shall be placed a minimum of 3 feet inside the property line of the Owner's lot. All setbacks are subject to the Sight Visibility Standards Requirement, Section).

If a fence or hedge is to be placed closer than 3 feet or centered on the property line, an agreement must be signed by all adjoining property owner's affected by the fence placement. This form must then be filed in the office of the Jay County Clerk prior to any permit being issued. If a fence or hedge is to be cost-shared with the adjoining property owner, then written statements from each of the property owners declaring the intent to cost share the fence must be submitted with the application for the permit. A cost-shared fence or hedge may be centered on the property line.

- B. **Height Measurements:** In any residential district, ornamental fences and hedges shall not exceed 3 feet in height in the required front yard or 7 feet in height in the required side or rear yard, except that open chain link fences may be erected to 4 feet in height in the front yard.
- C. **Prohibited Fences:** No residential fence may be constructed of metal siding, barbed wire, nor may it be electrified. These restrictions do not apply in regard to construction or maintenance of a fence of any height in connection with an agricultural use. In no instance shall this be interpreted as prohibiting the use of invisible fences.
- D. **Permitting:** All fences or hedges, which serves the same purposes as a fence, require a permit prior to installation. Applications for a permit to construct or install a fence or hedge, which serves the same purposes as a fence, shall be submitted to the Zoning Administrator.

815 HOME OCCUPATION STANDARDS

- A. **Purpose and Intent** – It is the purpose and intent of this Section to provide for certain types of home occupations to be conducted within a dwelling unit or accessory structure on the resident's premises. Two classes of home occupations are established based on the type and intensity of the home occupation. Accordingly, minimum standards have been established for each class of home occupation in order to assure compatibility of home occupations with other uses permitted in the applicable district and to preserve the character of residential neighborhoods.
- B. **Home Occupations** – Home occupations shall not be permitted except in compliance with this section and other applicable law.
- C. **Application for Home Occupation** – An application for an administrative Permit for a Type I Home Occupation or Special Exception for a Type II Home Occupation shall be signed by all owners and adult residents of the property in question and filed with the Department on forms provided by the Department. The Administrator shall review the application and classify the proposed Home Occupation as a Type I or Type II based upon:
1. The established standards for Type I and Type II Home Occupations described in D and E herein, and
 2. General planning and zoning standards established by the Zoning Code.
- D. **Type I Home Occupation**
The following standards are applicable to all Type I Home Occupations:
1. No persons other than the residents of the dwelling unit on the subject premises names in the application shall be engaged in such home occupation.
 2. No more than fifteen (15) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. The home occupation may not utilize more than fifty (50) percent of any one floor of the dwelling unit.
 3. No outdoor storage or display of products, equipment, or merchandise is permitted.
 4. No publication or advertising shall use the residential address of the home occupation.
 5. Exterior evidence of the conduct of a home occupation is not permitted. No signage.
 6. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
 7. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one (1) dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
 8. No specific outside entrance or exit for the home occupation shall be permitted.
 9. No use, storage, or parking of tractor trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises.

The following uses are examples of home occupation, which may be classified as a Type I:

- a. Telephone answering and solicitation
- b. Home crafts, but no home sales.
- c. Computer programming, desktop publishing
- d. Typing or secretarial service
- e. Painting, sculpturing or writing
- f. Dressmaking, sewing, or tailoring
- g. Consulting services
- h. Mail order business, not including retail sales from site
- i. Sales representative, office only

E. Type II Home Occupation

The following standards are applicable to all Type II Home Occupations:

1. One (1) person other than the residents of the dwelling unit on the subject premises named in the application may be engaged in such home occupation.
2. No more than FIFTEEN (15) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. Inventory and supplies shall not occupy more than fifty (50) percent of the area permitted to be used as a home occupation.
3. No outdoor storage or display of products, equipment or merchandise is permitted.
4. Retail sales are permitted only as an accessory use to the primary home occupation (e.g. beauty salon can sell shampoo and beauty products).
5. Exterior evidence of the conduct of a home occupation is not permitted except one (1) non-illuminated sign not to exceed eight (8) square feet, which must be mounted flat against the exterior wall of the dwelling unit.
6. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
7. No equipment, process, or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical or television interference which is detectable to the normal senses outside the dwelling unit or accessory structure.
8. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one (1) dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
9. A minimum of two (2) off-street parking spaces, in addition to those required for the dwelling unit, shall be provided for use by patrons of the home occupation. The Board of Zoning Appeals may require additional off-street parking based upon the use and location of the property.
10. No use, storage, or parking of tractor trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises.

The following uses are examples of home occupation which may be classified as a Type II:

- a. Carpentry, cabinet makers
- b. Ceramics which involve the use of a kiln
- c. Catering or food preparation
- d. Pet grooming service
- e. Barber or Beauty shop
- f. Nail Salon

F. General Provisions

All home occupations shall conform to the following standards:

1. Approval of a home occupation is not transferable to a location other than that which was approved.
2. In no case shall a home occupation be open to the public at times earlier than 7:00 a.m. nor later than 9:00 p.m.
3. All home occupations shall be subject to periodic inspections. Reasonable notice shall be provided to the permittee prior to the time requested for an inspection.
4. The Administrator, in the case of an Administrative Permit for a Type I Home Occupation, or the Board of Zoning Appeals in the case of a Special Exception Permit for a Type II Home Occupation, may impose reasonable conditions necessary to protect the public health, safety, and welfare, or to protect against a possible nuisance condition.
5. Administrative Permits issued by the Administrator, or Special Exception Permits issued by the Board of Zoning Appeals may be revoked by the issuing authority for cause after reasonable notice to the permittee and an opportunity for hearing on the matter.
6. Home occupations shall commence only after the receipt of an Administrative Permit if classified as a Type I, or Special Exception Permit if classified as a Type II. Permits are annually renewable and valid for one year from date of issue.

G. Permit Review Process

Applications for a home occupation shall be reviewed as follows:

1. Application filed, with authorization from property owner.
2. Review of application by Administrator to determine classification as Type I or Type II.
3. If classified as a Type I:
 - a. Administrator can approve or deny the application.
 - b. If approved, an Administrative Permit for the home occupation shall be issued.
 - c. Administrator may impose reasonable conditions as part of the approval.
 - d. Applicant may appeal to the Board of Zoning Appeals if application is denied or if conditions are unacceptable. On appeal of a condition(s), appeal must be filed within fourteen (14) days of the date of the Administrator's approval of the Administrative Permit.
4. If classified as a Type II, the application shall be reviewed and treated as a Special Exception request.
5. The standards set forth in this section shall be incorporated as minimum conditions of approval.

H. Enforcement

In the event the Administrator determines that the operation of any home occupation is in violation of this Section or any permit condition, notice shall be provided to the permittee setting forth a description of the violation, corrective action required, and a date by which such corrective action must be accomplished. The permit may be revoked if not corrected in the manner and by the date specified in the notice in accordance with the revocation procedures applicable to Special Exceptions. In addition, violations of this Section are subject to the penalties provided for in this Ordinance.

816 INDUSTRIAL PERFORMANCE STANDARDS

A. General

No Light Industrial use shall be located within the jurisdiction of the Jay County Advisory Plan Commission which is injurious to the health or safety of humans or animals, injurious to vegetation, or which is noxious or offensive, by reason of the omission of smoke, particulate matter, dust, odor, gas and fumes, glare, vibration or noise and sound beyond the confines of the building in which such industry is conducted.

B. Exceptions

The restrictions of this section shall not apply to:

1. The activities of site preparation or construction, maintenance, repair, alteration, modification or improvement of buildings.
2. The operation of motor vehicles or other facilities for the transportation of personnel, materials or products.
3. Conditions beyond the control of the user such as fire, explosion, accidents, failure or breakdown or equipment or facilities of emergencies.
4. Safety or emergency warning signals or alarms necessary for the protection of life, limb or property, or
5. Processes for which there are no known means of control. Research shall be promptly conducted to discover methods of control leading to installation of corrective equipment.

C. Interpretation

For the purpose of this section, certain terms and words shall be interpreted and defined as follows:

DECIBEL - A unit of measurement of the intensity or loudness of sound. Sound level meters are used to measure such intensities and are calibrated in decibels.

FLASH POINT - The lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will burn momentarily using the closed cup method.

FREE BURNING - A rate of combustion described by a material which burns actively and easily supports combustion.

INTENSE BURNING - A rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly.

MODERATE BURNING - A rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

PARTICULATE MATTER - Finely divided liquid or solid material which is discharged and carried along in the air.

RINGELMANN NUMBER - The number of the area on the Ringelmann chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann chart is described in the U.S. Bureau of Mines Information Circular 6888, on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. 1 shall be considered no smoke or Ringelmann No. 0.

SLOW BURNING OR INCOMBUSTIBLE - Materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite, nor actively support combustion during an exposure for five (5) minutes to a temperature of 1,200 degrees F.

SMOKE - Small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon and other incombustible material, excluding metallurgical fume and dust, and present in sufficient quantity to be observable independently or the presence of other solids.

VIBRATION - Oscillatory motion transmitted through the ground.

D. Application

The following general performance standards shall apply to all Light Industrial uses:

1. **SMOKE** - In any 24-hour period, visible emissions and malfunctions shall not exceed forty percent (40%) of No. 2 of the Ringelmann's Scale for more than an accumulated fifteen (15) minutes.
2. **DUST** - No dust of any kind produced by the industrial operations shall be permitted to escape beyond the confines of the building in which it is produced.
3. **ODOR** - No noxious odor of any kind shall be permitted to extent beyond the lot lines.
4. **GASES AND FUMES** - No gases or fumes, toxic to persons or injurious to property shall be permitted to escape beyond the building in which they occur.
5. **GLARE** - No bright dazzling light produced by the industry shall be seen from any street or any residential area.
6. **WATER POLLUTION** - No industrial operation or activity shall discharge, or cause to be discharged, liquid or solid wastes into public waters unless in conformance with the provisions of the Stream Pollution Control Law of the State of Indiana (Chapter 214, Acts of 1943, as amended) and the regulations promulgated thereunder. Plans and specifications for proposed sewage and industrial waste treatment and disposal facilities shall be submitted to and approval obtained from the Stream Pollution Control Board of the State of Indiana.
7. **FIRE HAZARDS** - The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted. The storage, utilization or manufacture of flammable liquids or gases which produce flammable or explosive vapors, shall be permitted in accordance with State and Federal statutes and regulations.
8. **PARTICULATE MATTER** -
Boiler-Generated - No particulate matter from a flue or stack leading from a boiler shall exceed .8 pounds per million BTU's.

Foundry-Generated - No particulate matter resulting from a foundry process shall exceed the following:

<u>Rate of Process</u> (Pounds Per Hour)	<u>Pounds of Particulate Matter Per Hour</u>
1,000	3.00
2,000	4.70
3,000	6.35
4,000	8.00
5,000	9.65
6,000	11.30
7,000	12.90
8,000	14.00
9,000	15.50
10,000	16.65
12,000	18.70
16,000	21.60
18,000	22.80
20,000	24.00
30,000	30.00
40,000	36.00
50,000	42.00
60,000	48.00
70,000	49.00
80,000	50.50
90,000	51.60
100,000	52.60

Incinerator-Generated - No particulate matter resulting from an incinerator with a capacity to process 200 or less pounds per hour shall exceed .3 pounds per thousand pounds of dry gas at standard conditions. All other incinerators shall not exceed five (5) pounds per thousand pounds of dry gas at standard conditions. Further, all incinerators shall have a primary and secondary combustion chamber.

All other processes - For all other processes, no particulate matter from any stack or flue shall exceed a level determined by the following formulae:

Process under 60,000 pounds per hour

$$E = \frac{.67}{4.1P}$$

Process over 60,000 pounds per hour

$$E = \frac{.11}{55P - 4P}$$

Where:

E = Rate of emissions in pounds per hour

P = Rate of process in pounds per hour

9. **EXPLOSIVE MATERIALS** - No activity involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted unless specifically licensed by the Council... Such activity shall be conducted in accordance with the rules promulgated by the State Fire Marshal and the State Administrative Building Council. Such materials shall include, but are not limited to, all primary explosives such as lead azide, lead styphnate, fulminated, and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof; such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles, and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than thirty-five percent (35%); and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.
10. If the State or Federal government shall adopt more restrictive environmental controls, those requirements shall apply to the provisions of this ordinance.

817 LOADING STANDARDS

A. General

There shall be provided off-street loading berths not less than the minimum requirements specified in this chapter in connection with any building or structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles.

B. Location

All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into a street or alley. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two streets, nor shall it be located in a required front yard, or side yard adjoining a street.

C. Size

Off-street loading berths for over-the-road tractor-trailers shall be at least fourteen (14) feet in width by at least sixty (60) feet in length with a sixty (60) foot maneuvering apron, and shall have a vertical clearance of at least fifteen (15) feet. For local pick-up and delivery trucks, off-street loading berths shall be at least twelve (12) feet in width by at least thirty (30) feet in length with a thirty (30) foot maneuvering apron, and shall have a vertical clearance of at least fourteen (14) feet.

D. Access

Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.

E. Surfacing

All open off-street loading berths shall be improved with a compacted base not less than six (6) inches thick, or equal, surfaced with not less than two (2) inches of asphalt, concrete, or some comparable all-weather, dustless material.

F. Space Allowed

Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking areas or portions thereof.

G. Off-Street Loading Berth Requirements

<u>Minimum Number Required</u>	<u>Gross Floor Area</u>
1	up to 40,000 sq. ft.
2	40,000 to 80,000 sq. ft.
3	80,000 to 120,000 sq. ft.
4	120,000 to 160,000 sq. ft.
5	160,000 to 240,000 sq. ft.
6	240,000 to 320,000 sq. ft.

One additional off-street loading space shall be required for each additional 80,000 square feet after 320,000 square feet.

818 MISCELLANEOUS RESTRICTIONS

A. Through-Lots

In the case of a through-lot, the area at each end of the lot between the setback line and the right-of-way line shall be considered as if it were a part of the front yard.

B. Access to Public Streets

Every principal building hereafter erected shall be on a zoning lot or parcel of land which adjoins a public street or a permanent easement of access to a public street; such easement to be at least twenty (20) feet wide unless a lesser width was duly established and received prior to the effective date of this ordinance.

C. Residential Home Requirements

1. All residential homes hereafter constructed shall be larger than 950 square feet of occupied space, shall be placed on a permanent foundation as described herein, and shall have a roof pitch and roofing materials as described herein.
2. All dwelling units must be at least 23 feet in width, with the front entrance facing the street or roadway, as per the designed floor plan of the home.
3. All residential homes shall have a roof composed of a material customarily used on site-built residential dwellings, such as asbestos, fiberglass, shake asphalt, or tile, which shall be installed onto a surface appropriately pitched for the materials used and not having a roof pitch of less than 2 ½ to one.

D. Specific Standards for Manufactured Homes

The establishment, location, and use of manufactured homes which have been constructed and manufactured after January 1, 1981 as scattered site residences shall be permitted in any zone permitting installation of a dwelling unit, subject to requirements and limitations applying generally to that residential use in the district and providing such homes meet the following requirements and limitations:

1. The home shall meet all requirements applicable to single-family dwellings and possess all necessary improvement location, building, and occupancy permits and other certificates required by the Code.
2. The home shall be larger than 950 square feet of occupied space as defined in IC 36-7-4-1106(a) or meet the minimum square footage requirements for the appropriate zone.
3. All dwelling units must have an underfloor space enclosure that serves as the foundation or weight-bearing and supporting foundation for the dwelling unit, and which totally encloses said underfloor space and removes from exterior view all underfloor space of the dwelling unit and which must be of continuous exterior masonry or concrete.
4. The home shall be attached and anchored to a permanent foundation in conformance with the regulation in the Indiana One and Two Family Dwelling Code and with manufacturer's installation specifications.
5. The home shall be covered with an exterior material customarily used on site-built residential dwellings, and this material shall extend over the top of the foundation (or meet the community's site-built residential dwelling home standards).
6. The home shall be located on the site with the front entrance door facing the street or roadway, as per the designed floor plan of the home.

E. Pond Requirements

If a pond is maintained on the property, either a retaining pond or a recreational pond, there shall be a setback of 50' from the property line to the edge of the dam and 50' from the road right-of-way, if applicable. If there is no dam or levee then the water must be 50' from the property line and 50' from the road right-of-way if applicable. All ponds must comply with the Jay County Drainage Ordinance.

F. Satellite and Digital Dish Systems

1. All satellite and digital dish receiving systems shall be located within the rear or side yard of any residential zoned lot.
2. In the case of a corner lot, the satellite receiving system shall not be placed in either yard adjacent to a street.
3. All satellite receiving systems shall be placed a minimum of five (5) feet inside the property line of the owner's lot. No system shall be placed in any right-of-way.
4. No satellite system, if elevated, shall exceed a height of 20 feet.
5. If affixed to a structure, digital dish systems shall be attached to a side or rear of the structure when possible.
6. A permit shall be obtained prior to the placement of any satellite dish system and a fee paid as specified in the official fee schedule maintained in the Office of Jay Co. / Portland Building & Planning Department .

G. Awnings

Fixed awnings conforming to the provisions of this section shall be permitted on all buildings.

1. Every fixed awning shall be located as to not interfere with the operation of any exterior standpipe, stairway, or exit from any building.
2. No fixed awning shall be used as a landing for any fire escape or exterior stair.
3. Fixed awnings, including supporting frames, arms, brackets, and other devices shall be constructed throughout of incombustible material, except that glass or fragile material shall not be used in any part of the awning.
4. No part of a fixed awning projecting over a public way shall be less than seven (7) feet above the existing or finished grade under that awning where pedestrian traffic is a consideration.
5. No part of a fixed awning projecting over a public way shall be less than fourteen (14) feet above the existing grade where vehicular traffic is a consideration.
6. The Zoning Administrator shall have the right to compel the removal of any awning erected, altered, or repaired in violation of this section.

H. Accessory Buildings

Accessory buildings shall not be located less than five (5) feet from any property line. Accessory structures shall be permitted on any lot provided any structure over 100 square feet in area (whether temporary or permanent) shall require a permit.

I. Mobile Homes

Mobile Homes are only allowed in a mobile home park in the jurisdictional area.

819 PARKING STANDARDS

A. General

To reduce traffic problems and hazards by eliminating unnecessary on-street parking, every use of land must include on-premises parking sufficient for the needs normally generated by the use, as provided by this Chapter. Parking spaces or bays contiguous to the street, required by subdivision or other ordinances, are in addition to and not in place of the spaces so required.

B. Parking Spaces

As used in this Chapter, the term "parking space" means an area, not including any part of a street or alley, designed or used for the temporary parking of a motor vehicle, with each parking space laid out in each of the following designs having the following minimum dimensions:

- | | |
|----------------------------|---|
| 1. Handicapped | As per ADA and Indiana Accessibility Standards* |
| 2. Parallel | 10 feet wide by 20 feet long |
| 3. Right Angle (90°) | 9 feet wide by 18 feet long |
| 4. Sixty degree (60°) | 9 feet wide by 18 feet long |
| 5. Forty-five degree (45°) | 9 feet wide by 22 feet long |

The length for the right angle, sixty degree, and forty-five degree parking space shall be measured at right angles to the edge of usable parking area forming the angles, exclusive of passageway.

All uses which are required to provide handicapped parking areas shall be required to (a) provide the minimum number of handicapped parking spaces required for said use, with each parking space conforming to the dimensions shown above. (b) show the proposed dimensions and location of all such handicapped parking spaces on all site plans, plats, and other plans which will be reviewed by the Commission or BZA; and (c) comply with all appropriate parking, traffic, safety, and handicapped accessibility codes.

Except for providing for the minimum number of off-street parking spaces required in this Chapter for residential uses (exclusive of any commercial or lodging operations associated with residential uses), parking spaces shall not be located in required front yards except in business and industrial districts.

Parking spaces for any commercial or lodging operations associated with a residential use shall be provided either in one of the side yards or the rear yard of such dwelling, substantially out of public view from (a) the street fronting the front yard or an interior lot (or both street frontages on a through-lot), and (b) both streets which front the side and front yards on a corner lot (or all street frontages on corner lots which run the entire length of a block).

Off-street parking shall be provided as shown in Table F. Refer to Table A in Section IV to determine which parking classification shall be met. (Example: if parking class is "3" for a use listed on Table A, the parking requirement found on Table F for the use "3" shall apply).

C. Parking Areas

As used in this Chapter, “parking area” means a group of parking spaces or an open area not including any part of a street or alley, designed or used for the temporary parking of motor vehicles.

Parking areas prescribed in this section for commercial and industrial uses must be located either on the premises of such commercial or industrial use or on a site approved by the Commission. Said off-street parking, however, must be located within three hundred (300) feet of the respective commercial or industrial site.

All parking lots for commercial, industrial, business, public and private employee parking, offices, and places of assembly, and all interior drives for commercial and light industrial developments must be paved with an impervious hard surface. In addition, all parking lots must also conform to all the following requirements:

1. Be striped so as to show each parking space;
2. Meet all of the parking space requirements in Table F;
3. Be constructed to allow proper drainage;
4. Be designed to prevent vehicles from having to back into public streets; and
5. No point of ingress or egress shall be allowed closer than twenty-five (25) feet of any right- of-way line of any intersecting street or alley.

A group of business and/or industrial uses may provide a joint parking area if the number of spaces required for all uses is adequate, and at least eighty percent (80%) of the total sum required for each use. The Zoning Administrator shall approve aggregate parking lots such as mentioned above.

A church or temple or like uses may request to the Commission a down-sizing of parking requirements if adequate parking is located near the use and which is available during the times of use by the church or temple.

All parking areas are encouraged to be located in the rear and side yards for all uses of property. The Commission shall hear requests for variations from this Chapter’s requirements only if the parking areas are located in the side or rear lots; front lot parking shall have no flexibility.

TABLE F - MINIMUM PARKING REQUIREMENTS

Residential Required Parking Spaces

4 spaces	Per Single-Family Dwelling
2 spaces	Per Household in a Two-Family Dwelling or Duplex
2 spaces	Per Household in a Multi-Family Dwelling or Apartment
2 spaces	Per Household in a Mobile Home Park or Retirement Community

Parking Standards Table F (Continued)

Spaces Required: The minimum number of parking spaces required per property shall be determined by adding up the spaces required for each applicable statement in the table that follows:

Non-Residential Required Parking Spaces (sq. ft. indicates square feet of gross floor area)	
The following number of parking spaces is required...	...for every...
1 space	employee working on the largest shift
1 space	business vehicle stored on-site
...in addition to...	...for every
1 space	3 seats in a restaurant, auditorium, gymnasium, church or movie theater
1 space	500 sq. ft. in all auto/boat/RV or farm implement sales facility show rooms
1 space	item on display at an auto/boat/RV or farm implement dealership (to be used for each display item)
1 space	400 sq. ft. of gross floor area in all hardware home improvement, furniture, and large appliance stores
1 space	200 sq. ft. of gross floor area in all medical or dental office or clinic
1 space	200 sq. ft. of gross floor area in any fitness center, health spa, or entertainment center
1 space	250 sq. ft. in any administrative or professional business office, library, museum, or art gallery
1 space	200 sq. ft. in any car wash, repair, or modification center
1 space	300 sq. ft. of gross floor area in all convenience stores, banks, gas stations, grocery stores, department stores, and other retail facilities
1 space	6 children permitted by capacity in any day care facility
1 space	sleeping unit in a hotel, motel, and bed and breakfast
20 spaces	nine holes at any golf course
2 spaces	classroom in elementary and middle schools or high schools with a gym or auditorium
1 space	4 students for which a high school without an auditorium or gym is designed
1 space	20 student for which a high school with an auditorium or gym is designed
1 space	4 students for which a community college, business, vocational, trade, or commuter-based school is designed
1 space	2 on-campus residents of a resident-student based college or university
1 space	100 sq. ft. of recreational area at a swimming pool or skating rink
20 spaces	field or court at a sports facility
1 space	3 patient beds at a hospital or nursing home
1 space	200 sq. ft. in a personal service business, beauty or barber shop, or dry cleaners
5 spaces	lane at a bowling alley
1 space	5000 sq. ft. at a self-storage facility
1 space	for every 5 hanger or tie-down spaces at an airport or heliport

Sight Visibility Standards

820 SIGHT VISIBILITY STANDARDS

PURPOSE: The intent of this Chapter is to provide for a safe vehicular and pedestrian transportation system. The visibility at intersections, driveways, curb cuts, and entrances are particularly important for the safe movement of vehicles and pedestrians.

- A. Sight Visibility Requirements:** All intersections must maintain an area (Sight Visibility Triangle) where primary or accessory structures, fences, trees, vegetation (other than agricultural crops), or signs, (other than road signs), are not allowed to be placed or to project over a height of 2.5 feet measured from the nearest top-of-curb or edge of pavement where curbs are not present.
- B. Sight Visibility Triangle Dimensions:** The Sight Visibility Triangle shall be established by connecting points located along the intersecting rights-of-way at the distances from the point of intersection required by the Sight Triangle Dimensions table.

Sight Triangle Dimensions

When the following type of street intersects any other type of street..	...the distance from the point of intersection shall be...
Arterial	25 ft.
Collector / Local	25 ft.
Alley	10 ft.

