

CASS COUNTY ZONING ORDINANCE

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Effective:		October 3, 1986
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As Amended:	Entire Ordinance	1993
As Amended:	Temporary Uses	1995
As Amended:	Lot Regulations; ILP's	1996
As Amended:	P U D	1997
As Amended:	Height regulations; Parking; Telecommunications Accessory Structures; Lot areas; Campgrounds	2001
As Amended:	Enforcements and Penalties	2003
As Amended:	Entire Ordinance	2004
As Amended:	Floodplain	2005
As Amended:	Disabled Vehicles	2006
As Amended:	Agribusiness; Manufacturing; Fire Lanes Manufactured Homes;	2007
As Amended:	Repair Services; Airport Overlay; Cottage Industries Mobile Homes; Manufactured Homes	2008
As Amended:	Wind Energy; Airport Overlay; Modular Homes; Rule 5;	2009
As Amended:	Model Homes; Subd. in Table A	2010
As Amended:	Buffer Stds; Junk Vehicles;	2011
As Amended:	Table A, Confined Feed;	2012
As Amended:	Front Yard Setbacks; Signage; SE Findings;	2013
As Amended:	CC Gateway; Access Height; Awnings; ILP timeframe; AG Structures; Sidewalk Cafes; Plan Review Comm.;	2014
As Amended:	Parking; Access Apt.; Gas prices; Sat. Dish; Commitments; CC Gateway; Landscaping; Access. Str. Fencing; Caretakers; Wireless Reg.	2015
As Amended:	Grissom Air Force Overlay; Wind	2016
As Amended:	Table B Lot Coverage	2017
As Amended:	Wind Energy Systems	2019
As Amended:	Solar Energy Systems	2019
As Amended:	Gateway Overlay: Wireless Facilities	2020
As Amended:	Wind and Solar Energy Systems	2021

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ARTICLE ONE
BASIC PROVISIONS

- 101 TITLE: This Ordinance may be cited as the Zoning Ordinance of Cass County.
- 102 DEFINED WORDS: Words used in a special sense in this Ordinance are defined in Article Two.
- 103 PURPOSE: This Ordinance is intended to encourage the growth and development of the County in accordance with the Cass County Comprehensive Plan for the following purposes:
- 103.01 to secure adequate light, air, and convenience of access; and safety from fire, flood, and other dangers;
 - 103.02 to lessen or avoid congestion in the public ways;
 - 103.03 to promote the public health, safety, comfort, morals, convenience, and general welfare;
 - 103.04 to plan for the future development of the County to the end
 - A. that highway systems be carefully planned;
 - B. that new communities grow only with adequate public way, utility, health, educational and recreational facilities;
 - C. that the needs of agriculture, industry, and business be recognized in future growth;
 - D. that residential areas provide healthful surroundings for family life; and
 - E. that the growth of the community is commensurate with and promotive of the efficient and economical use of public funds.
- 104 COMPLIANCE: No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used, except in full compliance with all provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance.
- 105 SEVERABILITY: If any provision of this Ordinance or the application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.
- 106 INTERPRETATION: The provisions of this Ordinance shall be held to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards of physical environment.

- 107 JURISDICTIONAL AREA: This Ordinance shall apply to all unincorporated land within Cass County, except for those land areas under the jurisdiction of a city or town Plan Commission as defined by description or maps in the Cass County Recorder's Office in accordance with IC 36-7-4-205.
- 108 APPLICATION: It is not intended by this Ordinance to interfere with, abrogate, 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, 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 private covenants, permits, agreements, rules, or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.
- 109 REPEALER: This Ordinance repeals the 1962 Cass County Zoning Ordinance and all other Ordinances in conflict herewith.

ARTICLE TWO
DEFINITIONS

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

Accessory Apartment: An apartment that is a separate, complete housekeeping unit that is substantially contained within the structure of an owner occupied single-family dwelling or in a commercial structure. Accessory apartments must meet the standards of Section 518 of this ordinance.

Accessory Structure: A detached subordinate structure, the use of which is clearly incidental to the main use of the land, and may include, but is not limited to the following: garages, barns, storage buildings, signs, except off-premise signs, private swimming pools, and private satellite dish.

Accessory Use: A subordinate use which is clearly incidental and related to that of a main structure or main use of land and may include, but is not limited to the following: basketball and tennis courts, off-street parking, and outdoor storage.

Adult Business: An establishment which provides as a substantial or significant portion of its business matters or performances which are deemed to be harmful to minors under IC 35-49-2-2, as amended.

Agriculture: Any land for: cropland and orchards, pasture and grazing, livestock and poultry production, sod farming, confined feeding, and commercial fur production. Agriculture includes all accessory storage facilities, irrigation facilities, and other structures used for the conduct of the above except for dwellings. Agriculture also includes the processing and on-site sale of goods produced on the property. In residential districts, some of the above agricultural activities may not be permitted as shown in Table A of this Ordinance.

Agribusiness: A commercial or manufacturing establishment which provides needed services or supplies to the agricultural community. Uses include: contract sorting, grading, and packaging services for fruits and vegetables; corn shelling, hay baling, and threshing services; spring water bottling; grist mill services; horticultural services; poultry hatchery services; production of animal fat and oil; canning of fruits, vegetables, preserves, jams, and jellies; canning of specialty foods; preparation of cereals; production of natural and processed cheese; production of condensed and evaporated milk; wet milling of corn; production of creamery butter; drying and dehydrating fruits and vegetables; preparation of feeds for animals and fowl; production of flour and other grain mill products; blending and preparation of flour; fluid milk processing; production of frozen fruits, fruit juices, vegetables, and other specialties; meat packing (not including rendering); fruit and vegetable pickling, vegetable sauces and seasoning, and salad dressing preparation; poultry and small game dressing and packing, recycling and recovery of wood products, providing that all operations be conducted within an enclosed building; production of shortening, table oils, margarine, and other edible fats and oils; milling of soybean oil; milling of vegetable oil; sugar processing and production;

production of wine, brandy and brandy spirits; and other agricultural related businesses not elsewhere defined or specified in this Ordinance.

Alley: A public service right-of-way which affords only secondary access to the back or side of property otherwise abutting on a street.

Automobile Impound Area: A facility that provides temporary outdoor storage for vehicles that are to be claimed by titleholders or their agents. No vehicle shall be stored at said facility for longer than 120 days. An automobile impound area does not include salvaging of vehicles.

Automobile Service Station: An establishment which offers the retail sale of gasoline, oil, and similar products; and one or more of the following: automobile washing; automobile maintenance, including mechanical repairs; automobile towing, including the parking of a wrecker and operative vehicles waiting for immediate repair; or tire and battery dealers. This does not include convenience store/gas station (as defined).

Awnings: A sloped projection made of canvas or other non-rigid material stretched over a metal tubular frame and extended over a doorway or window. An awning is supported entirely from the exterior wall of the building and provides protection from the weather. For the purpose of the Ordinance, awnings are considered accessory features and must meet the standards of Section 306.01 of the Ordinance.

Basement: A portion of a structure which is wholly or partly underground, and having more than one-half of its height, measured from floor to ceiling, below the average grade of the adjoining ground.

Bed and Breakfast Establishment: A single family dwelling which contains sleeping accommodations in the principal structure or accessory structure for which a fee is charged. (See Section 516 of this Ordinance.) This definition includes tourist homes which meet the above standards. Bed and breakfast establishments which exceed the above standards may be classified as either a country inn (as defined) or a motel/hotel (as defined).

Berm: A manmade, formed, earth mound of definite height and width used for obscuring purposes; the intent of which is to provide a transition between uses of differing intensity.

Block: A tract of land bounded by streets, or a combination of streets, public parks, cemeteries, or railroad rights-of-way.

Board: The Cass County Board of Zoning Appeals.

Buffer, Bufferyard: Any trees, shrubs, walls, fences, berms, or related landscaping features required under this Ordinance or the Subdivision Control Ordinance to be placed on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent properties, for aesthetic purposes, and/or for creating sound barriers and/or visual privacy.

Building: A type of structure (as defined) which generally has walls and a roof.

Building Line: The line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way line. On corner lots there are two building lines.

Business/Commercial: The exchange of goods and/or services for money or for other goods and/or services.

Cabin or Cottage: A dwelling of simple design and construction equipped only for temporary or seasonal occupancy. A cabin or cottage may not be rented, leased, or otherwise made available for compensation of any kind. For the purpose of this Ordinance, a cabin or cottage is not a residence.

Child Care Home: A residential structure in which at least six children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider: (1) while unattended by a parent, legal guardian, or custodian; (2) for regular compensation; and (3) for more than four hours but less than twenty-four hours in each of ten consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. This definition includes Class I Child Care Homes that serve any combination of full-time and part-time children under the age of seven but not to exceed twelve children at any one time; and Class II Child Care Homes that serve more than twelve children but not more than any combination of sixteen full-time and part-time children under the age of seven at any one time.

Children's Home: A residence which provides care, food, and lodging for children who are not in the custody of parents or guardians. This includes children's homes as defined by IC 12-3-2-4 and those boarding homes for children as defined by IC 12-3-2-2-3.6 which provide full time care (foster home) or emergency or short term placement for more than five children.

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

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

Commercial Garage: An establishment which includes all uses permitted for automobile service stations (as defined) except for the retail sales of gasoline and oil. Commercial garages also include automobile body repairs and painting. Also included in this definition is the repairing of vehicles or the fixing up of old cars at a residence or any location for which money or other goods or services are received for the work.

Commission: The Cass County Plan Commission.

Community Recreational Facility: A public or private establishment which includes one or more of the following facilities: gymnasium, indoor swimming pool, weight reduction or exercise equipment, tennis or racquetball courts, and accessory recreational programs.
Comprehensive Plan: The Cass County Comprehensive Plan adopted by the County Commissioners on October 7, 1985.

Condominium: Real estate lawfully subjected to IC 32-1-6 (The Horizontal Property Law) 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: The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where food is supplied to the animals only by means other than grazing.

Construction Plans: Any maps and/or drawings and/or accompanying text showing the specific location and design of improvements to be installed in accordance with the requirements of Article Six, Planned Unit Development.

Convenience Store/Gas Station: A small retail grocery store and/or convenience store which sells gasoline and oil as an accessory and incidental use to the principal business activity. This definition does not include automobile service station (as defined). For the purposes of this Ordinance a convenience store/gas station will be considered a retail trade as listed in Table A.

Conversion Dwelling: A single-family dwelling which, because of its size and/or the character of the neighborhood in which it is located, is no longer suitable or economical for its intended use, and therefore is converted to apartments.

Country Inn: A lodging establishment which remains residential in character and is owned and operated by a resident of the property. (See Section 513 of this Ordinance.) A country inn which exceeds the above standards shall be classified as a motel/hotel.

Craft/Hobby Shop: A small retail store which provides one or more of the following: 1) sale of handmade items, 2) sale of craft and hobby supplies, 3) instruction in a craft or hobby, and/or 4) sale of related items. For the purposes of this Ordinance a craft/hobby shop (as defined) will be considered a retail trade as listed in Table A.

Day Care Center: A child care facility operated for the purpose of providing care, maintenance, or supervision and instruction to children separated from their parents or guardians for more than four hours a day but less than twenty-four continuous hours for ten or more consecutive workdays. The following are not considered day care centers for the purposes of this Ordinance: 1) schools (as defined), 2) nursery schools (as defined), 3) churches which provide day care as defined by IC 12-3-2-12.8 (a), 4) child care homes (as defined), 5) home child care (as defined), 6) children's homes (as defined). A day care center may or may not be subject to Department of Public Welfare licensing.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, structures, mining, dredging, grading, paving, excavating, or drilling operations.

Development Requirement: A development requirement is any use requirement, restriction, provision or standard as authorized by IC 36-7-4-601 (d)(2) and Article Six of this Ordinance for the development of real property in a planned unit development district.

Disabled Vehicle: An abandoned vehicle as defined by IC 9-13-2-1, as amended, or any vehicle that is partially disassembled, inoperable, or unlicensed, on any property in location visible from public property or adjoining private property for more than twenty days or on public property without being moved for 3 days. This shall not include tractors, combines, pickers, disks, plows, or other similar farm machinery that is owned by a farm operator, that is parked in areas zoned AG, and is used for parts replacement for machinery currently being used in the farming operation.

DNR: Department of Natural Resources.

Drainage: The act, process, or mode of the outflow, removal, or carrying away of water.

Dustless Surface: A surface adequately covered in accordance with good construction practice; with a minimum of either two applications of bituminous surface treatment concrete, or concrete and which must be maintained in good condition at all times.

Dwelling Unit: One or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility for one family, and which includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, Single-family Attached or Townhouse: A group of two or more single-family dwelling units which are joined to one another by a common party wall, a common floor-ceiling, whether or not such a group is located on a single parcel of ground or on adjoining individual lots. Each unit shall have its own outside entrance and architectural facade or treatment of materials shall be varied from one group of units to another. No more than three abutting units in a row shall have the same front and rear setbacks, with a minimum setback offset being one foot.

Dwelling, Single-family Detached: A site-built residential structure or manufactured home containing one dwelling unit which is not connected to any other dwelling.

Dwelling, Two-family (duplex): A building located on a single lot containing not more than two dwelling units, arranged one above the other or side by side, and occupied by not more than two families.

Dwelling, Multi-family or Apartment: A residential building containing three or more separate dwelling units located on a single lot or parcel of ground. A multi-family dwelling, commonly known as an apartment house, generally has a common outside entrance(s) for all the dwelling units, and the units are generally designed to occupy a single floor one above another. For the purpose of this Ordinance, a multi-family dwelling may include cooperative apartment houses but shall not be construed to mean a single-family attached dwelling (as defined).

Dwelling, Earth Sheltered Home: A dwelling which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.

Engineering, Research and Development Laboratories: Engineering, research, and development activities related to such fields as chemical, pharmaceutical, medical, electrical, and transportation. All engineering, research, and development shall be

carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration, or odor shall be detected outside of said building nor shall there be any health hazard created by said use.

Erosion: The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

Erosion Control Measure: The practice or a combination of practices to control erosion and resulting sedimentation.

Erosion Control Plan: The written description of pertinent information concerning erosion control measures designed to meet the requirements of this Ordinance as submitted by the applicant for review and approval as needed for an Improvement Location Permit.

Essential Services: The erection, construction, alteration, or maintenance by public utilities, rural electric membership cooperatives, or municipal or other governmental agencies of underground or overhead gas, telephone, CTV, electrical, steam, or water transmission or distribution systems including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate essential services by these agencies. This does not include telephone exchanges, utility substations, or main installations, electric generation facilities, underground gas storage, pipelines, pipeline pumping stations, public water wells, filtration plants, lift stations, storage tanks, sewer treatment plants, and similar structures.

Family: One or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group housing quarters. A family also includes foster homes as defined by IC 12-3-2-3.6 which provide full time care (foster homes) or emergency or short term placement for five or fewer children.

Financial Services: A business such as agricultural credit institutions, banks and branch banks, bond companies, insurance, savings and loan associations, stock and securities brokers and analysts, and similar establishments.

Floor Area, Gross: The total number of square feet of floor space on all floors, including basements within the surrounding walls of a structure.

Floor Area, Net: Gross floor area (as defined) less permanent storage and warehouse areas, show windows, utility rooms, dressing or fitting rooms, vents, elevator shafts, stairwells, parking and loading facilities, unenclosed porches and courts. Attic and basement area not used for living space in dwellings shall also be excluded.

Flag Lot: A lot not fronting or abutting the street right-of-way and where access to the street right-of-way is limited to a narrow access road.

Group Care Home: A residential facility (as defined).

Group Housing Quarters: A structure occupied by individuals sharing common facilities. Group housing quarters shall differ from two and multi-family dwelling units in that the

rooms contained in the structure do not constitute independent housekeeping establishments. Examples of group housing would include a boarding house, lodging house, club, fraternity, or residential hotel.

Hardship: A perceived 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. Self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships.

Hazardous Waste: For the purposes of this Ordinance, any waste which has been or will be assigned a Hazardous Waste Number by the EPA shall be considered to be classified as a hazardous waste.

Home Child Care: A day care center (as defined) located within the operator's own residence which provides care for compensation to no more than five children at a time. Home child care may or may not be subject to Public Welfare licensing.

Home Occupation: A business or activity for financial gain carried on by an occupant at his or her place of residence, which shall be accessory and incidental to the residential use of said residence. Home occupation may be either simple or major home occupations as established in Section 512 of this Ordinance.

IC: The Indiana Code, 1982 or most recent edition, and the most recent yearly cumulative supplement.

Improvement Location Permit: A permit or certificate of zoning compliance indicating that the proposed use, erection, construction, reconstruction, alteration, or moving of a building or structure, or use of land, referred to therein, complies with the provisions of this Ordinance.

Intensity: Intensity is the degree of impact which a land use may have on adjacent land uses. The higher the intensity, the more likely there will be a negative impact of one land use on another. There are requirements for bufferyards and other standards in this Ordinance to minimize impact between land uses of different intensity.

Junkyard: Any lot, parcel, or tract of real estate, usually outdoors, where waste or discarded used property, other than organic matter, including but not limited to one or more unlicensed or inoperable motor vehicles, is accumulated and/or stored and is or may be salvaged for reuse or resale, reduction, or similar disposition. (Not to include noncommercial vehicle repair – see definition)

Land Disturbing Activity: A land disturbing activity is any man-made change of the land surface, including removing vegetative cover, excavating, filling, transporting, and grading. It includes only non-agricultural land disturbing activities on sites which also require an Improvement Location Permit or an approved subdivision plat.

Landscaping: An establishment for the sale of landscaping materials such as mulch, soil, and rock in some instances such use may also include plant sales and nurseries.

Loading/Loading Area: The portion of any lot which is required to be reserved for the parking, loading, or unloading of vehicles at any non residential establishment according to the standards of this Ordinance. A loading area may not use the same area as a parking area (as defined.)

Lot: A parcel of land of at least sufficient size to meet minimum zoning requirements of Table B of this Ordinance as established by the zoning district in which the lot is located. A lot may be a single parcel of land separately described in deed or plat which is recorded in the Office of the County Recorder or a combination of such parcels when adjoining one another and under single ownership and used as one. Such lots shall have frontage and access on an improved public street or an approved private street.

Lot, Corner: A lot located at the intersection of two or more street right-of-ways.

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

Lot, Maximum Coverage of: The maximum percentage of the lot area that is represented by the building area.

Lot, Minimum Area of: The horizontally projected area of a lot computed exclusive of any portion of the right-of-way of any public street, private street, shared access easement, or floodplain, as defined in Section 402.

Lot, Non Conforming: A lot of record that has less than the required minimum standards of Table B of the Ordinance as established by the zoning district in which the lot is located.

Lot, Pipestem: A lot which does not abut a public street other than by its driveway which affords access to the lot. The pipestem is that part of a lot which affords access and is less in width than the minimum lot width in the district in which it is located.

Lot, Width of: The distance between the side lot lines as measured on the building line.

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

Lot of Record: A lot that is part of a subdivision or described by metes and bounds whose existence, location, and dimensions have been legally recorded in the Office of the County Recorder pursuant to the regulations contained in the Cass County Subdivision Control Ordinance or recorded prior to the effective date of that Ordinance, May 6, 1988.

Manufacturing, Light: The processing and fabrication of certain materials and products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. Light manufacturing includes the production of the following goods: home appliances; electrical instruments; office machines; precision instruments; electronic devices; timepieces; jewelry; optical goods; musical instruments; novelties; wood products; printed materials; lithographic plates; type composition; machine tools; dies and gauges; ceramics; apparel; light-weight non-ferrous metal castings; film processing; electrical

machinery and components; light sheet metal products; plastic goods; pharmaceutical goods; and food and dairy products, but not animal slaughtering, curing, or rendering of fats. If any of the above production activity exceeds the light manufacturing standards contained above, they shall be considered to meet the heavy manufacturing (as defined) standards contained in this Ordinance.

Manufacturing, Heavy: The processing and fabrication of all articles, substances, or commodities such as paper and allied products, chemicals and allied products, stone and glass products, iron and steel products, non-ferrous fabricated products, automobile assembly and heavy and industrial machinery assembly, except for manufacturing which can be classified as light manufacturing (as defined).

Meteorological Tower: Towers which are erected primarily to measure wind speed and direction plus other data, excluding towers and equipment used by airports, the Indiana Department of Transportation, or other similar applications to monitor weather conditions.

Meteorological Tower, Operational Support - Towers which are erected primarily to measure wind speed and direction plus other data in support of an operating WECS, excluding towers and equipment used by airports, the Indiana Department of Transportation, or other similar applications to monitor weather conditions.

Mineral Extraction: Mining or quarrying and removal of earth materials. Mineral extraction also includes the storage, stockpiling, distribution, and sale of rock, sand, gravel, earth, clay and similar materials and rock crushing, screening, blending, washing, loading, and conveyor facilities.

Mobile Home: A Pre-manufactured structure, often constructed of metal, that is designed to be transported to a site and semi-permanently attached. Mobile homes can be single or double wide and are designed to be used as a year-round residential dwelling. All homes must have a title and be newer than 20 years old, as indicated by the serial number issued by the State of Indiana, to be considered conforming to this Ordinance. A mobile home shall be installed in conformance with the Indiana One and Two Family Dwelling Code. This definition shall not include motor homes or RV's.

Mobile Home Park: An area of land on which two or more mobile homes are regularly accommodated with or without charge, including any building or other structure, fixture, or equipment that is used or intended to be used in providing that accommodation. Two mobile homes on a single parcel of land, is not considered a mobile home park (see Section 507).

Model Homes: A residential structure that is not occupied and never has been occupied as a traditional and typical residence. Occupancy only concerns the direct display and sales of similar residential structures to potential buyers in conjunction with and situated on the grounds of a multiple lot subdivision. Only one model home per subdivision may be used for the office tasks as described above. Up to 30% of the lots in a subdivision can house a model home. (For information regarding taxation purposes, refer to Indiana Code 6-1.1-12.6-1.)

Modular Home: A factory built single-family detached stick frame structure installed or assembled at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code or Indiana Public Law 360, Act of 1974. (*Conditions proposed are in Standard Section 506*).

Motel/Hotel: A structure or portion thereof or a group of structures which provide sleeping accommodations in separate units or rooms for transients on a daily, weekly, or similar short-term basis. Such an establishment may be designated as a hotel, motel, resort, inn, court, motor inn, motor lodge, tourist cabin, tourist court, apartment hotel, or otherwise. The motel/hotel may include separate cooking facilities for each unit. There may be additional services such as restaurants, meeting rooms, and recreational facilities; however, it shall not include business from rooms. A motel/hotel does not include group housing quarters (as defined), bed and breakfast establishments (as defined) or country inns (as defined).

Non Conforming Use or Structure: Any use or structure that was legally existing at the time of enactment of this Ordinance or any of its amendments; or that has been granted a variance subsequent to the enactment of this Ordinance; or any use or arrangement of land or any of its structures that has existed continuously since January 1, 2000.

Noncommercial Vehicle Repair: Any single-family dwelling that repairs, stores, maintains or restores motorized vehicles, including but not limited to cars, trucks, RV's, motorcycles, ATV's, lawnmowers and boats, outside as an accessory and/or incidental use to the primary use of the property. Such use would include any motorized vehicles that are inoperable and/or have outdated plates or registration except for agricultural machinery. All noncommercial vehicle repairs must follow Section 514 of the Ordinance. (Not to include junk yard)

Non-participating Landowner – a person(s) or entity who has NOT entered into any final contractual agreement with a WECS company, entity or person(s)(i) for the purpose of developing a WECS Project on or near such person(s) or entity's land and/or (ii) to receive certain economic benefits to accrue from the operation of the WECS Project.

Nuclear Waste: Radioactive byproduct materials generated by laboratory, hospital, and industrial research and commercial production; and radioactive fuel elements, assemblies, etc. generated by utility companies; military, industrial, and commercial production as defined by the Atomic Energy Act of 1954 as amended and administered by the Nuclear Regulatory Commission. Any radioactive material whether gaseous, liquid, or solid and associated carrier materials whether gaseous, liquid, or solid which has been declared "diminimus" and no longer under control of the NCR. Such material may or may not be designated hazardous by the EPA.

Nursery School (Pre-School): An establishment operated for the purpose of providing, usually part-time, instruction of children under six years of age.

Occupancy, Certificate of Occupancy: A permit or certificate issued by the signature of the Zoning Administrator upon completion of the construction of a structure, or change in use of structure or parcel of land and indicating that the use and/or structure is in compliance with all applicable County Ordinances and that the structure and land may be used for the purposes set forth in the Improvement Location Permit.

Parking/Parking Area: The portion of any lot which is required to be reserved for the parking of vehicles using that lot according to the standards of this Ordinance. A parking area may not use the same area as loading area (as defined).

Participating Landowner- A person(s) or entity who owns land and has entered into a fully executed contractual agreement with a WECS company, entity or person(s) (i) for the purpose of developing a WECS Project on or near such person(s) or entity's land and/or (ii) to receive certain economic benefits to accrue from the operation of the WECS Project.

Peak Flow: The maximum rate of flow of water at a given point in a channel or conduit resulting from a particular storm or flood.

Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the requirements and specifications of the Planned Unit Development District Ordinance and approved secondary plan.

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. A permanent foundation must meet the applicable specifications of the Indiana One and Two Family Dwelling Code.

Permanent Perimeter Enclosure: A permanent perimeter structural system completely enclosing the space between the floor joists of a manufactured home and the ground. A permanent perimeter enclosure must meet the applicable specifications of the Indiana One and Two Family Dwelling Code.

Planned Unit Development: A planned unit development (PUD) as specified in IC 36-7-4-1500 series, is development of real property under single ownership or under multi-ownership but unified control and is planned and developed as a whole in a single development operation or a definitely programmed series or phases of development operations. A planned unit development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. See Article Six of this Ordinance.

Planned Unit Development (PUD) Administrator Officer: The person appointed by the Plan Commission to administer Article Six, Planned Unit Development, of this Ordinance.

Planned Unit Development District: A zoning district for which a Planned Unit Development Ordinance is adopted according to the IC 36-7-4-1500 series and Article Six of this Ordinance.

Planned Unit Development District Ordinance: A zoning ordinance which designates a parcel of real property as a planned unit development district; specifies uses or a range of uses permitted in the planned unit development district; specifies development requirements in the planned unit development district; specifies the plan documentation and supporting information that may be required; specifies any limitation applicable to a

planned unit development district; and meets the requirements of IC 36-7-4-1500 series and Article Six of this Ordinance.

Plan Review Committee: Is a permanent subcommittee of the Plan Commission and shall consist of the same members as those appointed as the Plat Committee. The Plan Review Committee shall have the authority to review and approve development plans in accordance with IC 36-7-4-1400 series and Section 401 of this Ordinance.

Plant Nursery: A facility where plants are grown to a usable size and sold for wholesale purposes.

Principal Structure: The structure in which the principal use of the lot is conducted.

Principal Use: The primary use to which a premises is devoted, and the main purpose for which the premises exist.

Professional Office: Any structure or portion thereof used or intended to be used as an office for abstractors, advertising consultants, collection agencies, detective and protective service agencies, employment agencies, interior designers, realtors, attorneys, engineers, architects, surveyors, accountants, bookkeeper agents, tax consultants, insurance agents, labor and business organizations, political organizations, professional societies, and similar professional offices.

Recreational Vehicle: A vehicle which is 1) built on a single chassis; 2) designed to be self-propelled or permanently towable by a light duty truck; 3) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use; 4) does not meet the specification required for a mobile home.

Release Rate: The amount of storm water release from a storm water control facility per unit of time.

Repair Services: A business which includes the repair of electrical appliances, musical instruments, watches, clocks, jewelry, shoes, small gasoline-powered items such as lawn mowers, and similar small items and the re-upholstery and repair of furniture. This may include the accessory resale of items repaired at the establishment.

Residential Facility: A group care home for the purpose of providing a family-like and long-term living environment to individuals who are not related to the head of the household and who are developmentally disabled, mentally ill, aged, blind, or deaf; or in need of adult supervision; which provides room and board and other services in accordance with their individual needs. Emergency shelters for abused, neglected, abandoned, or homeless individuals are also included in this category, but does not include social rehabilitation facilities (as defined) or children's homes (as defined). Structures which are divided into separate dwelling units (as defined) will be considered multi-family dwellings or apartments as listed in Table A.

Retail Trade: Buildings for display and sale or rental of merchandise at retail such as the following: antiques, apparel, arts and crafts supplies, automotive parts, bakeries, bicycle sales and accessory repair, books and magazines, camera shops, carpet, convenience stores (as defined), department stores, drapery, drug stores, fabrics, florists (not to

include greenhouses), furniture, gift shops, groceries, hardware, craft/hobby shops (as defined), household appliances, office and business machine supplies, paint stores, pet shops, (not to include kennels), records and music stores, shoes, specialty food stores, sporting goods, toy stores, variety stores, video tape sales and rentals, and other similar type uses not elsewhere defined or specified in this Ordinance.

Right-of-Way: A general term denoting land, property, or interest therein acquired for or devoted to the public welfare; most often intended for access, transportation, or utility transmission.

Satellite Dish Antenna: An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

School: A public or private institution offering an educational curriculum or educational instruction or any institution under State Department of Public Instruction jurisdiction, except for home schools.

Scrap Metal Yard/Salvage Yard: A facility or land area for the storing, keeping, selling or dismantling, shredding, compressing, or salvaging scrap or discarded material or equipment. This definition includes material recovery facilities and automobile graveyards.

Screening: Screening relative to this Ordinance shall mean a fence, evergreen hedge or wall at least six feet in height, provided in such a way that it will block a line of sight. The screening may consist either of one or several rows of bushes or trees, or of a constructed wall or fence. Evergreen plantings, if utilized shall be selected so as to mature to a height of at least six feet.

Shopping Center: Any group of two or more trade or service uses which are: designed as a single commercial group, whether located on the same lot; under common ownership or management; connected by party walls, partitions, canopies or other structural members to form one continuous structure or, if located in separate buildings, are interconnected by walk-ways and access-ways designed to facilitate customer interchange between the uses; share a common parking area; and otherwise present the appearance of one continuous commercial area. This definition includes enclosed shopping centers or malls, strip shopping centers and/or specialized centers such as outlet malls or auto malls.

Sidewalk Cafe: A restaurant which has as an incidental or accessory use, a group of tables, chairs, benches or decorative devices maintained upon a public sidewalk adjacent to the restaurant for the sale to the public of food or beverages as otherwise permitted by law. This definition does not include tables or benches for eating purposes provided by a restaurant as accessory uses on the restaurant property

Sign: Any surface, fabric, or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view; or any structure (including billboards, poster panels, or other graphic displays) designed to carry the above visual information. Sign regulations are specified in Section 505 of this Ordinance.

Sign, Building Mounted: A sign attached to a building or structure other than a structure used exclusively for sign support.

Sign, Freestanding: A sign not connected to a building or structure, other than a structure used exclusively for sign support.

Sign, Off-premise: A sign which communicates the availability of goods, services, ideas, or business establishment not available on the premises on which the sign is located.

Sign, On-premise: A sign which communicates the availability of goods, services, ideas, or business establishment available on the premises on which the sign is located.

Sign, Portable: A freestanding, on-premise advertising device which is designed to be moved from one location to another and is not permanently affixed to the ground or to a structure, or is only affixed by means of tie down straps or stakes.

Sign, Temporary: An advertising device not attached to a permanent foundation and restricted as to duration of time allowed for display.

Social Rehabilitation Center: A secure or non-secure facility licensed by a department of state or local government in which persons reside while receiving, either within the facility or elsewhere, services which are designed to equip them for independent living within the community. Such services may include therapy, treatment, training, and/or counseling which is directed at one or more of the following groups: assisting persons to recover from the affects of drugs or alcohol or the dependence thereon; assisting persons with family, school, or social adjustment problems to return to normal family or communal life; or assisting persons to be housed under supervision while under the constraints of alternatives to imprisonment, including, but not limited to work-release, pre-release, and probationary programs. For the purpose of this Ordinance, this definition does not include state or federally owned and operated facilities.

Solar Array: A grouping of multiple solar modules with purpose of harvesting solar energy.

Solar Cell: The smallest basic solar electric device which generates electricity when exposed to light.

Solar Easement: A right, expressed as an easement, restriction, covenant or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

Solar Energy: Radiant energy (direct, diffuse, and/or reflective) received from the sun.

Solar Energy System – Commercial: An area of land or other area used for solar collection system principally used to capture solar energy, convert it to electrical energy primarily for off-site use. Commercial solar energy systems consist of free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory exchangers, substations, electrical Infrastructure, transmission lines, energy storage and other structures.

Solar Energy System – Accessory: An area of land or other area used for solar collection system used to capture solar energy, convert it to either electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground, or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels under 5 acres.

Solar Module: A grouping of solar cells with the purpose of harvesting solar energy.

Solar Panel: That part or portion of the solar energy system containing one (1) or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or generation of electricity.

Solar Related Equipment: Items including a solar photovoltaic cell, module, panel or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possible foundations or other structures used for or intended to be used for collection of solar energy.

Special Exception: A use which shall be allowed within a particular district contingent upon approval of the Board of Zoning Appeals because of its special nature. Special exceptions which may be considered in each district are listed in Table A.

Staff: All employees of the Logansport/Cass County Planning Department including, but not limited to, the Executive Director, the Assistant Planner, the Zoning Administrator, the Secretary, the Plan Commission Attorney, and any clerical assistants. This also includes any consultants or other individuals performing duties on behalf of or request of the Planning Department.

Structure: Anything constructed or erected or applied, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, which includes, in addition to buildings, billboards, carports, porches, and other building features but not including sidewalks, fences, and patios.

Substation (WECS) – A structure containing apparatus that connects the below-ground or above-ground electrical collection lines of the WECS to the electric utility grid, with or without increasing voltage.

Supply Yard: A commercial establishment storing or offering for sale goods which require large storage areas primarily outside such as steel, pipe, concrete, or metal supplies. Supply yards do not include the wrecking, salvaging, dismantling, or storage of automobiles and similar vehicles.

Swept area. The diameter of the least circle encompassing all blades for a *WECS*.

Telecommunications Antenna: A specific device, the surface of which is used to transmit and/or receive radio frequency signals, microwave signals, or other signals transmitted to or from other antennas for commercial purposes.

Telecommunications Cell Site: A tract or parcel of land that contains the cellular communications antenna, its support structure, accessory building, and parking and may include other uses associated and ancillary to cellular communications transmissions.

Telecommunications Equipment Shelter: A cabinet or building located at the base of or near a wireless communication facility within which are housed, among other things, batteries and electrical equipment serving the telecommunications antenna.

Total height. Means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

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

Variance: Subject to the approval of the Board of Zoning Appeals, a modification of the strict terms of the relevant regulations of this Ordinance where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship.

Wall Graphic: A design which is painted on a side of a building for the purpose of improving a blank or dilapidated building surface, enhancing architectural detail, or generally intended to improve the visual aspect of the community. Wall graphics may include the name and/or logo of a local business, but shall not advertise specific products manufactured or offered for sale, except through indirect graphic representation.

WECS Project – a collection of multiple WECS (as defined) as specified in the application for an Improvement Location Permit is within the Developer Guidebook.

WECS Tower – The support structure to which the nacelle and rotor are attached, free standing or guyed structure that supports a wind turbine generator.

“WECS” Wind Energy Conversion System – 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, Substation, meteorological towers, communications facilities and other required facilities and equipment, as related to the WECS Project.

Commercial WECS – A Wind Energy Conversion System constructed on the property of another by a company or corporation or other entity, whose general intent is to capture wind energy and place it on the electrical grid for resale to a public utility. Any WECS designed to generate 40KW in total name plate generating capacity regardless of tower height.

Micro WECS – a very small Wind Energy Conversion System designed to provide electric power to a home or other local site for use by the owner.

Non-commercial WECS – A Wind Energy Conversion System that is generally smaller than a Commercial WECS and the primary purpose is to collect wind

energy for the purpose of supplying energy to the owners, such as a business, school or factory.

Wholesale Distribution: An establishment which buys products from manufacturers for resale to retail establishments. Wholesale establishments may include motor vehicles and automotive equipment, drugs, chemicals, dry goods and apparel, groceries, electrical goods, hardware, plumbing and heating supplies, machinery, furniture, home furnishings, lumber products, and paper products, but does not include scrap and waste materials.

WECS – Swept Area: The diameter of the least circle encompassing all blades for a WECS.

WECS – Total Height: Means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

Wireless Facility Tower Co-location: Antenna and related equipment which is 1) located on an existing tower which has at least one other antenna and related equipment; or 2) located on an existing structure, for example, water towers, radio and television towers, tall buildings, commercial signs, church steeples, etc in order to minimize the proliferation of new towers/facilities.

Wireless Facility: A facility that transmits and/or receives electronic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunications towers, or similar structures supporting said equipment, equipment buildings, parking areas, and other accessory development. It does not include personal television antennas, ham radio, or short wave radio antennas, or other communications equipment accessory to residential uses.

Wireless Tower: A mast, pole, monopole, guyed, or freestanding framework or other vertical elements that act as an antenna or to which an antenna is affixed or attached.

Yard: A space on the same lot with principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this Ordinance.

Yard, Front: A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar uses the depth of which is the least distance between the street right-of-way line and the building line. On corner lots, the front yard shall be all yards between street right-of-ways and the building lines. Flag lots shall follow side yard setbacks where the access road meets the maximum width of the lot. The front yard may also be called the front setback or setback area.

Yard, Rear: A yard extending across the full width of the lot between the rear of the main building and the rear lot line unoccupied other than by accessory structure and uses, the depth of which is the least distance between the rear lot line and the rear of such main building. On corner lots, there is no rear yard. On lots which abut a street right-of-way on both the front and back (double frontage lot) or on lots which abut a street right-of-way and a lake or river shore, there shall be front yard provided on both streets and/or river or lake shore property lines, except as provided by this Ordinance. The rear yard may also be called the rear setback or setback area.

Yard, Side: A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest part of the main building. On corner lots, all yards that are not front yards shall be side yards. The side yard may also be called the side setback or setback area.

Zero Lot Line: The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

Zoning Administrator/Administrator: The person appointed by the Plan Commission to administer and enforce this Ordinance.

ARTICLE THREE
DISTRICT REGULATIONS

301 DISTRICT ZONE MAPS: A District Zone Map of each township in Cass County is hereby adopted as part of this Ordinance. The district zone maps shall be kept on file available for examination in the Office of the Zoning Administrator at the City Building.

301.01 In the event that the Official District Zone Maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the County Commissioners may, by resolution, adopt new Official District Zone Maps which shall supersede the prior Official District Zone Maps. The new Official District Zone Maps may correct drafting or other errors or omissions in the prior Official District Zone Maps, but no such correction shall have the effect of amending the original Official District Zone Maps or any subsequent amendment thereof.

301.02 District boundaries shall meet the following standards:

- A. District boundaries shown within the lines of roads, streams, and transportation rights-of-way shall be deemed to follow the centerlines.
- B. Boundaries indicated as following section lines or platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as parallel to or extensions of above features shall be so construed.
- D. Boundaries indicated as following shore lines shall be construed as following such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines as established on the effective date of the Ordinance.
- E. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than fifty feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.
- F. The vacation of streets and roads shall not affect the location of such district boundaries.
- G. When the Zoning Administrator cannot definitely determine the location of a district boundary by such centerlines, by scale or dimensions stated on the District Zone Map, or by the fact that it clearly does not coincide 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 District Zone Map and the purposes set forth in all relevant provisions of this Ordinance.

H. Where physical or cultural features existing on the ground are at variance with those shown on the District Zone Map, or in other circumstances not covered by subsections A. through G. above, the Board of Zoning Appeals shall interpret the district boundaries.

302 ESTABLISHMENT OF DISTRICTS: The jurisdictional area of the County divided into the following zoning districts for purposes as stated:

302.01 AG, Agricultural District: The purpose of this district is to recognize agriculture as the predominant use of land in the County and to ensure the continued viability of this resource. Adverse effects and incompatibilities between agricultural and non-farm uses will be discouraged and public sewage and water facilities will not be provided. Density should not exceed one dwelling unit per acre. Higher density development will be considered only as a planned development and/or as per the modification procedure of the Cass County Subdivision Control Ordinance.

302.02 RR, Rural Residential: The purpose of this district is to provide for low density residential areas which includes most of the small communities in the County which are not of sufficient density or area to warrant central sewage facilities, but may at some future date form a sewer district.

302.03 R-1, Suburban Residential District: The purpose of this district is to encompass those residential areas adjacent to the incorporated towns and Logansport at a density sufficient enough where central sewage can be provided immediately or in the future.

302.04 B-1, Convenience Business District: The purpose of this district is to provide convenience business and service uses in neighborhood areas.

302.05 B-4, General Business District: The purpose of this district is to provide areas for general business uses to meet the needs of a regional market and the traveling public. General Business Districts should be located on collectors or arterials highways as specified by the Cass County Comprehensive Plan.

302.06 AB, Agribusiness District: The purpose of this district is to encourage expansion of business and manufacturing support uses for the local agricultural community in proper locations.

302.07 I-1, Light Industrial: The purpose of the Light Industrial District is to encourage the development and expansion of manufacturing and wholesale business establishments which are clean, quiet, and free of hazardous or objectionable elements, operate entirely within enclosed structures, and generate little industrial traffic.

302.08 I-2, General Industrial District: The purpose of this district is to encourage the development and expansion of major industrial operations which utilize both enclosed and unenclosed space for storage, fabricating, and manufacturing.

302.09 FW, Floodway Overlay District: The purpose of this district is to restrict development within that portion of the floodplain which has been delineated by the Federal Insurance Administration as being required to carry the principal thrust and flow of floodwaters.

302.10 FF, Floodway Fringe Overlay District: The purpose of this district is to place additional restrictions upon uses permitted in underlying districts which are located within that area of the floodplain delineated by the Federal Insurance Administration as the floodway fringe.

302.11 AO, Airport Overlay District: The purpose of this district is to guide development in certain areas which are adjacent to airports that could be particularly hazardous if development standards were not imposed. This will minimize the possibility of accidents causing hardship on individual property owners and the general public.

302.12 PUD, Planned Unit Development District: The purpose of a Planned Unit Development District is to allow, where it is deemed appropriate and is consistent with the goals and policies of the Cass County Comprehensive Plan, the land use requirements and development regulations of the Cass County Zoning Ordinance be replaced by a Planned Unit Development District Ordinance which specifies the land use requirements, design plan, and performance criteria for the district. A PUD is permitted by adoption of a Planned Unit Development District Ordinance as specified in Article Six of the Ordinance.

302.13 RP, Riverfront Protection Overlay District: The purpose of this district is to protect from undesirable development all lands within 100 feet of the top of the bank of the Wabash and Eel Rivers.

302.14 Cass County Gateway Overlay District: The purpose of the Cass County Gateway Overlay District is to benefit the citizens of Cass County by promoting employment opportunities and the creation of new markets that can be served by existing and future businesses and utilizing access for such development by the municipal airport, State Road 25, and railroad spurs.

302.15 CG, Cass County Gateway District: The purpose of the Cass County Gateway District is to encourage industrial development that will be able to utilize access to the municipal airport, SR 25, and railroad spurs in the area; this essentially creating a Cass County Industrial Park.

303 DISTRICT LAND USAGE: The permitted, prohibited, and special exception uses for each district are shown in Table A. Where the district column is marked with a "P" the use is permitted in that district. Where the district column is marked with an "X" the use is prohibited. Where the district column is marked with an "S" a special exception must first be obtained as specified in Section 805 of this Ordinance. The Zoning Administrator shall determine into which category any use shall be placed which is not specifically listed or herein defined. This determination may be appealed to the Board of Zoning Appeals.

304 DISTRICT PERFORMANCE STANDARDS: District minimum lot area, lot width, minimum lot area per family, minimum front; side, and rear yards; and maximum lot coverage are listed in Table B.

TABLE A
District Use Standards

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer</u> <u>Class</u>	<u>Parking</u> <u>Class</u>
<u>AGRICULTURE</u>											
1. Agriculture - Cropland and Orchards	P	P	P	P	P	P	P	P	S	A	C
2. Agriculture - Pasture and Grazing (does not include animals kept as pets or for hobby)	P	S	S	P	P	P	P	P	S	A	C
3. Agriculture - Confined Feeding (as defined)(see Section 502)	S	X	X	X	X	S	S	S	S	A	C
4. Agriculture - Commercial Fish, Worm, Fur, and Other Specialty Farms	P	X	X	P	P	P	P	P	S	A	C
5. Agriculture - Accessory Storage Facilities	P	P	P	P	P	P	P	P	S	A	C
6. Agriculture - Processing of Goods Produced on Property Only	P	S	S	P	P	P	P	P	S	A	C
7. Agriculture - Farm Business - On-site Sale of Goods Primarily Produced on Property (seasonal)	P	X	X	P	P	P	P	P	S	A	D
8. Agriculture - Farm Business - On-site Sale of Goods Produced on the Property (permanent)	S	X	X	P	P	P	P	P	S	C	D
9. Agriculture - Irrigation Facilities	P	S	S	P	P	P	P	P	S	A	C
10. Agriculture - Land Application of Sludge and Wastewater (see Section 521)	P	X	X	X	X	P	P	P	S	A	C
11. Cropland Research or Demonstration Test Plot (temporary or permanent)	P	S	S	P	P	P	P	P	S	A	C

AG - Agriculture
RR - Rural Residential
R1 - Suburban Residential
I1 - Light Industrial

B1 - Convenience Business
B4 - General Business
AB - Agribusiness
I2 - General Industrial

CG – County Gateway
P – Permitted Use
S – Special Exception
X – Prohibited Use

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer</u> <u>Class</u>	<u>Parking</u> <u>Class</u>
12. Livestock Research and Evaluation	P	X	X	P	P	P	P	P	S	B	C
13. Forestry, Woodland	P	P	P	P	P	P	P	P	S	A	C
14. Plant Nursery (as defined)	P	X	X	P	P	P	P	P	S	A	C
15. Agribusiness (as defined)	S	X	X	X	S	P	S	S	P	E	B
16. Farm Equipment Sales and Rental New and Used and Accessory Service and Repair	S	X	X	X	S	P	S	P	S	E	N
17. Liquid Fertilizer and Agricultural Chemicals - Sales, Mixing, Storage, and Distribution	S	X	X	X	X	P	S	S	P	E	B
18. Grain Elevators and Feed Dealers, Storage and Distribution	S	X	X	X	X	P	S	S	P	E	B
19. Auction Barn (livestock)	S	X	X	X	X	P	S	S	X	E	G
20. Slaughterhouse and Rendering Plant	X	X	X	X	X	X	X	S	S	E	B
<u>NATURAL RESOURCES</u>											
1. Water Management and Use Facilities such as Dams, Docks, Piers, Channel Improvements, Seawalls, and Floodwalls	P	P	P	P	P	P	P	P	P	A	C
2. Wildlife and Nature Preserves	P	P	P	P	P	P	P	P	S	A	C
3. Public Landing Facilities	P	P	P	P	P	P	P	P	S	A	C
4. Public Owned Park or Recreational Area and Accessory Structures	P	P	P	P	P	P	P	P	P	A	C
5. Conservation and Environmental Study Clubs	S	X	X	S	S	S	S	S	X	B	C
6. Mineral Extraction (as defined) (see Section 519)	S	S	S	S	S	S	S	S	S	E	B
7. Fish Hatcheries	P	X	X	P	P	P	P	P	S	A	C

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
8. Artificial Lake or Reservoir of Three Acres or More	S	S	S	S	S	S	S	S	P	A	C
9 Oil and Gas Production (not to include refining)	S	X	X	S	S	S	S	S	P	E	B
10. Agricultural and Environmental Research Centers	S	X	X	P	P	P	P	P	S	B	B
11. Water Areas, Marshland	P	P	P	P	P	P	P	P	P	A	C
12. Fill of Natural Wetland, Water Areas or Marshland	S	S	S	S	S	S	S	S	S	A	C
<u>RESIDENTIAL</u>											
1. Major and Minor Residential Subdivisions over 2 lots (as defined by the Cass Co. Subdivision Control Ord.)	S	P	P	X	X	X	X	X	X	A	A
2. Minor Residential Subdivisions 2 lots and under (as defined by the CC Subdivision Control Ordinance.)	P	P	P	S	S	S	S	S	X	A	A
3. Dwelling – Single-family, Detached (as defined)	P	P	P	X	X	X	X	X	X	A	A
4. Dwelling – Single-family, Attached (as defined)	S	S	S	X	X	X	X	X	X	A	A
5. Dwelling – Two-family (as defined)	S	S	S	X	X	X	X	X	X	B	A
6. Dwelling – Multi-family (as defined)	S	S	S	X	X	X	X	X	X	B	A
7. Dwelling – Cabin or Cottage (as defined)	P	S	S	X	X	X	X	X	X	A	A
8. Dwelling – Seasonal Farm Worker Housing	P	S	S	X	X	S	X	X	X	A	A
9. Dwelling - Accessory Apartment (as defined) (see Section 516)	P	P	P	P	S	S	X	X	X	A	A
10. Conversion Dwelling (as defined) (see Section 518)	S	S	S	S	S	S	X	X	X	A	A
11. Mobile Home – As Principal Structure	P	S	S	X	X	X	X	X	X	A	A

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
12. Mobile Home Park (as defined) (see Section 507)	S	X	X	S	S	X	X	X	X	B	A
13. Model Home (as defined)	P	X	A	A							
14. Modular Home (as defined)	P	P	P	X	X	X	X	X	X	A	A
15. Nursing and Retirement Home	S	S	S	X	X	X	X	X	X	B	K
16. Children’s Home (as defined)	S	S	S	X	X	X	X	X	X	B	J
17. Residential Facility (as defined)	P	P	P	X	X	X	X	X	X	B	J
18. Residential Facility (as defined) for the Mentally III When Located Greater than 3000 feet from Another Residential Facility for the Mentally III	P	P	P	X	X	X	X	X	X	B	J
19. Residential Facility (as defined) for the Mentally III When Located Less than 3000 feet from Another Residential Facility for the Mentally III	S	S	S	X	X	X	X	X	X	B	J
20. Social Rehabilitation Center (as defined)	S	B	J								
21. Group Housing Quarters (as defined)	S	S	S	X	X	X	X	X	X	B	K
22. Motel or Hotel (as defined)	X	X	X	P	P	P	X	X	X	D	S
23. Bed and Breakfast Facility (as defined), Tourist Home (see Section 515)	S	S	S	S	S	X	X	X	X	B	S
24. Country Inn (as defined) (see Section 515)	S	X	X	S	S	X	X	X	X	D	S
25. Home Occupation - Simple (as defined) (see Section 514)	P	S	A	A							
26. Home Occupation - Major (as defined) (see Section 514)	S	X	X	P	P	P	P	P	S	C	A
27. Cottage Industries (see Section 514)	S	X	S	A	See Section 512.03						
28. Residential Accessory Uses and Structures (See Section 504)	P	S	A	A							

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
29. Child Care Home (as defined)	P	S	S	S	S	S	X	X	X	A	T
30. Child Care Home (as defined) When Used as Primary Residence of Caretaker Operator	P	P	P	P	S	S	X	X	X	A	A
<u>TRADE</u>											
1. Retail Trade (as defined) of No More than 1000 Square Feet Per Establishment	X	X	X	P	P	S	X	X	X	C	D
2. Retail Trade (as defined) of More than 1000 Square Feet Per Establishment	X	X	X	P	P	S	X	X	X	D	E
3. Shopping Center (as defined) of Up to 200,000 Square Feet	X	X	X	S	S	S	X	X	X	D	I
4. Shopping Center (as defined) of Over 200,000 Square Feet	X	X	X	X	S	S	X	X	X	D	H
5. Restaurant and Cafeterias (not including drive-ins or sidewalk cafes)	X	X	X	P	P	S	S	X	X	D	L
6. Drive-in and Carry-out Restaurants	X	X	X	X	P	S	S	X	X	D	L
7. Sidewalk Cafes (as defined) (see Section 518)	X	X	X	P	S	S	S	X	X	D	L
8. Dinner Theater, Night Club, and Taverns	X	X	X	X	P	S	S	X	X	D	L
9. Liquor Stores	X	X	X	S	P	S	X	X	X	D	E
10. Automobile Sales and Rental - New and Used and Accessory Service and Repair	X	X	X	X	P	S	S	X	S	E	N
11. Commercial Garages (as defined) (see Section 512)	S	X	X	X	P	S	S	X	X	E	M
12. Automobile Service Stations (as defined) and Tire and Battery Dealers and Accessory Service and Repair (not including junk yards) (see Section 512)	X	X	X	X	P	S	S	X	S	E	M
13. Automobile Car Washing and Waxing	X	X	X	X	P	S	S	X	S	E	M

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
14. Mobile Homes and Recreational Vehicle Sales and Rental and Accessory Service and Repair	X	X	X	S	P	S	S	X	X	E	N
15. Motorcycle and Truck Sales and Accessory Service and Repair	X	X	X	X	P	S	S	X	S	E	N
16. Truck Stops and Service Centers	X	X	X	X	P	S	S	S	S	E	M
17. Heavy Equipment Sales and Rental, New and Used and Accessory Service and Repair	X	X	X	X	P	P	S	S	S	E	N
18. Aircraft Sales, Storage and Rentals and Accessory Service and Repair (including crop dusting services)	S	X	X	X	X	S	S	X	S	E	N
19. Boat and Other Marine Sales and Rental and Accessory Service and Repair	S	X	X	X	P	S	S	X	S	E	N
20. Monument Sales	X	X	X	X	P	S	S	X	X	E	D
21. Lumber and Building Supplies, Lawn and Garden Supplies and Farm Supply Centers (including outdoor storage)	S	X	X	S	P	P	S	X	P	E	E
22. Truck and Trailer Rentals (as principal or accessory use)	X	X	X	X	P	S	S	X	S	E	N
23. Noncommercial Vehicle Repair (not to include Junk Yard) (See Section 513)	P	P	P	X	X	X	X	X	X	A	A
<u>SERVICES</u>											
1. Financial Services (as defined)	X	X	X	P	P	P	S	X	X	D	E
2. Drive-through Services (with no inside public facilities)	S	X	X	P	P	S	S	S	X	E	A1
3. Drive-through Services (in conjunction with a permitted use)	S	X	X	P	P	P	P	P	X	E	B1
4. Repair Services (as defined)	S	X	X	P	P	P	S	X	X	C	D

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
5. Hospitals	S	X	X	X	S	X	X	X	X	B	J
6. Medical or Dental Offices and Clinics(as defined)	X	X	X	S	P	S	S	X	X	C	O
7. Engineering, Research and Development Labs (involving fire or explosives) (as defined)	X	X	X	X	X	X	X	S	X	E	B
8. Engineering, Research and Development Laboratories (not involving fire or explosives) (as defined)	X	X	X	X	X	S	P	P	S	B	B
9. School - College and University	S	X	X	X	X	S	S	S	X	B	Q
10. School - Elementary and Secondary	P	P	P	P	P	S	S	S	X	B	P
11. School - Trade, Vocational, Business, Art or Music	S	X	X	X	X	S	S	S	X	B	Q
12. Government Offices and Auto License Bureaus	S	S	S	S	P	P	P	S	X	C	D
13. Fire and Police Stations	P	P	P	P	P	P	P	P	P	B	B
14. Libraries, Community Centers, Senior Citizen Centers, Post Offices	S	S	S	S	P	P	P	X	X	B	D
15. Penal or Correctional Institutions	X	X	X	X	X	X	S	S	X	B	B
16. Churches	P	P	P	P	P	P	S	S	S	B	R
17. Cemetery	S	S	S	S	S	S	S	S	S	B	C
18. Civic and Charitable Organization Facilities	S	X	X	S	P	S	S	X	X	C	X
19. Sanitary Landfill	S	X	X	X	X	S	S	S	X	E	B
20. Public Water Wells, Filtration Plants, and Storage Tanks	S	S	S	S	P	P	P	P	S	B	B
21 Sewage Treatment Plants	S	S	S	S	S	S	P	P	S	E	B
22. Barber and Beauty Shops	X	X	X	P	P	S	S	X	X	D	D
23. Coin Operated Launderies and Dry Cleaning	X	X	X	P	P	S	S	X	X	D	D

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
24. Laundries (commercial) and Diaper Services	X	X	X	X	P	S	S	X	X	D	B
25. Mortuary	X	X	X	X	P	S	S	X	X	D	R
26. Photographic Studio	X	X	X	P	P	S	S	X	X	C	D
27. Veterinary Hospital and Clinic	S	X	X	S	P	P	S	X	S	C	O
28. Kennel	S	X	X	X	P	P	S	X	S	C	N
29. Day Care Center (as defined)	S	S	S	S	S	X	X	X	S	B	T
30. Nursery School (as defined)	S	S	S	S	S	X	X	X	S	B	T
31. Woodworking, Cabinet Shop (not to include heavy manufacturing)	S	X	X	S	P	S	S	X	S	C	D
32. Taxidermist	X	X	X	X	P	S	S	X	X	C	D
33. Sign Painting	X	X	X	X	P	S	S	X	S	C	D
34. Welding	S	X	X	X	P	P	S	S	S	C	D
35. Blue Printing and Photocopying and Printing/Publishing of No More Than 5000 Square Feet per Establishment	X	X	X	S	P	S	S	X	S	C	D
36. Data Processing	X	X	X	P	P	S	S	X	X	C	D
37. Travel Bureau	X	X	X	P	P	S	S	X	X	C	D
38. Landscaping (as defined)	S	X	X	X	S	P	S	X	S	C	D
39. Tailoring and Dressmaking	X	X	X	P	P	S	S	X	X	C	D
40. Professional Offices (as defined)	X	X	X	P	P	S	S	X	X	C	D
41. Contractors, including Plumbing, Heating, Cooling, Electrical, Roofing, Water Softening, Well-drilling, Excavating, Building, and House Moving (including service yard and showroom)	X	X	X	X	P	P	P	S	S	E	D
<u>RECREATIONAL FACILITIES</u>											
1. Bowling Alley	X	X	X	X	P	S	S	X	X	D	U

	AG	RR	R1	B1	B4	AB	I1	I2	CG	Buffer Class	Parking Class
2. Billiard and Pool Establishment	X	X	X	X	P	S	S	X	X	D	U
3. Dance Hall and Schools of Dance	X	X	X	X	P	S	S	X	X	D	V
4. Fairgrounds	S	X	X	X	S	S	S	X	X	A	W
5. Golf and Country Clubs	S	S	S	X	S	S	S	X	X	A	X
6. Golf Courses and Accessory Structures	S	S	S	S	S	S	S	S	X	A	U
7. Golf Driving Ranges	S	X	X	X	P	S	S	X	X	A	W
8. Miniature Golf Courses	X	X	X	X	P	S	S	X	X	D	W
9. Lodges, Fraternal Organizations, and Private Clubs	X	X	X	X	P	S	S	X	X	D	X
10. Theater, Indoor	X	X	X	X	P	S	S	X	X	D	R
11. Theater, Outdoor	X	X	X	X	S	S	S	X	X	D	W
12. Museum and Art Gallery	X	X	X	X	P	S	S	X	X	D	D
13. Race Track	X	X	X	X	S	S	S	X	X	D	R
14. Auditorium, Coliseum, Stadiums	X	X	X	X	S	S	S	X	X	D	R
15. Riding Stables	S	X	X	X	P	P	S	X	X	D	W
16. Shooting or Archery Range (indoor)	X	X	X	X	P	S	S	X	X	D	V
17. Shooting or Archery Range (outdoor)	X	X	X	X	S	S	S	X	X	D	W
18. Amusement Park	X	X	X	X	S	S	S	X	X	D	W
19. Ice or Roller Skating Arena	X	X	X	X	P	S	S	X	X	D	V
20. Tennis and Racquet Clubs	X	X	X	X	P	S	S	X	X	D	U
21. Ski and Toboggan Runs	S	X	X	X	P	S	S	X	X	A	W
22. Reception Halls	X	X	X	X	P	S	S	X	X	D	V
23. Zoos, Botanical Gardens	S	X	X	X	S	S	S	X	X	A	W
24. Recreational Vehicle Park (see Section 509)	S	X	X	X	S	S	S	X	X	D	A

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
25. Organizational Campground (scouts, churches, recreational clubs, and similar organizations)	S	X	X	X	S	S	S	X	X	D	W
26. Campground (public and private) (see Section 510)	S	X	X	X	S	S	S	X	X	D	A
27. Hunting Preserves and Game lands	S	X	X	X	S	S	S	S	X	A	W
28. Weight Reduction or Exercise Facility	X	X	X	X	P	P	S	X	S	D	V
29. Motorcycle Riding Trails	S	X	X	X	S	S	S	X	X	D	W
30. Boat Rental and Storage	S	X	X	S	P	P	P	P	X	D	W
31. Videogame Arcade	X	X	X	P	P	X	X	X	X	D	E
32. Community Recreational Facility (as defined)	X	X	X	S	S	S	X	X	X	D	Z
33. Water Slide Park, Public Swimming Area	S	X	X	S	S	S	X	X	S	D	W
<u>TRANSPORTATION, COMMUNICATIONS, UTILITIES</u>											
1. Airport, Landing Strip and Heliport	S	X	X	X	X	S	S	S	S	A	M
2. Bus Station/Service	X	X	X	S	P	X	X	X	X	E	Y
3. Taxi Service	X	X	X	P	P	X	X	X	X	E	C
4. Radio or TV Station	X	X	X	X	P	S	S	S	X	A	B
5. Radio or TV Transmitting Tower	S	X	X	S	S	S	S	S	X	A	C
6. Wireless Facility (as defined) (see Section 522)	P	X	X	X	S	S	S	S	P	E	C
7. Wireless Facility when Co-located (as defined) (see Section 522)	P	P	P	P	P	P	P	P	P	E	C
8. Telephone Exchange	S	S	S	S	P	P	P	P	S	A	B
9. Utility Station - Main Installation	S	S	S	S	P	P	P	P	S	E	B
10. Utility Station - Substation	S	S	S	S	P	P	P	P	S	A	C
11. Essential Services (as defined)	P	P	P	P	P	P	P	P	P	A	C

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
12. Railroad and Highway Right-of-way	P	P	P	P	P	P	P	P	P	A	C
13. Pipeline Pumping Stations	S	S	S	S	P	P	P	P	S	A	C
14. Pipelines (Interstate)	P	P	P	P	P	P	P	P	P	A	C
15. Electric Generation	S	X	X	X	S	S	S	S	S	E	C
16. Bridges	P	P	P	P	P	P	P	P	P	A	C
17. Commercial WECS	S	X	X	X	X	X	X	X	X	B	C
18. Non-Commercial WECS	S	X	X	X	X	S	S	S	S	B	C
19. Micro WECS	P	P	P	P	P	P	P	P	S	A	C
20. Meteorological (Met) Tower	P	S	S	S	S	P	P	P	S	A	C
21. Commercial Solar Energy System	S	X	X	X	X	X	S	S	S	A	C
22. Accessory Solar Energy System	P	P	P	P	P	P	P	P	P	A	C
<u>WHOLESALE TRADE, WAREHOUSING AND STORAGE</u>											
1. Wholesale Distributor (as defined)	X	X	X	X	S	P	P	P	S	E	B
2. Greenhouse (commercial)	S	X	X	X	P	P	S	X	S	E	N
3. Bottled Gas Storage and Distribution	S	X	X	X	S	P	P	P	S	E	B
4. Bulk Fuel Yard (local distribution)	X	X	X	X	S	P	P	P	S	E	B
5. Bulk Fuel Yard (regional distribution)	X	X	X	X	X	X	X	S	S	E	B
6. Highway Maintenance Garage and Storage	X	X	X	X	S	P	P	P	X	E	B
7. Utility Company Office and Storage Yard	X	X	X	X	S	P	P	P	X	E	B
8. Frozen Food Lockers	X	X	X	X	S	P	P	P	S	E	B
9. Mini-warehouses	X	X	X	X	S	S	P	P	X	E	C
10. Moving Companies and Storage	X	X	X	X	S	S	P	P	X	E	B
11. Auction Sales Yard (not involving livestock)	X	X	X	X	S	P	P	P	X	E	N

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
12. Automobile Impound Area	X	X	X	X	X	X	X	S	X	E	C
13. Supply Yard (as defined)	X	X	X	X	X	S	S	P	X	E	N
14. Junk Yard (as defined) and Scrap Metal Yard (see Section 511)	X	X	X	X	X	X	X	S	X	E	N
15. Freight Distributors and Terminal (truck and railroad)	X	X	X	X	S	P	P	P	P	E	B
16. Warehousing - Inside (involving explosives)	X	X	X	X	X	X	X	S	X	E	B
17. Warehousing - Inside (no explosives)	X	X	X	X	S	P	P	P	P	E	B
18. Air Cargo Services	S	X	X	X	S	P	P	P	S	E	B
19. Material Recovery Facility	X	X	X	X	S	S	P	P	S	E	N
20. Transfer Station	S	X	X	X	X	S	S	S	S	E	N
21. Compost Facility	S	X	X	X	X	S	S	S	S	E	N
<u>MANUFACTURING</u>											
1. Light Manufacturing (as defined)	X	X	X	X	X	X	P	P	P	E	B
2. Heavy Manufacturing (as defined)	X	X	X	X	X	X	S	P	S	E	B
3. Bottling Company	X	X	X	X	X	X	P	P	S	E	B
4. Sawmills and Planing Mills (as distinguished from a temporary sawmill on the property where lumbering is being done)	X	X	X	X	X	P	P	P	S	E	B
5. Blue Printing and Photocopying and Printing/ Publishing of More Than 5000 Square Feet per Establishment (including newspapers, books, periodicals, and commercial printing)	X	X	X	X	X	X	P	P	S	E	B
6. Explosives Manufacturing	X	X	X	X	X	X	X	S	X	E	B
7. Petroleum Refining (including paving and roofing materials)	X	X	X	X	X	X	X	S	S	E	B
8. Asphalt or Ready Mix Plant	X	X	X	X	X	X	X	S	S	E	B

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
9. Ordnance Products (including arms and ammunition)	X	X	X	X	X	X	X	S	S	E	B
10. Incineration for Reduction of Waste Products or Refuse	X	X	X	X	X	X	X	S	S	E	B
11. General Offices Associated with a Manufacturing Use (including service facilities for employees and guests)	X	X	X	X	P	P	P	P	S	E	B
12. Accessory Use Retail or Wholesale Trade Associated with a Manufacturing Use	X	X	X	X	P	P	P	P	S	E	B
13. Accessory Use Storage of Supplies or Finished Products Associated with any Permitted Manufacturing Use	X	X	X	X	P	P	P	P	S	E	B
14. Concrete Batching Plants and Mixing Plants for Portland Cement or Asphaltic Concrete	X	X	X	X	X	X	S	S	S	E	B
15. Manufacturing of Cement, Concrete, or Clay Products	X	X	X	X	X	X	X	S	S	E	B
<u>MISCELLANEOUS</u>											
1. Temporary Use (see Section 503)	P	P	P	P	P	P	P	P	P	NA	Y
2. Accessory Uses and Structures (see Section 504) (including fences)	P	P	P	P	P	P	P	P	P	NA	C
3. Parking - In Conjunction with a Permitted Use (see Section 308)	P	P	P	P	P	P	P	P	P	NA	C
4. Loading Area - In Conjunction with a Permitted Use (see Section 308)	P	X	X	P	P	P	P	P	P	NA	C
5. Signs (see Section 505)	P	P	P	P	P	P	P	P	P	NA	C
6. Mobile Homes - When Used for Commercial or Industrial Purposes	S	S	S	S	S	S	S	S	S	NA	B
7. Adult Business (as defined) (see Section 510)	X	X	X	X	S	S	S	S	X	D	F

	<u>AG</u>	<u>RR</u>	<u>R1</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>CG</u>	<u>Buffer Class</u>	<u>Parking Class</u>
8. Processing, Storage, Recycling, Recovery and Disposal of Hazardous Waste (as defined) (as principal or accessory use) (see Section 520)	X	X	X	X	X	X	X	S	X	E	B
9. Processing, Storage, Recycling, Recovery and Disposal of Nuclear Waste (as defined) (as principal or accessory use) (see Section 520)	X	X	X	X	X	X	X	S	X	E	B
10. Parking Structures or Lots (principal use)	X	X	X	X	S	S	X	X	X	D	C
11. Planned Unit Development (See Article Six)	P	P	P	P	P	P	P	P	X	NA	NA

TABLE B
District Performance Standards

	AG	RR	R1	B1	B4	AB	I1	I2	CG See section 405
1. Minimum Lot Area (A)									
No Central Sewage	43,560	43,560	36,000	24,000	34,000	34,000	34,000	40,000	130,680
With Central Sewage	24,000	20,000	14,000	6,000	10,000	10,000	10,000	24,000	130,680
2. Minimum Lot Width (B)									
No Central Sewage	150	150	100	80	80	80	80	150	80
With Central Sewage	100	100	80	50	70	70	70	100	70
3. Minimum Lot Area Per Family (A)									
No Central Sewage	43,560	43,560	36,000	24,000	34,000	34,000	NA	NA	NA
With Central Sewage	24,000	20,000	14,000	6,000	10,000	10,000	NA	NA	NA
4. Maximum Lot Coverage (C)	10 or 30*	30	40	80	80	50	50	50	50
5. Minimum Front Yard (B)	50	50	45	25	25	40	40	40	40
6. Minimum Side Yard (B)	20	20	15	15	15	20	20	20	20
7. Minimum Rear Yard (B)	25	25	20	20	20	25	25	25	25

* 30% only applies to residential used properties that are less than 1 acre on pre-existing properties established before 10/2017

(A) square feet (B) = feet (C) = percent

1) or one half the depth of the lot, whichever is greater
2) setbacks are better defined in section 405.05E

305 SUPPLEMENTAL LOT REGULATIONS: Except as hereafter provided, no building or structure shall be erected or located on a lot unless such lot conforms with the lot area regulations in the district in which it is located as shown in Table B.

305.01 Lots of record, or lots sold by verifiable land contract, prior to the passage of this Ordinance may be smaller in area than the figure prescribed provided all other regulations of the district can be met.

305.02 Except as provided by Section 305.03, no Improvement Location Permit may be issued for a structure or use on any lot created after the adoption of this provision which does not have 40 feet of frontage on an open public accepted and maintained street or a private street which meets the private street standards of the Subdivision Control Ordinance. Except as provided by Section 305.03, no Improvement Location Permit may be issued for a structure or use on any lot created prior to the adoption of this provision which does not have frontage on an opened, public accepted and maintained street, or a private street which meets the private street standards of the Subdivision Control Ordinance.

305.03 To achieve more creative planning and preservation of natural property features, pipestem lots are permitted provided they have exclusive unobstructed private easement of access of at least 20 feet width to a road. However, 2 pipestem lots with no more than one dwelling on each lot may share a common easement of access of at least 24 feet width. The area of a pipestem lot occupied solely by the pipestem driveway or easement shall not be deemed to be a part of the required minimum lot area.

305.04 There may be more than one principal building on a lot provided all regulations of the district can be met. The minimum lot area and the minimum lot width must be met per structure. In addition, the distance between structures must be a minimum of twice the rear yard setback distance for the district in which the structure is built.

306 SUPPLEMENTAL YARD REGULATIONS: No portion of a principal or accessory structure or use, including garages, porches, steps, carports, and decks, shall project into any minimum front, side, or rear yard as shown on Table B and Table B-1 except as provided below:

306.01 An architectural or structural feature such as an eave, chimney, bay window, roof overhang, cornice, sill, awning, canopy, or similar feature may extend or project into any required yard not more than 2 feet.

- A. Because awnings emphasize the character, design, and tradition of the built environment for downtowns. Awnings, as defined, are permitted in the B1, Convenience Business district for non-residential uses with the following standards.
 1. Awnings, including roll-out designs, may project over the public sidewalk a maximum of 4 feet.
 2. Awnings, including the valance, must have a minimum of 7 feet of clearance above grade.
 3. Awnings may not conceal architectural details.
 4. Awnings must meet all State Building and Fire Codes and be properly installed and maintained at all times.

5. Awnings may state business information and/or address not to exceed 50% of the marquee awning. Awnings with business identification will be permitted in addition to other signage permitted by this Ordinance.

306.02 An uncovered porch, landing, deck, or steps (except for safety railings) which do not extend above the level of the first floor of the building, a fire escape, or uncovered stairs may extend or project into any required yard no more than 4 feet. Structures approved by this subsection may not be later enclosed or extended above first floor level except by Board of Zoning Appeals approval.

306.03 An accessory structure, as defined, shall not be located in the front yard nor located closer than 5 feet to the side or rear lot line.

306.04 Accessory uses, as defined, and the following yard improvements are not subject to setback regulations and are permitted in any required front, side, or rear yard provided they do not violate other sections of this Ordinance: fences (see Section 504.08); gazebos; flagpoles; arbors and trellis; outdoor barbecues; walks; driveways; parking spaces; decorative driveway entrance features; curbs; retaining walls; utility installations for local service such as pole, lines, hydrants, and telephone booths; lattice work screens; trees; shrubs; flowers and plants; gardens; mail boxes; nameplates; ponds; lamp posts; recreational equipment; bird baths and houses; dog houses; children's play houses; bushes; hedges and landscaping of a similar nature. This section does not include accessory structures, as defined, except for those listed above.

306.05 Air conditioners rated at 24,000 BTU or less shall not be so placed hereafter so as to discharge air within 5 feet of lot lines, and those rated over 24,000 BTU so as to discharge air within 12 feet of lot lines, except where said air conditioners are separated from lot lines either by projections of buildings or by streets, alleys, or permanent open space at least 20 feet in minimum dimensions.

306.06 Principal and accessory structures on lots which abut more than one street shall provide the required front yards along every street. Lots which abut a driveway or other easement of access which serves as a principal means of access for one or more lots must also meet front yard setbacks along said easement.

306.07 Residential structures must be orientated in such a manner that the front door of the residence faces the front yard (as defined). Where the property is required to be served by sidewalks, front doors must be accessed from the front door to the street right-of-way by sidewalks that are a minimum of 3 feet wide.

306.08 On corner lots, lot width requirements need to be met along only one street right-of-way provided Section 306.06 is met.

306.09 Where 25 % or more of the lots within a block or for a distance within 350 feet of the proposed building on the same side of the street if not within a block are occupied by buildings, the average setbacks of such buildings determines the front yard setbacks; however, if there is not any other building within the block or within 350 feet in either direction, then the standard setback for the district shall apply.

306.10 Front yard or building setback lines established in recorded subdivisions establish the dimension of front yards in such subdivisions, except when such building setback lines may be less restrictive as provided in the applicable district.

306.11 No yard, open space, or lot area required for a building or structure shall, during its life, be occupied by, or counted as open space for, any other building or structure.

306.12 On a corner lot, nothing shall be erected, placed, planted, parked, or allowed to grow in such a manner as to materially impede vision between a height of 2 1/2 feet and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street right-of-way of such corner lots and a line joining points along said street lines 15 feet from the point of intersection. This requirement shall also apply at the entrance to access drives which lead to commercial or industrial developments.

306.13 In addition to regular setback (yard) requirements for structures, a bufferyard (as defined) shall be provided and maintained by the owner or lessee of a property in accordance with this section. Bufferyards are the horizontal distance adjacent to side and rear property lines, measured perpendicularly between 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. Bufferyards also help to maintain existing trees or natural vegetation, to block or reduce noise, glare, or other emissions and to maintain privacy. Bufferyards are required between most land uses on adjacent properties in order to reduce the impact of one use on 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 50% or more.

A. Bufferyards, where required, shall be located along side and rear property lines. In the I-1, I-2 or CG districts, bufferyards shall also be required along the front property line when adjacent to or facing a residential district. 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 bufferyards shall be provided along all other lines. Bufferyards shall have the necessary widths and planting and fencing material as required in this section.

B. To determine the required widths and materials of bufferyards, the following procedure shall be used:

1. Identify the Bufferyard Classification (Buffer Class A, B, C, D, or E) of the proposed use and/or structure by referring to Table A of this Ordinance.
2. Identify the Bufferyard Classification (Buffer Class A, B, C, D, or E) of an existing adjacent use by referring to Table A of this Ordinance. For vacant land and for existing, adjacent uses non conforming to the zoning district in which it is located, refer to the Zone Map for the district classification of the land and/or use.
3. Determine the bufferyard requirements for the proposed use and/or structure by referring to Table C. Go down the left hand column to the Bufferyard Classification of the proposed use and then go across the matrix either to the "Adjacent Existing Bufferyards Classification" or the "Adjacent Vacant Land

(Zoning District)” and refer to the Roman Numeral (I, II, III, IV, or V) in the corresponding box which indicates the buffering type.

4. Refer to the bufferyard type in Illustrations I through V. Any one of the alternative bufferyards may be selected.

TABLE C
Required Bufferyards

Bufferyard Classification	Adjacent Existing Bufferyards Classification					Adjacent Vacant Land (Zoning District)			
	A	B	C	D	E	AG , RR, R1, I1, I2, CG	B1, B4	AB,	
A	X	X	X	X	X	X	X	X	X
B	V	I	II	III	IV	II	III	V	V
C	V	IV	I	II	III	IV	III	IV	V
D	V	IV	III	I	II	V	IV	I	I
E	V	IV	III	II	I	V	V	I	II

X = No Bufferyard Required

C. The following additional standards apply to bufferyards:

1. All bufferyards shall be maintained and kept free of debris, rubbish, weeds, and tall grass.
2. There shall be no structures, outdoor storage, or parking and loading facilities in bufferyards, except for agricultural or residential uses.
3. Where setback area is limited, bufferyards may be coterminous with the required front, side, or rear setback areas, but in case of conflict, the larger yard area regulation shall apply.
4. 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 plants shall be properly maintained. Any plants which do not live or are destroyed shall be promptly replaced.
5. Fencing shall be at least 6 feet in height and subject to all regulations of Section 504.09 of this Ordinance.

Guidelines:

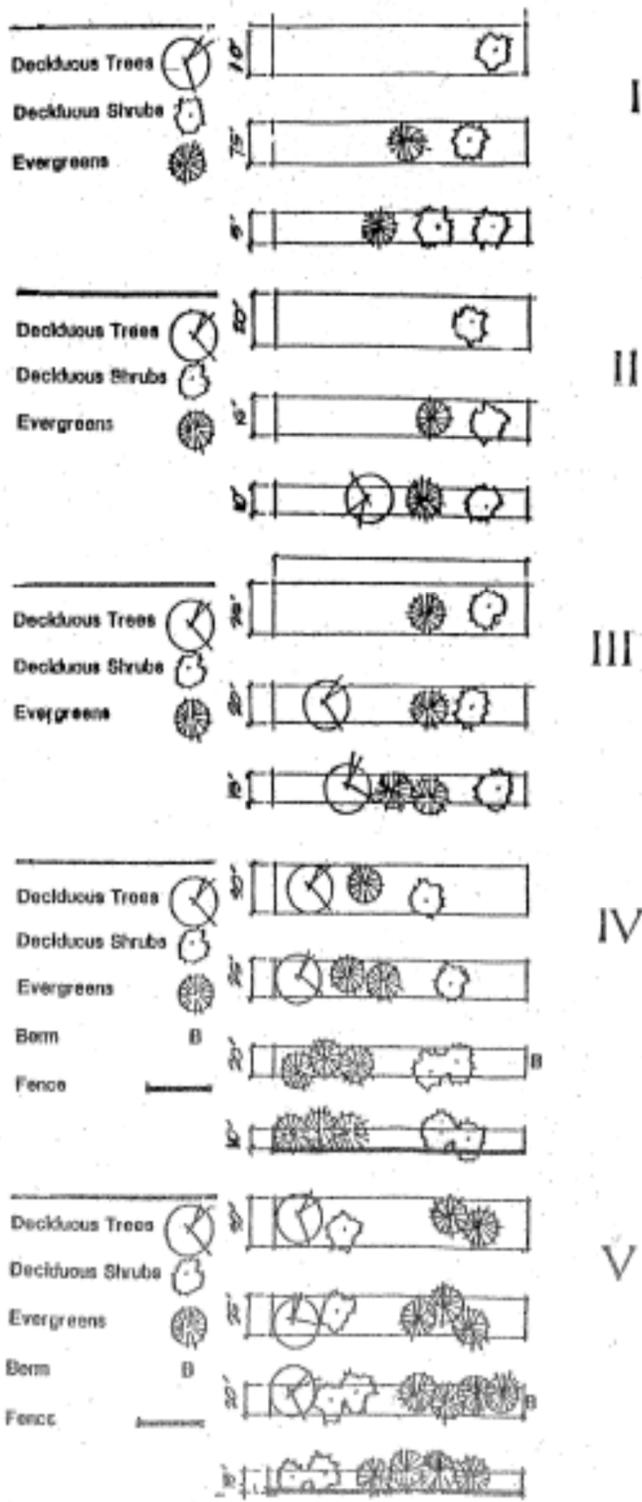
- 1) Flowering trees and shrubs shall be encouraged in bufferyards.
- 2) Deciduous trees shall be a minimum of 6 feet in height when planted.
Deciduous shrubs shall be a minimum of 2 feet in height when planted
- 3) Evergreens shall be a minimum of 4 feet in height when planted.
- 4) Berms shall be a minimum of 4 feet in height.

D. Screening (as defined) shall be required if the site cannot accommodate the bufferyard classification as shown in Table C, Class IV and/or V.

E. On any parcel of land where there is an existing use or structure, the Zoning Administrator may waive all or part of the required bufferyard if it is physically impossible to locate the required bufferyard due to non conforming lot size, existing structure or parking lot location, or other similar reasons.

ILLUSTRATION

REQUIRED PLANT
UNITS PER 100'



306.14 Canopies for an automobile service station, drive-in bank, drive-in restaurant, or similar use where outside pedestrian activity is necessary, may be constructed to the property line provided that the canopy is at least 12 feet in height and no more than 25% of the required front and side yard area is covered by the canopy.

306.15 When an accessory structure is attached to a principal structure by a breezeway or roofed passageway, said accessory structure shall be deemed to be part of the principal structure and shall maintain principal structure yard requirements. This section does not apply to accessory structures which exist on the effective date of this Ordinance and any subsequent attachment to the principal structure or the existing accessory structure.

306.16 An existing mobile home or manufactured home which does not meet setback requirements may be replaced provided the replacement mobile home does not encroach into the required setback area to any extent greater than the existing home.

307 GENERAL PROVISIONS AND EXCEPTIONS TO HEIGHT REGULATIONS: No principal structure in any district may be constructed, reconstructed, altered, or enlarged which exceeds 35 feet in height above average ground level. One-story primary structures may not have accessory structures that exceed 16 feet in height. Two-story or taller primary structures may not have accessory structures that exceed 24 feet in height.

A. Structures such as barns, silos, tanks, bins, and windmills located in the Agricultural District.

B. Communication structures such as wireless towers (as defined), radio and television and relay stations and receiving stations and aerials and observation towers.

C. Industrial uses such as gas and liquid fertilizer tanks, sanitary landfills, power generating plants, sub-stations, smokestacks, grain elevators, and other agricultural product processing and storage facilities, and industries requiring a vertical production procedure such as flour mills, steel mills, and refineries.

D. Architectural projections, such as spires, belfries, parapet walls, cupolas, and domes.

E. Special structures such as monuments, scenery lofts, fire towers, and flagpoles.

F. Wind Energy Conversion Systems (as defined).

307.02 Public and semi-public buildings, hospitals and institutions, schools and churches (excluding the spire) may be erected to a height of 60 feet provided their total height does not exceed their distance from the nearest lot line.

307.03 Auxiliary structures attached to a building such as radio and television antennae, chimneys, ventilation fans, and similar mechanical appurtenances or other structures necessary to maintain and operate a building may exceed normal height requirements provided the building is setback from all minimum yard distances one additional foot for each foot of height above the maximum height limitations. If the auxiliary structure is erected at a later time than the building to which it is attached, the auxiliary structure, rather than the building must be so located that the provisions of this subsection can be met.

307.04 Essential services, utilities, water towers, electric power and communication transmission lines and vegetation are exempt from the height limitations of this Ordinance.

307.05 The above height exceptions shall not apply when the structure constitutes a hazard to an existing airport or landing strip and to electric power transmission lines.

307.06 The Board of Zoning Appeals may authorize a variance to this regulation for any principal or accessory structure in any district provided Section 307.05 of this Ordinance is met.

308 OFF-STREET PARKING AND LOADING: Off-street parking and loading spaces shall be provided as required below:

308.01 Off-street parking and loading shall be provided for all uses established or structures built after the effective date of this Ordinance in accordance with the specifications of this section.

A. Whenever a land use that was started or a structure that was built after the effective date of this Ordinance is changed in use or is enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase in the number of existing parking or loading spaces, additional spaces shall be provided on the basis of the enlargement or change.

B. Whenever a land use or structure existing prior to the effective date of this Ordinance is changed in use or is enlarged to the extent of 25% or more in floor area, number of employees, number of housing units, seating capacity, or otherwise, to create a need for an increase in the number of existing parking or loading spaces, said use or structure shall then and thereafter comply with all parking and loading standards set forth in this section.

308.02 The number of parking spaces shall be as specified in Table D based upon the parking classification of the use listed in Table A. The required number of parking spaces must be available for vehicle parking at all times and may not be used for any other purpose, including travel lanes or sales and display areas.

A. For a use not specified in Table D, the parking space requirement shall be determined by the Zoning Administrator. When the number of parking spaces are to be determined by the Administrator, the Administrator shall base his decision on the parking needs of similar uses in Table D, on expected traffic volume, and on past parking experiences of existing similar uses.

B. When parking spaces are based upon the number of employees in Table D, said number shall be the number of employees of the largest shift, except where noted.

C. When the application of Table D results in a fraction of parking spaces, said number of spaces shall be rounded upward to the next highest number.

D. In addition to all parking space requirements of Table D, there shall be a minimum number of parking spaces as specified by the Zoning Administrator for all trucks, buses, and other company vehicles and special equipment to be parked and/or offered for sale on the site.

TABLE D
Required Parking

Parking Classification (Table A)	Number of Parking Spaces
A	2 per dwelling unit or pad or campsite plus 1 per home occupation
B	2 per 3 employees of the 2 expected maximum shifts combined plus 1 per visitor/customer space for each 20 required employee spaces with a minimum of 4 spaces
C	No parking required provided there are no employees at the site. If there are employees, there must be 1 space per employee
D	3 per 1000 square feet of gross floor area
E	4 per 1000 square feet of gross floor area
F	6 per 1000 square feet of gross floor area
G	10 per 1000 square feet of gross floor area
H	5.25 per 1000 square feet of leasable floor area
I	5.5 per 1000 square feet of leasable floor area
J	1 per 3 beds plus 1 per doctor plus 1 per employee on the largest shift, plus 1 per hospital vehicle
K	1 per 2 occupants plus 1 per employee
L	1 per 4 customer seats plus 1 per employee
M	2 per service stall or airplane parking space plus 1 per employee
N	1 per 500 square feet of enclosed floor space plus 1 per 2000 square feet of outside display area, plus 2 per service stall
O	1 per doctor, dentist, veterinarian, technician, and employee plus 1 per examination room
P	1 per 15 elementary students and 1 per 4 secondary students
Q	5 per 10 students expected to attend at any one time
R	1 per 3 Seats in each auditorium, chapel room or grandstand
S	1 per guest room plus 1 per employee
T	1 per 10 children on the maximum shift plus 1 per employee on the maximum shift
U	2 per table, 3 per hole, 4 per court, 5 per alley
V	1 per 3 persons based upon maximum occupancy plus 1 per employee
W	1 per 500 square feet of use area plus 1 per 3 employees
X	1 per 3 members
Y	As specified by the administrator at the time of permit issuance
Z	The cumulative parking total of all component recreational activities from this table or 1 space per member family and employee, whichever is more and/or applicable
A1	1 per employee plus stacking area for 3 vehicles for each window, stall, bay or station. The stacking area per vehicle shall measure not less than 20 feet.
B1	Parking as required for the principal use of the property plus stacking area for 3 vehicles for each window, stall, bay, or station. The stacking area per vehicle shall measure not less than 20 feet.

E. In addition to the required parking spaces, there shall be adequate service and utility lanes for service stations, truck stops, drive-in banks, car washes, fast food restaurants, telephones, film processing, and other businesses with drive-up windows and facilities.

F. Two or more non residential uses may collectively provide the required off-street parking in which case the required number of parking spaces shall be not less than the sum of the requirements for the several individual uses computed separately. Two or more uses may also jointly share the same spaces provided their hours of operation do not normally overlap and a written agreement is filed with the Zoning Administrator and approved by the Plan Commission Attorney.

G. Parking spaces may be located on a lot other than that containing the principal use with the approval of the Zoning Administrator provided the following standards can be met:

1. the off-site parking shall be located so that it will adequately serve the use for which it is intended.

- a. the off-site parking may not be located farther than a walking distance of 300 feet from the intended use.

- b. there must be ease of access from the off-site parking to the parking use.

2. a written agreement, approved by the Plan Commission attorney, shall be filed with the application for an Improvement Location Permit, containing a guarantee that such parking spaces shall be available so long as the principal use is continued.

H. Parking requirements may be waived by the Zoning Administrator for uses in a block in which at least half or more of the area is occupied by business or industrial structures by no more than 25% or 50% for businesses located within a B1, Convenience Business District.

I. Motorcycle parking spaces may be substituted for the off-street parking requirement at the rate of two motorcycle spaces per off-street parking space. This applies to lots having two or more parking spaces and may be used to replace a maximum of two parking spaces.

308.03 All parking areas and spaces shall be designed, constructed, and maintained in accordance with the following minimum standards:

- A. No design shall be approved which is likely to create substantial traffic hazards endangering the public safety. Additional safety provisions may be required by the Zoning Administrator and/or the Indiana State Highway Commission. The developer shall be responsible for the construction of any such traffic control devices or safety provisions.

- B. No design shall allow the backing of any vehicle onto any street.

- C. In order to achieve better traffic control, eliminate run-off, and alter the impression created by a continuous parking area, landscape areas shall be provided within all

parking lots. At least 5% of the parking area shall be landscaped and such landscaping shall be in addition to all bufferyards required by this Ordinance.

D. All parking areas shall be maintained in good condition without holes and shall be kept free of all trash and other debris.

E. All parking areas shall have parking spaces of no less than the minimum width, and minimum length, and access lanes of minimum width as indicated in Table E.

TABLE E
Parking Area Standards

Angle of Parking	Stall Width	Length	Drive Two-Way	Drive One-Way 1/
61° - 90°	9'	18'	24'	18'
46° - 60°	9'	18'	22'	15'
0° - 45°	8 1/2'	18'	22'	12'
Parallel	8'	22'	22'	12'

1/ For purposes of measurement, drives with parking on one side only shall be considered as one-way drives.

308.04 In addition to the above requirements, whenever 20 or more off-street parking spaces are required, the parking area and spaces shall be designed, constructed, and maintained in accordance with the following minimum standards:

A. All parking spaces and access lanes shall be clearly marked, including directional arrows to guide internal movements. Such markings shall be maintained.

B. Bumper stops, curbing, or wheel chocks shall be provided to prevent any vehicle from damaging or encroaching upon any required sidewalk or upon any property adjacent to the parking area.

C. Handicapped parking spaces and facilities shall be provided as required in the American National Standards Institute publication ANSI 1171 - 1980, as amended or superseded.

D. Up to 20% of the required parking spaces may be designated compact spaces of at least 8 feet by 16 feet.

E. The interior circulation of traffic in parking areas shall be designed so that no driveway or access lane providing parking spaces, shall be used as a through-street.

F. Any establishment which furnishes carts or mobile baskets as an adjunct to shopping, shall provide defined areas within the required parking space areas for storage of said carts. Each designated storage area shall be clearly marked for storage of shopping carts.

G. In addition to the landscape requirements as specified in Section 308.03 C and the buffering requirements as specified in Section 306 of this Ordinance, the following minimum standards shall apply:

1. At least a portion of the landscape area shall be placed within the interior of the parking area. This may be in the form of a strip planted with trees, or shrubs and grass including a pedestrian walk between parking aisles, or it may be islands appropriately spaced, raised, curbed, and planted.

2. Landscape islands shall be provided at the end of each row of 20 or more parking spaces to clearly define lane and turning patterns.

308.05 The number of required off-street loading spaces for commercial, industrial, and institutional uses is specified in Table F.

TABLE F
Required Loading

Use Classification	Gross Floor Area in Square Feet	Number of Spaces
Office Buildings, Banks, Hotels, Auditoriums, Retail Trade, Shopping Centers, Hospitals, Institutions, Services, Recreational Facilities, Multi-family Dwellings, and Similar Uses	8,000 - 60,000	1
	60,001 - 100,000	2
	For each additional 100,000 over 100,000	1
Manufacturing, Wholesale Trade, Warehousing and Storage, and Similar Uses	8,000 - 25,000	1
	25,001 - 60,000	2
	60,0001 - 100,000	3
	For each additional 50,000 over 100,000	1

A. Uses and structures with a net floor area of less than 8,000 square feet shall provide adequate receiving facilities so as not to obstruct the free movement of pedestrians and vehicles over a sidewalk, street, or alley.

B. Where the required number of loading spaces is not set forth for a particular use in Table F, the Zoning Administrator shall determine the basis of the number of spaces to be provided, based upon the loading space requirements of similar uses.

C. All off-street loading areas shall not be less than 15 feet wide, 25 feet long, and 15 feet high, except that where one such loading space has been provided, any additional loading space lying alongside, contiguous to, and not separated from such first loading space need not be wider than 12 feet.

D. Where a given use or structure contains a combination of uses as set forth in Table F, loading facilities shall be provided on the basis of the sum of the required spaces for each use.

E. All required off-street loading spaces shall be located at the same lot as the use served, except, where required spaces are provided cooperatively for two or more uses, subject to arrangements that will assure the permanent availability of such spaces to the satisfaction of the Zoning Administrator.

F. No required off-street loading area shall be used to satisfy the space requirement for any off-street parking and no loading area shall be so located as to interfere with the free circulation of vehicles in any off-street parking area.

G. All off-street loading space shall be provided with safe and convenient access to a street and shall be provided only through driveway openings as specified in Section 308.07.

H. No motor vehicle repair work, except emergency service shall be permitted in association with any required off-street loading facility.

I. In addition to the required loading spaces, a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school, church, or other facility which is designed to accommodate more than 25 persons at a time.

308.06 The following additional standards apply to off-street parking with 20 or more spaces and all off-street loading areas:

A. All parking and loading area drainage shall be designed and built in accordance with the Drainage Plan as required by Section 313 of this Ordinance.

B. All parking and loading areas shall be surfaced so as to provide a durable and dustless surface (as defined).

C. All parking and loading areas and driveways shall be provided with a safe and adequate lighting system which shall be completely shielded from traffic on any public right-of-way and from any residential district.

D. Developments which have parking and loading and driveways in excess of 40,000 square feet shall contain snow storage areas.

E. All parking and loading areas shall be maintained in good condition without holes and shall be kept free of all trash and other debris.

F. In addition to bufferyards required by this Ordinance, a parking or loading area shall be effectively screened by a fence or planted material on any side or rear property line which are adjacent to or face any existing residential property. Such fence shall be opaque and not less than 4 feet nor more than 6 feet in height. Such planted screen shall consist of densely planted evergreen hedge not less than 4 feet nor more than 6 feet in height. All screens shall be maintained in good condition.

G. All parking and loading spaces except for residential and agricultural uses and any required screens shall not be located in a required front yard area.

308.07 Clearly defined driveways shall be provided for ingress and egress from all off-street parking and loading areas. Driveways shall be located and constructed according to the standards as shown in Table G or such standards as established by the Indiana State Highway Commission, if access is onto a state highway.

TABLE G
Driveway Access

Driveway Standard	Residential Property	Service Station/ Truck Terminal	Other Non Residential
Minimum Width at Property Line	12 Feet	20 Feet	18 Feet
Maximum Width at Property Line	25 Feet	40 Feet	35 Feet
Minimum Distance from Interior Lot Line	5 Feet	11 1/2 Feet	12 1/2 Feet
Minimum Distance from Street Intersection	30 Feet	30 Feet	30 Feet
Space Between Two Drives/ Same Property	25 Feet	25 Feet	25 Feet
Space between Two Drives/ Different Properties	25 feet	25 feet	25 feet
Radius of Curb Return			
Minimum	5 Feet	5 Feet	5 Feet
Maximum	15 Feet	20 Feet	20 Feet

A. The number of driveways for a required parking area from any street shall not exceed two per adjacent street. A common driveway may be provided between adjacent properties in order to meet this requirement.

B. Driveways contiguous to the front of commercial structures shall include a 12 foot painted fire lane which will be marked with the words "No Parking Fire Lane" in white letters and a stripe of at least four (4) inches in width, in conformance with the Indiana Manual on Uniform Traffic Control Devices in addition to other requirements of this section. No person may stop, stand, or park a vehicle within such a fire lane. If the Fire Chief having jurisdiction of the structure has stricter standards, then they shall apply in lieu of the above.

309 PERFORMANCE STANDARDS: All uses except agricultural and forestry uses, shall comply with the requirements of this Section. In order to determine whether a proposed use will conform to the requirements of this Ordinance, the County may obtain a qualified consultant to testify, whose cost for service shall be borne by the applicant.

309.01 Fire Protection: Fire prevention and fighting equipment acceptable to the State Fire Marshall shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.

309.02 Noise: Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

309.03 Electrical Disturbances: No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.

309.04 Vibrations: Vibrations detectable without instrument on neighboring property in any district shall be prohibited.

309.05 Odors: No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

309.06 Air Pollution: No pollution of air by fly ash, dust, smoke, vapors, or other substances shall be permitted which is harmful to health, animals, vegetation, or other property.

309.07 Glare: Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.

309.08 Erosion: No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties. Erosion control measures must meet applicable standards set forth in Section 313 of this Ordinance.

309.09 Water Pollution: Water pollution shall be subject to the standards established by applicable State and Federal agencies.

309.10 Design Release: If an application for an Improvement Location Permit relates to a commercial or industrial use, it must be accompanied by a design release, subscribed by a registered professional engineer of the State, stating that in his professional judgment, the use should meet the performance standards specified herein. After a 10 day period has elapsed during which the Zoning Administrator has not required additional information or received objections in writing, he shall issue the permit.

310 SUPPLEMENTAL ENVIRONMENTAL REGULATIONS: No land shall be used or structure erected where the land is unsuitable for such use or structure due to unfavorable topography, 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:

310.01 Existing features which would add value to residential development or natural or man-made assets of the community such as trees, streams, vistas, lakes, historical landmarks, and similar irreplaceable assets, shall be preserved through harmonious and careful design.

310.02 No alteration of the shore line or bed of a public lake or river shall be made until written approval is obtained from the Indiana Department of Natural Resources, and the provisions of Section 402 and other applicable regulations of this Ordinance are complied with. Alterations include, among other things, filling of the lake, river, or wetlands, the construction of channels and seawalls, dredging of the lake or riverbed, and ditch excavation within one half mile of a lake.

310.03 All development must be in compliance with applicable sections of Title 13 of the Indiana Code, as amended, as it relates to Air Pollution Control and Water Pollution Control.

310.04 Debris and refuse shall not accumulate on any property, in any zoning district.

310.05 Bricks, concrete, lumber, and other materials used for fill where permitted by this Ordinance and/or by the Board of Health, DNR, or other governmental agency, shall be promptly covered and seeded.

310.06 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 water or groundwater.

310.07 Any part or portion of the site which is not used for structures, loading or parking spaces, sidewalks, and designated storage areas, 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 Improvement Location Permit application and shall be in keeping with natural surroundings. Any areas left in a natural state shall be properly maintained in a slightly and well kept condition.

311 SUBDIVISION OF LAND: In accordance with IC 36-7-4-701, subdivision of land may occur in any zoning district provided that all applicable standards of this Ordinance and the Cass County Subdivision Control Ordinance are met.

312 DENSITY TRANSFER OPTION: The density transfer option is available in AG, RR, and R1 Zoning Districts to establish a mechanism for cooperation between the County and land developers in providing open space and recreational lands in developing areas of Cass County.

312.01 Criteria for use: This option shall only be permitted if one of the following two conditions are met:

A. The Cass County Park Board must determine that there is a need for public recreational land in the area proposed for development, and must agree to maintain the property if it is dedicated to the County; or

B. Private maintenance provisions must be incorporated into the land development proposal.

312.02 Minimum lot size: The minimum lot size permitted when utilizing the density transfer option shall be as stipulated in Table B with the following criteria being utilized to govern the reduction of lot sizes from that which is normally permitted.

A. Land with 0-25% slope receives full credit toward the reduction of lot sizes;

B. Land with a slope of 25% or greater receives 1/2 credit toward the reduction of lot sizes; and

C. Land in flood zone areas receives 1/2 credit toward the reduction of lot sizes.

312.03 Sketch Plan: Upon submittal of a sketch plan, as required by the Cass County Subdivision Control Ordinance, an advisory meeting shall be scheduled with the Planning Director to review the plan and discuss the possibility of utilizing the density transfer option. If the option is utilized, the preliminary and final plats of the subdivision shall accurately delineate slopes exceeding 25%, flood prone areas, and any other natural land feature that may influence building locations. Finally, that portion of the site which would be dedicated to the County or otherwise protected shall be clearly delineated.

312.04 Health Department Approval: Any plan for development of property not served by a sewer system shall be required to have State and County Health Department approval for suitability and adequacy of lots for septic systems.

313 DRAINAGE AND EROSION CONTROL REGULATIONS: It shall be the responsibility of the owner of any lot or parcel of land developed for any use, other than those listed in Section 902.02 of this Ordinance, to obtain an Improvement Location Permit from the Office of the Zoning Administrator. If the site has significant potential for drainage and erosion problems as determined by the Zoning Administrator, or in consultation with the Cass County Soil and Water Conservation District representative, then the issuance of this permit shall include the review and approval of a drainage and/or erosion control plan as specified in this section unless provision for drainage and erosion control has been handled under the Cass County Subdivision Control Ordinance.

313.01 If required, an erosion control plan must be submitted as a part of an Improvement Location Permit application. In addition to the information required in Section 903.03, an erosion control plan must be submitted detailing measures to be implemented during and after construction on a form provided by the Zoning Administrator, or Cass County Soil and Water Conservation District and approved by the Soil and Water Conservation District.

313.02 All general development must comply with 327 IAC 15-5-2. In addition a Notice of Intent must be submitted and a permit received from the Indiana Department of Environmental Management prior to issuance of an Improvement Location Permit, if one of the following applies:

- A. If an individual home construction will disturb 5 acres or more.
- B. If commercial or industrial construction will disturb one (1) acre or more based upon a lot size of one (1) acre or more.
- C. All strip development, unless the total combined disturbance on all individual lots is less than one (1) acre and is not part of a larger common plan of development and sale.

313.03 Land to be developed shall be designed and improved as far as practical in conformity to existing topography in order to minimize storm water run-off, and conserve the natural cover and soil. Whenever possible, existing natural surface drainage may be utilized. To the maximum extent, there shall be no increased peak discharge or run-off rates as a result of the development unless downstream systems are sufficient to accept the discharge.

313.04 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 additional surface drainage is required, adequate easement for such drainage shall be provided.

313.05 On-site detention storage of storm water shall be required where necessary as determined by the Zoning Administrator, or in conjunction with Cass County Soil Conservation District representative in order to prevent damage to adjoining properties.

313.06 As required, a drainage plan must be submitted as a part of an Improvement Location Permit. In addition to the information required in Section 903.03, the drainage plan must include the following information:

A. Existing and proposed grading showing positive drainage by contouring or sufficient spot elevations;

B. Location of all existing or proposed swales, ditches, culverts, drainage channels, surface and subsurface drainage devices, and the direction of flow;

C. Illustration of the surface drainage pattern of the site away from structures;

D. Final distribution of surface water off-site, either preventing or planning for surface ponding;

E. Demonstration of capability of accommodating the 10 year design rainfall intensity, or a rainfall of greater intensity, without endangering the public safety and health, or causing significant damage to property;

F. A Certificate of Sufficiency that resembles the format as shown on the following page shall be submitted along with the plans;

G. Detention storage facilities, if required, shall submit the following additional information:

1. Plans for storage of and a controlled release rate of excess storm water with adequate detention storage to insure that the release rate of storm water following and during developments, redevelopments, and new construction shall not exceed the storm water run-off from the land in its present state of development. (Present state of development means state of development as of January 1, 1993.)

2. Detailed computations to show that peak rate following and during construction shall not exceed the storm water run-off rate in its present state of development. Said computations must indicate that run-off will not be increased and must include computations of run-off before and after development. The computations must demonstrate that the peak run-off rate after development for the 100 year return storm of critical duration will not exceed the 10 year period predevelopment peak run-off rate. The critical duration storm is that storm duration that requires the greatest detention storage.

313.07 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. Driveways or other approved structures may be constructed over these as permitted by the County Highway Department, with adequate provision for the flow of surface drainage.

313.08 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 75 feet of the centerline of

any legal tile ditch, or within 75 feet of the existing top edge of any legal open ditch or tile as determined by the Cass County Surveyor.

313.09 No cut or fill grade shall exceed a slope of 3/1, or 33 1/3 %. 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.

313.10 All lands, regardless of their slope, from which structures or natural cover has been removed or otherwise destroyed, shall be appropriately graded or seeded within a reasonable time of such activity; the phrase "a reasonable time" shall be interpreted to be within 2 weeks during the growing season and shall be rigidly applied to construction activities in order to accomplish the intent of keeping erosion to an absolute minimum. Temporary vegetation or mulching shall be used to protect exposed areas during development.

313.11 All drainage and erosion control systems must be safe to persons and maintained at all times.

313.12 All land disturbing activities on site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time.

CERTIFICATE OF SUFFICIENCY OF PLAN

Address where land alteration is occurring: _____

Plan Date _____

I hereby certify that to the best of my knowledge and belief:

-
1. The drainage plan for this project is in compliance with drainage requirements as set forth in the Cass County Zoning Ordinance.
 2. That property and persons downstream of this planned project are not endangered as a result of alterations to the property.
 3. The calculations, designs, reproducible drawings, masters, and original ideas reproduced in this drainage plan are certified by me.

Signature _____

Date _____

Business Address _____

Surveyor _____

Engineer _____

Architect _____

Indiana Registration Number _____

ARTICLE FOUR
OVERLAY DISTRICT REGULATIONS

401 OVERLAY DISTRICTS ESTABLISHED: The following overlay districts are established within Cass County: the Floodplain; the Riverfront Protection Overlay District; the Logansport/Cass County Airport Overlay District; the Cass County Gateway Overlay District. These areas are deemed to be unique in their location, development opportunities, historic significance, or sensitive natural environment.

401.01 RELATIONSHIP OF OVERLAY STANDARDS TO OTHER STANDARDS, LAWS, AND REGULATIONS:

Unless otherwise provided, development within an overlay districts must conform to both the development standards of the overlay district and the other standards of this Zoning Ordinance, including the zoning use standards. Whenever there is a conflict between the development standards of an overlay district and another standard in this ordinance, only the requirements of the overlay district shall apply. Whenever there is conflict between the requirements of an overlay district and the requirements of any other local, state, or federal law or regulation, the more restrictive law shall apply.

401.02 DEVELOPMENT PLAN REVIEW

- A. Application: This section applies to the Riverfront Protection Overlay District (RP) and the Cass County Gateway Overlay District (CG). All other overlay district processes are detailed within their appropriate sections. When projects within these districts require an Improvement Location Permit, the permit shall not be issued until Development Plan Review is completed and the project complies with all standards, regulations, and procedures of this section and IC 36-7-4-1400, et seq.
- B. Purpose: Development Plan Review (DPR) is intended to promote the orderly growth and development within areas of Cass County. DPR shall promote development opportunities, which encourage compatibility of land uses, provide safe and sufficient transportation systems and infrastructure, and protect the natural environment through fair, objective standards and regulations.
- C. When Required: DPR is required in the following situations:
 - 1. Any construction, reconstruction, or structural additions of any structure or structures;
 - 2. Establishment or change of any land use on any property within an affected district;
 - 3. Any vehicle and pedestrian circulation, parking, landscaping, signage, and lighting.
- D. The following are specifically exempted from DPR:
 - 1. New construction, improvements, or additions of residential structures on lots of record as of the adoption date of this amendment to the Ordinance provided the applicable overlay district

and the underlying zoning district permits the proposed use of the property.

2. New construction, improvements, or additions of residential structures on lots within minor or major subdivisions approved by the Commission after the adoption date of this amendment to the Ordinance provided the applicable overlay district and the underlying zoning district permits the proposed use of the property.
3. Agricultural land used as cropland, orchards, pasture and grazing, and accessory structures for such agricultural purposes provided the applicable overlay district and the underlying zoning district permits the proposed use of the property.
4. The provision of essential services as defined in Article Two of the Ordinance.
5. Any development which has received Planned Unit Development approval in accordance with Section 601 of this Ordinance and IC 36-7-4-1500 series.
6. Additions to existing structures as long as the following are met:
 - a. Are attached to the existing structure;
 - b. Continue the architectural design of the existing structure,
 - c. Meet requirements of the overlay district it is constructed within;
 - d. Do not exceed 25% of the original Gross Floor Area of the existing structure, applicable from the effective date of this Section; and
 - e. Have received prior Development Plan (DP) approval for the site.
7. Detached Accessory Structures as long as the following are met:
 - a. Shall have on all sides the same building proportions, architectural features, construction materials, and in general be architecturally compatible with the Principal Building(s) with which it is associated.;
 - b. meet requirements of the respective overlay district;
 - c. Do not exceed 5% of the entire developed area that received prior DP approval.

E. Advisory Meeting: Prior to submitting an application for DPR, applicants shall have at a minimum one advisory meeting with the Zoning Administrator to discuss the details and purposes of the development plan. If the development

plan request includes the subdivision of land, the advisory meeting shall be in conjunction with the Subdivision Administrator as required in the Subdivision Control Ordinance.

F. Authority of the Commission: The Commission has authority over all DPR.

G. Delegation of Authority: In accordance with IC 36-7-4-1402 (c) the Commission may, unless otherwise stated within the respective overlay district, authorize the Plan Review Committee or the Staff to act on its behalf and conduct DPR in all situations outlined in Section 401.02 (c) The Staff and the Plan Review Committee must report their decisions to the Commission at the next regularly scheduled meeting. The Plan Review Committee and Staff may defer ruling on a plan and send the matter to the Commission, if they deem it in the best interest of the public or the proposal has effects that may warrant the consideration of the entire Commission.

H. Miscellaneous: DPR may proceed simultaneously with primary plan approval required by the Subdivision Control Ordinance.

I. Procedure:

The procedure for adoption of a DPR shall be as follows:

1. File in the Office of the Zoning Administrator an application, which is signed by all owners of real property included in the DP request.
2. Pay the appropriate filing fee in accordance with the duly adopted fee schedule.
3. Submit the following materials with the application; if applicable determined by Zoning Administrator:
 - a. a site plan in accordance with Section 902 of this Ordinance, and if the DP includes the subdivision of land, a primary plat according to Article Three of the Subdivision Control Ordinance;
 - b. a drawing, to scale, of the site in its pre-developed state, including any existing structures, historical structures or sites, and the proposed use of each, and any existing streets, roadways, easements and curb cuts;
 - c. protective covenants or maintenance agreements;
 - d. a statement of the proposed order of development, if the DP is a phased project;
 - e. any other information or documentation this Ordinance requires for the respective overlay district in which the DP is located;

- f. written approvals of all participating agencies within the County Technical Review Committee, also including the approvals or pending approvals of all federal, state or local regulatory agencies having jurisdiction over the DP.
4. The Zoning Administrator shall determine if the submission is complete. If the submission is incomplete, the Zoning Administrator shall inform the applicant of the deficiencies. Unless and until the Zoning Administrator accepts the application as complete, it shall not be considered formally filed for the purpose of a DPR.
5. Within thirty days of the filing of the application which has been determined to be complete by the Zoning Administrator, the DP is docketed for a hearing before the Commission, Plan Review Committee or Staff. IC 36-7-4-1404 (b) states that the Plan Review Committee and Staff may make a decision concerning development plan review without a public hearing. Although DPR through the Commission will require a public hearing and will require the following:
 - a. Public hearings DPR must provide notification by publication in accordance with the Rules and By-laws of the Commission.
 - b. DPR docketed for public hearing before the Commission must provide notification to interested parties in accordance with the Rules and By-laws of the Commission.
6. At the hearing the Commission, the Plan Review Committee, or Staff shall review all materials, evidence, and testimony to determine if the DP is consistent with the Comprehensive Plan, the development requirements as specified in this section, and the standards and regulations of the respective overlay district.
7. A final determination of approval or disapproval shall be made at the hearing by a majority decision of the entire membership of the hearing body, whether it is the Commission, Development Plan Review Committee, or Staff. The hearing may be continued for just cause. Approval of a DP may be predicated on one or more of the following requirements:
 - a. conditions of approval that are reasonably necessary to satisfy the development requirements specified in this section and the respective overlay district;
 - b. a performance bond, written assurance, or letter of credit, that guarantees the timely completion of any proposed public improvements or infrastructure within the DP, equaling one hundred twenty-five percent

1. Compatibility of the development with surrounding land uses and the Comprehensive Plan.
2. Availability and coordination of all utilities, including water, sanitary sewers or on-site septic systems, surface and subsurface storm water drainage, and all other utilities.
3. Development of the property to allow for green space and appropriate sight lines, including building setback lines, maximum lot coverage, building separation, and other specific development requirements within this Ordinance.
4. Management of traffic in a manner that creates conditions favorable to the health, safety, convenience, and the harmonious development of the community, such as properly designed interior traffic lanes, pedestrian sidewalks and bicycle pathways, parking and loading facilities, and driveway curb cuts.
5. Mitigation of safety hazards and congestion by proper design and location of all streets and easements and highway or roadway access, including the determination that the capacity of such highways or roadways are sufficient to safely and efficiently accept the projected increase in traffic and new streets or easements are compatible with existing and planned streets and developments.
6. Arrangement of uses on site in relation to functional, efficient, and compatible arrangements with the site and also to adjacent uses.
7. Reduction of the impact of more intense development by aesthetically pleasing design of the property, such as buffering and landscaping, appropriate height, scale, building materials, and style of improvements, signage and outdoor lighting.

401.03 ZONING WAIVERS

A. An applicant may apply for a Zoning Waiver to the Commission, the Plan Review Committee or Staff, unless otherwise stated within the respective overlay district, for any dimensional or quantitative standard applicable to the respective overlay district by no greater than 25%, consistent with all of the requirements set forth below:

1. The proposal must be in harmony with the purposes and the land use standards contained in the respective overlay district.
2. The proposal must enhance the overall DP, the adjoining streetscapes and neighborhoods, and the overall intent and purpose of the respective overlay district.
3. The proposal must not produce a site plan or street/circulation system that would be impractical or detract from the appearance of the DP and the respective overlay district, and must not adversely affect emergency vehicle access or deprive adjoining properties of adequate light and air.

4. The proposal must exhibit extraordinary site design characteristics, including but not limited to, any or all of the following: increased landscaping treatment, tree preservation, public art, provisions for bicycles, and/or mass transit, and reduced surface parking coupled with provisions for above or below ground parking facilities.

- B. In granting a waiver, the Commission, Plan Commission, & Staff may impose such conditions that will, in its judgment, secure the purpose of the respective overlay district. This subsection does not affect the right of an applicant under Indiana Law to petition the Board of Zoning Appeals for a variance from development standards, as provided in IC 36-7-4-918.5.

402 FLOODPLAIN REGULATIONS

402.01 STATUTORY AUTHORIZATION:

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Cass County Board of Commissioners does hereby adopt the following floodplain management regulations into the Cass County Zoning Ordinance.

402.02 FINDINGS OF FACT:

- A. The flood hazard areas of Cass County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

402.03 STATEMENT OF PURPOSE:

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

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- D. Control filling, grading, dredging, and other development which may increase erosion or flood damage.

- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Make federally subsidized flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

402.04 OBJECTIVES:

The objectives of this ordinance are:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- F. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

402.05 DEFINITIONS:

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

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

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

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

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

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and

three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

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

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

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

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

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

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

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

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

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

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

Boundary River Floodway means the floodway of a boundary river.

Building - see "Structure."

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

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

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

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

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;
- (6) construction and/or reconstruction of bridges or culverts;
- (7) storage of materials; or
- (8) any other activity that might change the direction, height, or velocity of flood or surface waters.

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

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

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

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

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

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

FEMA means the Federal Emergency Management Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination

thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

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

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

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

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

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

Lowest floor means the lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall

be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 402.06 B of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

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

Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of Cass County subject to inundation by the regulatory flood. The SFHAs of Cass County are generally identified as such on the Cass County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 3, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency

with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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

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

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

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

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

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

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

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

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

Zone A (see definition for A zone)

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

402.06 GENERAL PROVISIONS:

A. Lands to Which This Ordinance Applies.

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of Cass County.

B. Basis for Establishing Regulatory Flood Data.

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

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Cass County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Cass County, Indiana and Incorporated Areas dated September 3, 2014 and the corresponding Flood Insurance Rate Map dated September 3, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Cass County, delineated as an "A Zone" on the Cass County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 3, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review, subsequently approved.

- (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- (4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

C. Establishment of Floodplain Development Permit.

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

D. Compliance.

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

E. Abrogation and Greater Restrictions.

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

F. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

G. Interpretation.

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

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

H. Warning and Disclaimer of Liability.

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

I. Penalties for Violation.

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Ordinance of Cass County. All violations shall be punishable by a fine not exceeding \$300.00 per day.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Cass County Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

402.07 ADMINISTRATION:

A. Designation of Administrator.

The Cass County Board of Commissioners hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

B. Permit Procedures.

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

- (1) Application Stage.
 - a) A description of the proposed development.
 - b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
 - c) A legal description of the property site.

- d) A site development plan showing existing and proposed development locations and existing and proposed land grades.
- e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 402.07 C(6) for additional information.)

(2) Construction Stage.

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

Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor or floodproofed elevation survey data submitted. The applicant shall correct any deficiencies detected by such review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) Finished Construction.

Upon completion of construction, an elevation certification which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.

Upon completion of construction, a FEMA elevation certificate, Form 81-31, which depicts all finished construction, is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, a FEMA floodproofing certificate, Form 81-65, is required to be submitted by the applicant to the Floodplain Administrator.

C. Duties and Responsibilities of the Floodplain Administrator.

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

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

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 402.08 E & G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the Floodplain Development Permit.
- (5) Maintain and track permit records involving additions and improvements to residences located in the floodway.
- (6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- (7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (10) Review certified plans and specifications for compliance.
- (11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 402.07 B.
- (12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 402.07 B.

(13) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized officials for the County shall have the right to enter and inspect properties located in the SFHA.

(14) Stop Work Orders

- a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
- b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(15) Revocation of Permits

- a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- b) The Floodplain Administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

402.08 PROVISIONS FOR FLOOD HAZARD REDUCTION:

A. General Standards.

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

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to

prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- (10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.
- (11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
 - a) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.
 - b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.
 - c) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.
 - d) The fill or structure shall not obstruct a drainage way leading to the floodplain.
 - e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.
 - f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.
 - g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but

before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

B. Specific Standards.

In all SFHAs, the following provisions are required:

- (1) In addition to the requirements of Section 402.08 A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - a) Construction or placement of any structure having a floor area greater than 400 square feet.
 - b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
 - c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 - d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 - e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
 - f) Reconstruction or repairs made to a repetitive loss structure.
 - g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- (2) Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 402.08 B(4).
- (3) Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 402.08 B(4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

- a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, and rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Section 402.07 C(12).
 - b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- (4) Elevated Structures. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

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

- a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
- b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
- c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- g) Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- h) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of Section 402.08 B(4). Periodic inspections will be conducted by the Floodplain

Administrator to ensure compliance. The affidavit shall be recorded in the office of the Cass County Recorder.

- i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) or the detached accessory building shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Cass County Recorder.
- (5) Structures Constructed on Fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
- a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method, which shall be retained in permit file.
 - b) The fill shall extend 5 feet beyond the foundation of the structure before sloping below the BFE.
 - c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 - d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e) The top of the lowest floor including basements shall be at or above the FPG.
 - f) Fill shall be composed of clean granular or earthen material.
- (6) Standards for Manufactured Homes and Recreational Vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
- a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
 - (i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 402.08 B(4).

- (iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 - b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 - (i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 402.08 B(4).
 - (iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 - c) Recreational vehicles placed on a site shall either:
 - (i) be on site for less than 180 days; or,
 - (ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - (iii) meet the requirements for “manufactured homes” as stated earlier in this section.
- (7) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
 - a) Shall not be used for human habitation.
 - b) Shall be constructed of flood resistant materials.
 - c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - d) Shall be firmly anchored to prevent flotation.
 - e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

- f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 402.08 B(4).
- (8) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

C. Standards for Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

D. Critical Facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

E. Standards for Identified Floodways.

Located within SFHAs, established in Section 402.06 B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure.

However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 402.08 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

F. Standards for Identified Fringe.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 402.08 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

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

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

- a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- b) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway permit (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance

flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

- c) Once the Floodplain Administrator has received the proper permit for construction in a floodway permit (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 402.08 of this ordinance have been met.
- (2) Drainage area upstream of the site is less than one square mile:
 - a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.
 - b) Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 402.08 of this ordinance have been met.
 - (3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

H. Standards for Flood Prone Areas.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 402.08.

402.09 VARIANCE PROCEDURES:

A. Designation of Variance and Appeals Board.

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

B. Duties of Variance and Appeals Board.

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

C. Variance Procedures.

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

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

- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (3) The importance of the services provided by the proposed facility to the community.
- (4) The necessity to the facility of a waterfront location, where applicable.
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (6) The compatibility of the proposed use with existing and anticipated development,
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. Conditions for Variances.

- (1) Variances shall only be issued when there is:
 - a) A showing of good and sufficient cause.
 - b) A determination that failure to grant the variance would result in exceptional hardship.
 - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to 402.08 E or G(1) of this ordinance may be granted.
- (3) Any variance granted in a floodway subject to 402.08 E or G(1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- (4) Variances to the Provisions for Flood Hazard Reduction of 402.08 B may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See 402.09 E).
- (8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See 402.09 E).

E. Variance Notification.

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

- (1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- (2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Applicant in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

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

F. Historic Structure.

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

G. Special Conditions.

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

402.10 SEVERABILITY:

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

403 RIVERFRONT PROTECTION OVERLAY DISTRICT: The Riverfront Protection Overlay District is hereby created as an overlay district and shall apply to land abutting the Wabash River, Eel River, and other creeks and tributaries as may, from time to time, be designated by amendment of this Ordinance by the Plan Commission. The Riverfront Protection District regulations shall be in addition to all other applicable zoning district standards. The Riverfront Protection District may have the effect of modifying the requirements, regulations, and procedures applying in the underlying district providing there is no conflict of this Ordinance and other ordinances or state federal law. If there is such a conflict, whichever ordinance or law is the most restrictive shall take precedence.

403.01 The River Protection Overlay District is of special and substantial public interest because it is a visual and environmental resource affecting substantial portions of Cass County. It is the general purpose and intent of these regulations to provide for maximum public benefit from any future development of the Riverfront Protection District through a sharing of the district land by different types of uses which are developed with a river orientation and with emphasis on the opportunity for enjoyment of river vistas and access to the river banks, continuity of river trails and access to the rivers. It is further the intent of this Ordinance to provide for public access to the rivers, to eliminate or minimize adverse environmental impact, to improve scenic and aesthetic controls, to improve transportation coordination and capability, to better coordinate residential, recreation, commercial, and industrial land uses and to promote tourism and economic development in areas adjacent to the rivers.

403.02 The boundaries of this overlay district shall be 100 feet from the riverbank, which shall be defined as the landward edge of the "floodway area" as determined by the Indiana Department of Natural Resources and/or the Federal Emergency Management Agency, on both sides of the river or creek. In the absence of "Floodway Area" information, the 100 Year Flood boundaries shall be used for measurement. For purposes of this Section, reports entitled "Floodway - Flood Boundary and Floodway Maps" or the "FIRM - Flood Insurance Rate Map" for Cass County, which were prepared by the Federal Emergency Management Agency and effective August 3, 1981, shall be used. If more than 50% of any portion of a lot or parcel is within that defined boundary, the entire lot or parcel shall therefore be included as if it were entirely contained within that boundary.

403.03 Prior to issuance of an Improvement Location Permit for any change in the Riverfront Protection District, a person shall submit a request for approval of a change to the Plan Commission. For the purpose of the Riverfront Protection District, change shall mean:

- A. Construction, enlargement, or alteration of a structure, sign, or parking area, but not replacement of industrial machinery or fixtures which do not involve a structural alteration.
- B. Commencement of a different land use or occupancy.
- C. Filling, grading, clearing, or excavating of land including the removal of trees or other vegetation.

D. Emergency work specified in Section 403.06 of this Ordinance. However, this does not include temporary flood or ice control measures when flooding or ice damage is imminent or present.

403.04 The request for Development Plan approval in the Riverfront Protection District shall be accompanied by the materials as specified in Article Six of this Ordinance as well as the following additional information:

A. The location, minimum size, and configuration of areas to be conveyed, dedicated, or otherwise reserved as common open space and/or easement.

B. The existing and proposed pedestrian and/or trail system.

C. The proposed treatment of the perimeter of the site; including materials and techniques to be used such as screens, fences, walls, and landscaping.

D. The relationship between this parcel and other developed parcels within the Riverfront Protection District, including building orientation and facade design.

E. The height of the plat above sea level.

F. Any data and information bearing on the flooding.

G. Other technical or statistical data which may be reasonably required by the Plan Commission.

403.05 The Plan Commission shall review the Development Plan submitted within the Riverfront Protection District according to the procedure set forth in Article Six. In addition, the Commission shall review the Development Plan in relationship to any and all plans having a bearing on the Overlay District including, but not limited to, the Comprehensive Plan and the Park Master Plan, as well as any flood control measures, bank conservation treatment, and water quality controls or improvements which might be needed to support the proposal. If the Plan Commission determines that the proposal is not compatible with the Comprehensive Plan, or creates unreasonable hazard of flooding or is not compatible with the aesthetic design of the District, it shall deny the application. If the Plan Commission denies the application, it shall notify the petitioner stating the reasons for the denial.

403.06 No person shall commence activity in the Riverfront Protection District described above before a Development Plan is approved by the Plan Commission, unless it has been exempted under the terms of this Ordinance for emergency work by the Zoning Administrator. Emergency work may be commenced concurrent with an application for Development Plan approval when, without emergency work, there is imminent danger of personal injury or substantial damage to property. Any such emergency work is done solely at the risk of the person performing the work. An application for Development Plan shall be filed for review as soon as possible and not later than the first working day after repairs have commenced. No permit shall be issued for a change required to be reviewed under this Ordinance unless the change has been approved by the Plan Commission or is proceeding as emergency work under concurrent review. If the Plan Commission subsequently denies the Development Plan for any change made pursuant to the "emergency work" provisions of this subsection, the person shall, upon notification

of such denial, immediately quit any such occupancy and use and shall restore the premises to its condition prior to commencement of the emergency work.

404 LOGANSPOORT/CASS COUNTY AIRPORT OVERLAY DISTRICT: The Logansport/Cass County Airport Overlay District shall consist of the inner sections of airport approach areas and aircraft circling areas as defined below and identified by the Airport Master Plan prepared by the Board of Aviation Commissioners of the City of Logansport. All uses and structures shall also comply with the Indiana Tall Structure Safety Act (IC 8-21-10, as amended) and all other applicable state and federal regulations. All structures and uses in underlying districts within the airport approach area and airport circling area shall comply with the following:

404.01 Inner Section of Airport Approach Areas - The airport approach area comprises those areas below the flight path of aircraft approaching or taking off from the runways of the airport.

A. For any designated instrument runway the inner section of the approach area is as follows: The area, trapezoidal in shape, begins at a line drawn perpendicular to the end of the runway. Its width at this end is 1,000 feet bisected by the extended centerline of the runway. It extends away from the runway for a distance of 10,000 feet bisected by the extended centerline of the runway. Its width increases symmetrically to a width of 4,000 feet at the outer edge.

B. For any designated non-instrument runway the inner section of the approach area is as follows: The area begins at a line drawn perpendicular to the end of the runway. Its width at this end is 500 feet bisected by the extended centerline of the runway. It extends away from the runway for a distance of 5,000 feet measured horizontally along the extended runway centerline. Its width increases symmetrically to a width of 1,250 feet at the outer edge.

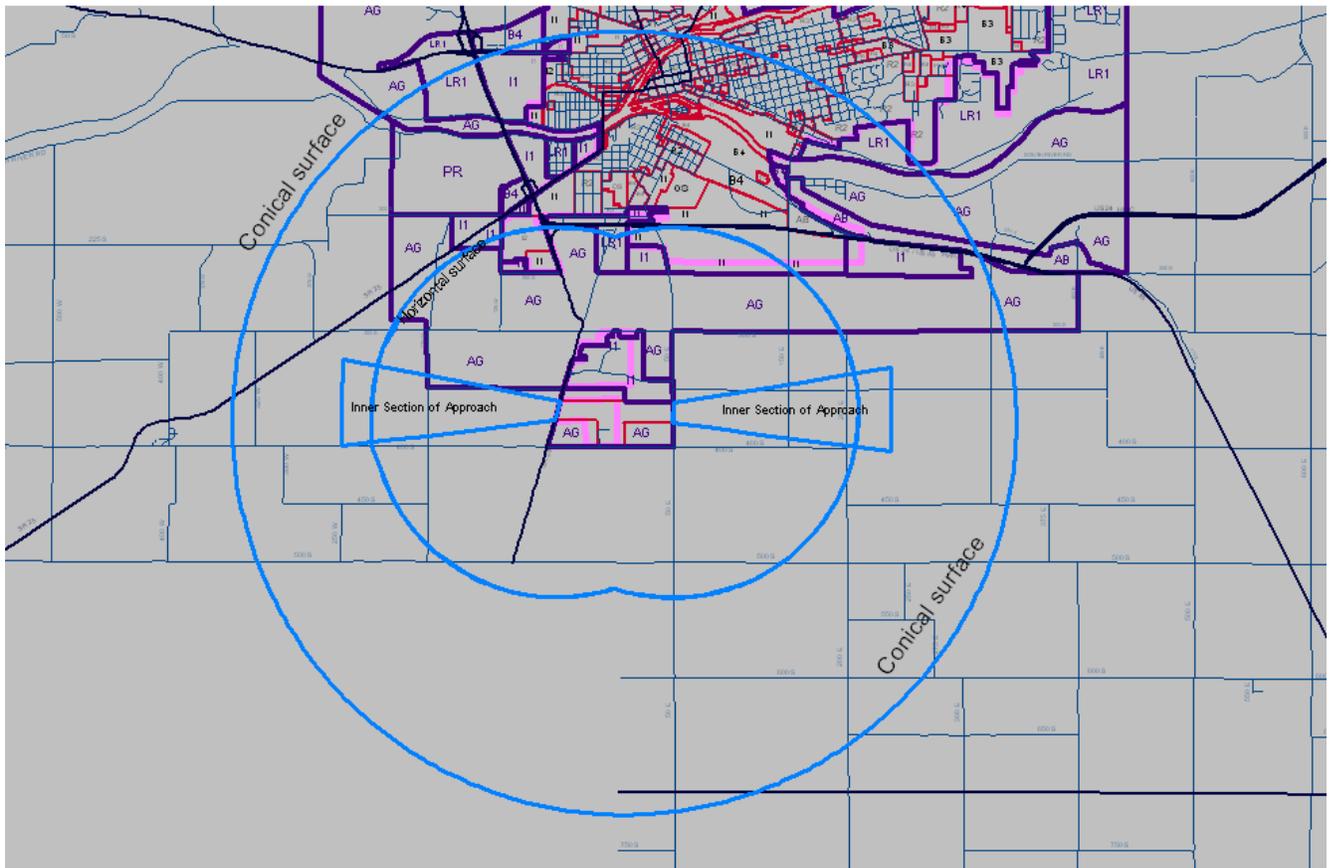
C. No structure (any object constructed or installed by man, including, but not limited to buildings, towers, smokestacks, earth formation, and overhead transmission lines) or any object of natural growth (trees, etc.) shall be erected, allowed to grow, or allowed to exist in the inner section of an airport approach area.

404.02 Aircraft Circling Area - The aircraft circling area is the area of any airport which lies generally below the flight path of aircraft circling such airport.

A. Inasmuch as the use of properties close to an airport may incorporate operations or equipment that would interfere with the safe visual or instrument landing and taking off of aircraft, this Ordinance prohibits the use of lights which may cause glare, the emission or creation of smoke and particulate matter, and the construction of any structure which interferes with communication associated with air navigation.

B. Height Limitation - The height of all buildings and structures hereafter designed or erected and existing buildings which may be reconstructed, altered, moved, or enlarged, shall not exceed the horizontal and conical surfaces of the airport such as defined below:

1. Horizontal Surface - An oval shaped surface 150 feet above the airport. The surface is determined by scribing an arc with a radius equal to twice the length of the longest runway and measured from the centerline at the end of each runway and interconnecting these arcs with tangents.
2. Conical Surface - An oval donut shaped surface commencing at the periphery of the horizontal surface and sloping upward and outward 20 feet horizontally for each foot vertically and for a horizontal distance of 7,000 feet and extending to a height of 500 feet above the airport elevation.
3. The horizontal and conical surface do not include the approach areas.



404.03 Logansport/Cass County Airport Authority Board Review:

- A. An applicant seeking rezoning, use variance or a special use permit involving any use, building or structure regulated by the underlying zone or the Airport Overlay Zone shall be reviewed in accordance with the applicable procedure in this Ordinance. During this review process, the Logansport/Cass County Airport Authority Board shall be notified of the proposal and any public hearing and be given an opportunity to comment and be notified of the decision.
- B. Except as specifically provided in this section, no material change shall be made in the use of land, no structure shall be erected or otherwise established, no tree shall be planted and no variances to extend the height of a structure

granted in any zone created by this article unless a review thereof has been applied for and granted by the Logansport/Cass County Airport Authority Board. Each application requiring the airport authority review shall indicate the purpose for which review is desired, with sufficient particularity to provide for a determination whether the resulting use, structure or tree would conform to the purpose of this article. If such determination is in the affirmative, the Zoning Administrator may proceed with the Improvement Location permit process. An Improvement Location permit may not be issued prior to review by the Airport Authority.

C. In the area lying within the limits of the horizontal surface and conical surface, Airport Authority Board review is not required for any tree. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, Airport Authority Board review is not required for any tree.

D. Airport Authority Board review is not required for internal alterations or for residential uses meeting the condition for the airport overlay district.

E. Nothing herein shall require any change in any lawfully constructed building, structure or use in existence at the time of adoption or amendment of this ordinance for its current lawful use.

405 CASS COUNTY GATEWAY OVERLAY DISTRICT:

405.01 Purpose and Intent:

The Cass County Gateway (CG) Overlay District is intended to promote the health, safety, comfort, convenience and general welfare of the public by guiding the orderly growth and development of areas adjacent to and adjoining the four-lane Hoosier Heartland Industrial Corridor, limited access federal highway. It is further intended that the Overlay District foster a successful public/private relationship between the County and prospective developers, while promoting development opportunities, which encourage compatibility of land uses, provide safe and sufficient transportation systems and infrastructure, and protect the built and natural environment through fair, objective standards and regulations for all development proposals. All standards within this overlay pertain to commercial and industrial uses only.

405.02 Authority:

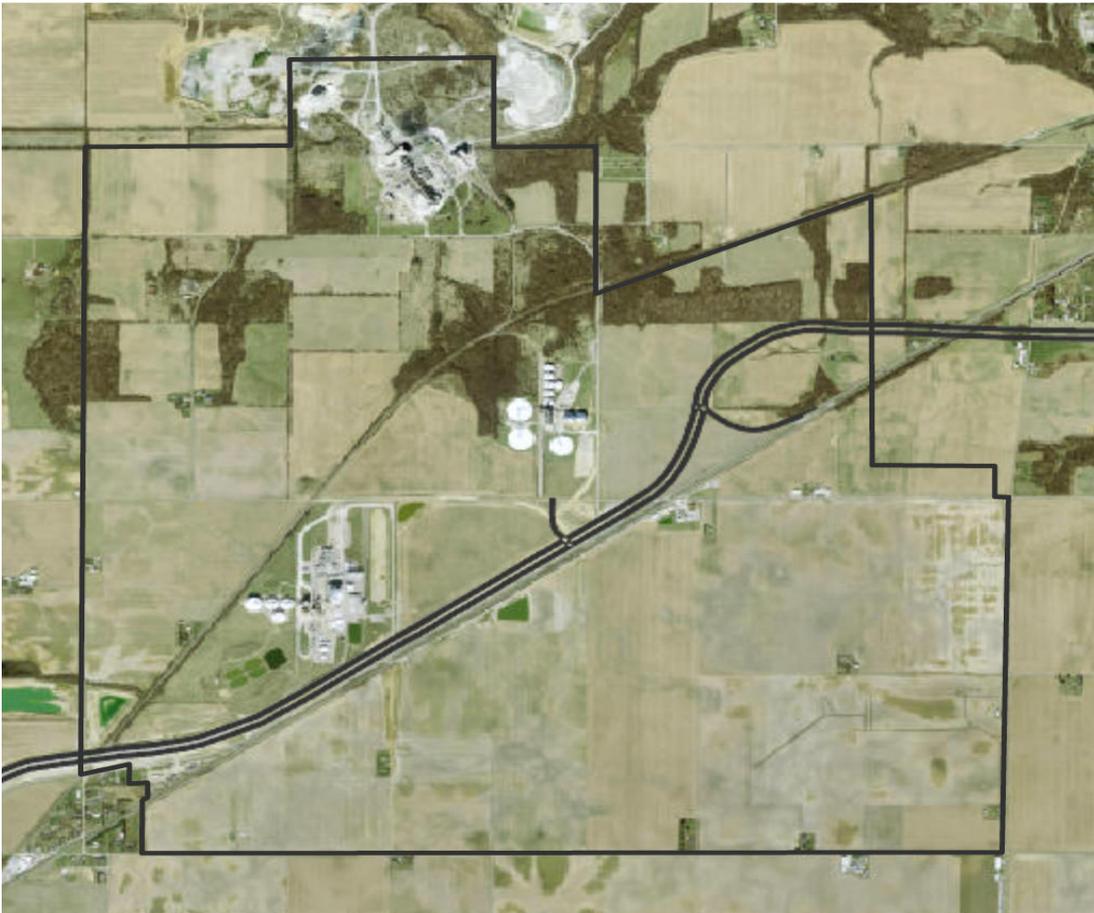
The Commission has authority over all Development Plan Reviews (DPR). Delegation of authority in accordance with IC 36-7-4-1402(c) states that the Commission may authorize the Plan Review Committee or the Staff to act on the behalf of the entire Commission to conduct DPR for the following situations:

A. Following the approval by the Cass County Redevelopment Commission, the County shall be considered as the co-applicant for DPR. If the County becomes a co-applicant the use shall be considered allowed by right instead of going through the special exception process. In such instance the Commission authorizes the Plan Review Committee or staff to approve, approve with conditions, or disapprove the Development Plan (DP) for all other standards and/or provide zoning waivers as provided in section 401.03.

B. Amendments to a DP may be approved, approved with conditions, or disapproved by the Staff as long as the following conditions are met:

1. The DP has received prior DPR approval for the entire development site;
2. The DP Meets the purpose, intent, and requirements of the LG Overlay District; and
3. No amendment changes more than 25% of the entire development site.

405.03 CG Overlay District Boundaries: The boundaries of the Overlay District are hereby established as that territory shown below which is within the County and lying on either side of the established right-of-way of State Road 25 including commercial and industrial uses only.



405.04 Permitted Uses: All areas within the CG Overlay District should be rezoned to CG. Uses allowed within this district are shown in Table A of this Ordinance. Applicants for uses allowed by special exception must submit a Use Approval to the Redevelopment Commission (RDC) during a public meeting. The Redevelopment Commission may approve, approve with conditions, or deny the Use Approval. Any Use Approval that is approved or approved with conditions by the Redevelopment Commission is exempt from special exception and shall be submitted directly to the Plan Review Committee for DPR. However any Use Approval that is not approved by the Redevelopment Commission must first be submitted to the Board of Zoning Appeals for

Special Exception approval to allow such a use, prior to being submitted to the Plan Commission for DPR. If there are major changes to the DP after being approved the DP must go to RDC for approval before a new DPR. Staff will determine whether or not there has been a major change to the DP.

405.05 Standards: All development within CG Overlay District must meet the following standards.

A. Minimum lot area is 130,680 square feet or 3 acres

1. No land, which is within public rights-of-way or public lands or public or private street or access easements, shall be used for computing the minimum lot area.

2. No land, which is within a watercourse, drainage way, channel, stream, designated wetlands or floodway as specified by the Zoning Ordinance, shall be used for computing the minimum lot area.

3. No land, which is under water, other than a temporary detention storage area or ornamental pond, shall be used for computing the minimum lot area.

4. Lots which do not meet the minimum lot area which are within approved subdivisions and lots of record prior to the establishment of the Cass County Gateway Overlay District may obtain improvement location permits provided all other standards of the Ordinance can be met, including DPR, if applicable.

B. Gross floor area shall have a minimum of 2,500 square feet, excluding basement or any accessory buildings.

C. Maximum height of a building shall not exceed 199 ft.

D. Maximum Lot Coverage is as specified in Table B of this Ordinance provided a minimum of 10% of the lot coverage is green space.

405.06 Site Design of the development shall meet the following standards:

A. Landscaping and Buffer yard: A landscaping and buffer yard plan shall be submitted with the DPR application. This plan shall be drawn to scale, including dimensions and distances. The landscaping plan shall adhere to all the standards and regulations of this Ordinance. A minimum of 10 % of the total area of the property must be green space. All landscaping material selected shall be appropriate to local growing and climate conditions.

1. A planting strip, minimum width shall be ten (10) feet, shall be provided adjacent to any Collector, Arterial, Parking Lot, and Entry Drive.

a. Side and rear yard setbacks adjacent or adjoining a residential use, shall meet buffering requirements as

specified in Section 306.13. No other side and rear buffer yards are required unless specified in 405.06 A 2a.

2. All landscaping and buffer yards must follow section 306.13 unless referenced in section 405.06 A 1 a
 - a. Buffer yards located adjacent to SR 25 must be double the number of plantings required.
3. All required landscaping or buffering shall be installed prior to the issuance of a Certificate of Occupancy. If it is not possible to install the required landscaping because of weather conditions, the property owner shall post a bond or letter of credit for an amount equal to the total cost of the required landscaping prior to the issuance of the Certificate of Occupancy.
4. It shall be the responsibility of the owners and their agents to insure maintenance of all landscaping, in accordance with the approved DP; including but not limited to replacing dead, diseased, or overgrown plantings with identical varieties or a suitable substitute, and keeping the area free of refuse, debris, rank vegetation and weeds.

B. Off-Street Parking: An off-street parking plan shall be submitted with the DPR application. This plan shall be drawn to scale, including dimensions and distances. The off-street parking plan shall adhere to all the standards and regulations of this Ordinance. There shall be no off-street parking within the required planting strip or buffer yard.

1. Off-street parking areas for 2 or more different uses may be provided collectively, if the total number of spaces provided is not less than the total of the minimum required spaces for each individual use. Combined parking shall be designed and constructed so as to create a desirable, efficient, and well planned off-street parking area with functional and aesthetic values, attractiveness, and compatibility with adjacent land uses. Development must follow the standards set forth in section 308.

C. Lighting: Site lighting plan shall be submitted with the DP. It must prove that no light is spilling onto residential properties.

D. Signage: A signage plan shall be submitted with the DPR application. This plan shall be drawn to scale, including dimensions and distances. The signage plan shall adhere to all the standards and regulations of Section 505, unless otherwise specified. Additionally, there shall be no banners, sandwich boards, flags, pennants, or other temporary signs unless specifically designated in the DP approval.

1. The following standards apply for freestanding off-premise signs, all building mounted signs are prohibited:

- a. Off-premise signs shall be permitted as special exceptions within the CG Overlay District;
- b. Each sign face shall contain no more than 300 square feet and no sign structure shall contain more than two such faces facing in the same direction and shall not be separated by more than 12 inches.
- c. Back-to-back freestanding signs may be separated in the shape of the letter "V" if the greatest point of separation between sign faces does not exceed 15 feet.
- d. The distance between legally erected freestanding off-premise sign structures shall be a linear measure taken along right-of-way lines of that side of the street on which the sign is to be located. Freestanding signs shall be at least:
 - i. 2000 feet or more from one sign to another on either side of the street which need not be met where a physical obstruction exists which prevents viewing 2 off-premise sign structures at the same time.
 - ii. Any off-premise sign(s) located along SR 25 must follow the Outdoor Advertising Control Manual issued by the State of Indiana. Each sign will receive approval by the State and the local government.
 - iii. 200 feet to any residential use.
 - iv. 200 feet to a church, school, public or health institution.
- e. Signs may not be placed closer than 50 feet to the right-of-way line of SR 25.
- f. Off-premise signs shall be continually maintained for both structural integrity and appearance. Appearance includes, but shall not be limited to, issues such as rusting structures, peeling paper or vinyl. Empty boards and faces without advertising covering the entire face shall be prohibited. The Zoning Administrator shall notify the owner of the off-premise sign by certified mail regarding any violation. Any sign that is not repaired accordingly within 30 days of notification shall be removed at the owner's expense.

2. Any sign that is erected by the Redevelopment Commission for the purpose of way finding, logo and information for the Agribusiness Park will be considered a permitted sign and won't require a permit or need to meet any other standards of this ordinance.

E. Driveway Access: Driveways must be located, constructed and marked in such a way to provide safe ingress and egress. Driveway standards shall be as designated in Section 308.07 of the Ordinance, except for the following:

1. Driveways shall not be located closer than 25 feet from an interior property line or another driveway on the same property, unless a common driveway is provided between adjacent properties in order to provide safe ingress and egress for both properties.

F. Other Requirements

1. Outdoor Sales: All outdoor sales shall be in and only in an approved designated area. No outdoor sales shall conflict with the DP as approved, including parking areas. No sales shall be conducted in any trailer, container, or temporary shelter unless it is a part of the approved DP.
2. Outdoor Storage: All outdoor storage shall be in and only in an approved designated area. No outdoor storage shall conflict with the DP as approved, including parking areas. No storage shall be conducted in any trailer, container, or temporary shelter unless it is a part of the approved DP. Storage must be located to the rear of the primary structure and stored or screened in a way to not be visible from State Road 25, unless impractical or storage of natural materials.
3. Architectural design from the principal office structure shall reflect vertical and horizontal proportions and shall provide a defined base and top on all sides of the building seen from State Road 25.

406 THE GRISSOM AIR RESERVE OVERLAY DISTRICT: The purpose of this provision is to regulate the height of man-made structures and objects of natural growth; and otherwise regulate the land use and development of property around the Grissom Air Reserve Base by providing boundaries with standards within this overlay. In addition to these standards all uses and structures shall comply with Federal Aviation Regulation (FAR) 14 CFR 77 and all other applicable State and Federal regulations.

406.01 Authority:

Staff is given the authority to approve or deny Improvement Location Permits based on items, such as height, density, dust, glare, bird hazards, or radio/electrometric interference that effect the operations of the Grissom Air Force Reserve. Staff will inform the Encroachment Committee of all developments or plantings that will be occurring within this overlay. The Committee will have two days to inform staff if there will be an effect on Base operations, if there is they will have one week to provide those effects in writing. All Board of Zoning Appeals cases within this overlay will go through the same process.

406.02 Definitions:

ACUZ: the Air Installation Compatible Use Zone assists local authorities in protecting public health, safety, and welfare by identifying types of development that would be compatible with the air installation as well as maintain the installation's operational capability and mission through compatible land use planning. *2014 Installation Compatible Use Zone Study for Grissom Air Reserve Base*

APZ I: the Accident Potential Zone I starts at the end of the Clear Zone and extends 5000 ft beyond the clear zone and follows the same width as the Clear Zone. Approximately 8% of accidents occur within this area. (Diagonal hatch on Map 1)

APZ II: the Accident Potential Zone II starts at the end of APZ I and extends out 7000 ft while continuing the width of APZ I. For the purpose of this overlay only the area that runs from the Eastern County line along 700 S to 1000 E to 800 S to 900 E to 950S then follows the most southwest end of APZ I to 1000 E to 1100 S then along the Eastern County line this doesn't include any other the other districts.

Clear Zone: The Clear Zone starts along the runway centerline within 3000 ft of the end of the runway and 1500 ft from each side of the runway. This is where roughly 33% of accidents occur. For the purpose of this overlay only the area 2500 ft on either side of the entire runway in Cass County will also be considered the clear zone.

Conical Surface: A surface extending outward and upward from the periphery of the inner horizontal surface at a slope ratio 20 to 1 (20H:1V) to a height of 500 feet above the established airport elevation.

DNL Noise: Day—Night Average Sound Level is an energy-averaged sound level calculated over a 24-hour period with a 10-decibel penalty assigned to noise events occurring between 10pm and 7pm.

Encroachment Committee: this committee will be created by the Grissom Air Force Reserve Base. This committee will provide information on how possible development and plantings may affect the Base. Members will include Grissom Air Force Reserve Base members with their consultants as well as regional officials and departments.

Inner Conical Surface: is provided for additional land use and height protection this district provides standards from the Eastern County line along 500 S to 950 E to 600 S to 900 E to SR 218 to 200 E to 200 S to 700 E to 1225 S to 1000 E to 1250 S and back along the Eastern County line, this doesn't include any of the other districts.

Outer Conical Surface: is provided in this overlay for additional land use and height protections this district provides standards within the area that runs from Inner Conical Surface at the intersection of 750 E and 800 S along 800 S to 500 E to 1400 S along the Eastern County line this doesn't include any of the other districts.

406.03 Districts

A. Clear Zone

1. Permitted Uses: cropland not to include orchards
2. Height Limitations (manmade and natural): no structures shall be constructed and no vegetation other than agricultural crops may be planted unless they have been approved by the Board of Zoning Appeals as a Special Exception.

B. APZ I

1. Permitted Uses: cropland not to include orchards, pasture and grazing livestock not including confined feed, and agricultural buildings
2. Height Limitations (manmade and natural): structures shall not exceed 35 feet in height to the peak of the structure. Vegetation may be planted if full growth will not exceed 50 feet in height.

C. APZ II

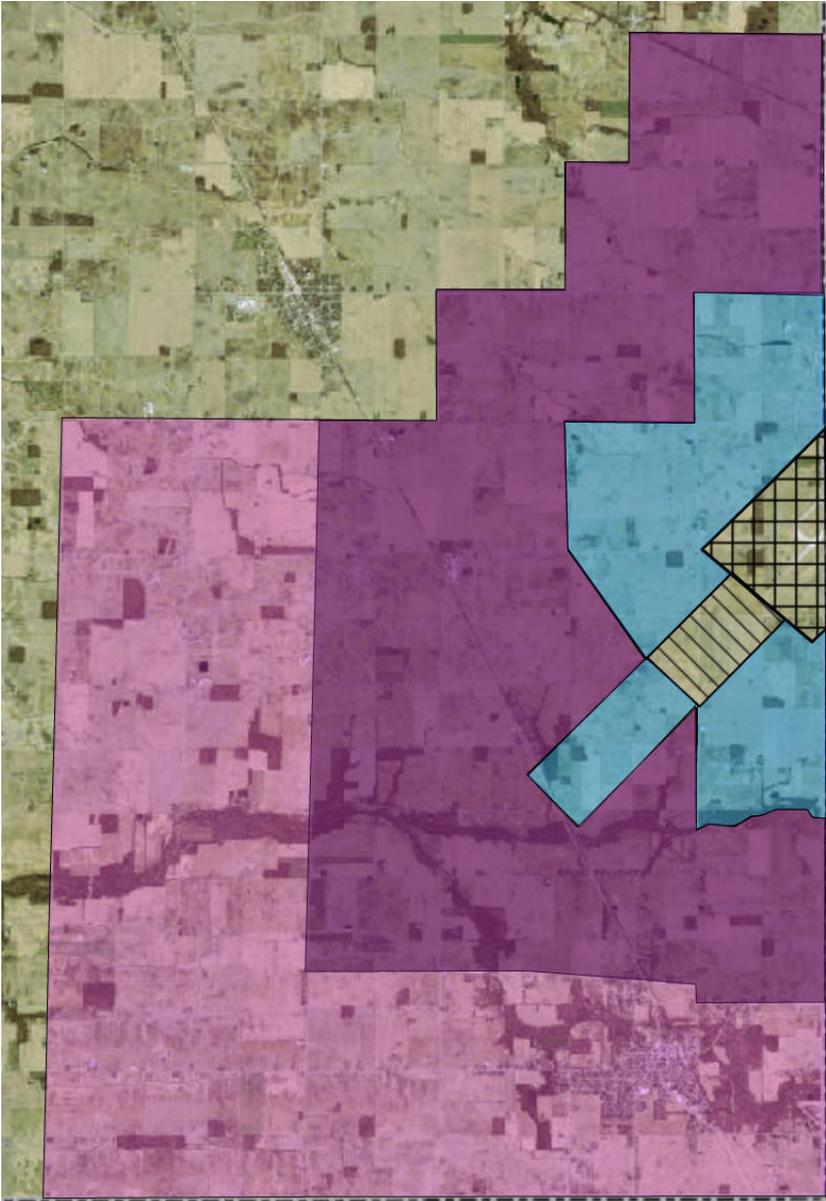
1. Permitted Uses: cropland and orchards, pasture and grazing livestock not including confined feed, agricultural buildings, and all residential uses allowed within the AG, Agricultural Zoning District.
2. Height Limitations (manmade and natural): structures shall not exceed 50 feet in height. Vegetation may be planted if full growth will not exceed 100 feet in height.

D. Inner Conical Surface

1. Permitted Uses: All uses allowed in the AG zoning district are permitted. Any such use that would create dust, glare, bird hazards, or that would create radio or electromagnetic interference is prohibited within this district.
2. Height Limitations: structures shall not exceed 150 feet in height.

E. Outer Conical Surface

1. Permitted Uses: All uses of the underlying zoning district are allowed. Any such uses that would create dust, glare, bird hazards, or that would create radio or electromagnetic interference are prohibited within this district.
2. Height Limitations: structures may not exceed 500 feet in height.



Cross Area: combination Clear Zone; Diagonal Area: APZI; Blue Area: combination APZII; Purple: Inner Conical Area; Pink: Outer Conical Area

ARTICLE FIVE
DEVELOPMENT STANDARDS

501 PROCEDURE: The following specified uses must meet the development standards as listed in this Article in addition to the requirements of all other Articles of this Ordinance. In a district which the specified use is permitted, the Zoning Administrator shall ascertain that the specifications of the Article are met. In a district in which the specified use is allowed by special exception, the Board shall ascertain that the specifications of this Article are met prior to approval of the special exception.

502 CONFINED FEEDING OPERATIONS: All confined feeding operations (as defined by IC 13-1-5.7-1 (d)) must meet the following standards:

502.01 All structures shall be set back at least 50 feet from any right-of-way line and/or boundary line.

502.02 The outer perimeter of the confined feeding operation including open pits, lagoons, or manure slurry holding tanks, pens or lots shall not be located any closer than:

A. One-half mile to the nearest boundary of any incorporated city or town;

B. 1,320 feet from any residential district line, residence, other than the farm operator or residences owned by the confined feeding operation, any church, commercial use other than agriculturally related, school, recreational area (public or private), or any public building.

502.03 An existing confined feeding operation may be expanded, extended, or enlarged at the same immediate location provided the following:

A. The expansion, extension, or enlargement does not encroach into any required setback to a greater extent than that which exists prior to the expansion, extension, or enlargement.

502.04 Any new residence, other than the farm operator, or any new church, commercial use other than agriculturally related, school, recreational area (public or private) or public building shall not be located closer than 1,320 feet from an existing confined feeding operation.

502.05 All confined feeding operations shall meet all applicable regulations of the Indiana Department of Environmental Management.

502.06 The spreading of accumulated waste through land application shall be located so as to provide for the minimum separation distance provided below. If the required distances cannot be met, then the owner shall incorporate within 48 hours or inject the waste into the soil to minimize the odors:

A. 500 feet from a residential district line or from an existing residence other than that of the farm operator.

B. 1,000 feet from a built-up area of five or more contiguous residences.

503 TEMPORARY USES: An Improvement Location Permit for a temporary use may be issued by the Zoning Administrator subject to the standards in Table H and after receipt of Board of Health approval, if applicable. Access and parking for all temporary uses shall be provided to the Zoning Administrator's satisfaction. All temporary use sites shall be adequately cleaned up at the conclusion of the event. Signs for temporary uses shall comply with Section 505 of the Ordinance. Any temporary use exceeding the standards of Table H shall be considered a special exception in the district in which it is located. Events which are reasonably expected to exceed an attendance level of 5,000 over an 18-hour period are required a mass gathering permit by the State Department Health of the State of Indiana.

503.01 Amusement and charitable activities, sponsored by public agencies, churches, civic and charity groups, schools and other non-profit organizations on a temporary basis, are permitted in any zoning district, provided it is on the site of said sponsor or on public property with the approval of the appropriate governmental body. No permit is necessary. If an amusement or charitable activity does not meet the standards, it shall be considered under the appropriate use as listed in Table H.

503.02 The sale or offering for sale of goods or services from any vehicle, including trailers, buses, or vans, shall be deemed to be a commercial use and shall be subject to all the regulations prescribed for the zoning district in which the same is conducted, but this regulation shall not be deemed to prohibit any vending from vehicles on a public street that is not otherwise prohibited by law.

TABLE H
Temporary Uses

USE	DISTRICT	MAXIMUM LENGTH OF TIME	PERMIT	CONDITIONS
1. Carnival, Circus, Fair, Festival, or Concert	By special exception approval in B-4, AB, AG, I-1, I-2	15 days per year per site	Required	Lights, noise and traffic plans to be approved
2. Outdoor Promotional Attraction, Tent Sale, Auto Show, Farm Products Promotions, Farm Equipment Show	B-1, B-4, AB, AG, I-1, I-2, and by Special Exception approval in CG	30 days per year per site	Required	Lights, noise, and traffic plans to be approved
3. Farm Tours, Hayrides (commercial), Pick-Your-Own Produce	B-1, B-4, AB, AG, I-1, I-2	4 months per year	Not Required	None
4. Farm Fair	AG, I-1, I-2	30 days per year per site	Not Required	None
5. Farmers Market	B-1, B-4, AB, AG	90 days per year per site	Required	Agricultural products only
6. Sawmills on Property Where Timber is Cut	AB, AG, I-1, I-2	6 month per year	Required	Must meet Section 309 if within 100' of off-property residence
7. Temporary Group Camp	B-1, B-4, AB, AG, I-1, I-2, OS	1 week per 6 months	Required	Lights and noise to be controlled
8. Contractor Office and Equipment Storage or Real Estate Sales Office	All districts if incidental to construction or development	Must be removed upon completion of construction or development	Not Required	Includes mobile homes but no cooking or sleeping facilities

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9. Christmas Tree Sales	B-1, B-4, AB, AG, I-1, I-2	45 days per year	Required	Unsold merchandise must be removed by January 1 st
10. Fireworks, Sales and Display	B-1, B-4, AB	45 days per year	Required	All applicable State and Federal laws must be met. Unsold merchandise to be removed by July 10 th
11. Religious Tent Meeting	B-1, B-4, AB, AG, I-1, I-2	30 days per 6 months	Required	Off-street parking as required for churches
12. Basement Home	AG, R-1, RR,	Not to exceed 2 years from permit issuance	Required	Does not include permanent earth-sheltered home
13. Yard, Garage or Porch Sale	Any District	2 days twice per year per site	Not Required	Only normal household items. Multiple participants allowed
14. Sale of Personal Property at Place of Residence	Any District	3 months per year per item per site	Not Required	Items allowed such as automobiles, motorcycles, recreational vehicles, etc. May not be disabled vehicles (as defined). Must be titled to resident. Limit two items at a time.
15. Auction/Pre-priced Sale	Any District	3 days per year	Not Required	Parking to be controlled

504 ACCESSORY USES AND STRUCTURES: Accessory uses and structures, as defined, shall meet the following requirements:

504.01 An accessory structure shall not be erected or an accessory use located prior to the establishment or construction of the principal building or use to which it is accessory or to which it is intended to be accessory, except for agricultural structures and accessory structures that meet principal structure setbacks.

504.02 An accessory structure or accessory use may be permitted on a parcel of land separated by a public right-of-way or easement from the parcel containing the principal structure but any accessory structure must meet principal structure yard requirements and Section 504.01 of this Ordinance.

504.03 The square footage of the footprint of an accessory structure located in a residential district may not exceed the square footage of the principal structure.

504.04 Swimming pools shall meet the following requirements:

A. An in-ground swimming pool shall be entirely enclosed by buildings, fences, or walls or equipped with an electronic pool cover.

1. Said fences or wall must be a minimum of 4 feet in height and must be equipped with self-latching gates or doors, with the latching device located not less than 4 feet above the ground.

2. Electronic pool covers must meet the standards of 675 IAC 20-4-27, et sec, and be in working condition at all times.

3. All fencing must be in place and approved by the Zoning Administrator before the water is put into the pool.

B. Above-ground swimming pools, hot tubs, and saunas are considered accessory structures and are subject to setback regulations for accessory structures. They are not subject to any of the standards in Section 504.04A above, provided they do not violate other sections of this Ordinance.

C. In addition to the above regulations, commercial swimming pools are subject to the standards as set forth by the Indiana State Board of Health Rule 410 IAC 6-2.

504.05 No major recreational vehicle shall be parked or stored on any lot in any Residential District, except in a carport or enclosed building or behind the nearest portion of a structure to the street. This provision, however, does not restrict the parking of a recreational vehicle on a residential lot for a period not to exceed 48 hours during loading or unloading. No such vehicle shall be used for living or housekeeping purposes when parked or stored on a residential lot, or on any location not approved for such use.

504.06 Trucks or tractor-trailer combination vehicles in excess of one-ton capacity shall not be parked or stored in any Rural Residential or Suburban Residential district or a non-farm lot in the Agricultural District, except in an enclosed building. Operating

refrigeration units will be permitted in the General Business, Light Industrial, and General Industrial districts only.

504.07 In all zoning districts satellite dish antennae (satellite earth stations) of up to 12 feet in diameter are permitted as accessory structures. A satellite dish antenna may be either roof-mounted or ground-mounted and must meet the following standards:

A. A roof-mounted antenna shall not extend above the required height of the zoning district in which it is located and shall not overhang within 2 feet of any side or rear lot line.

B. A ground-mounted antenna may be located in a side or rear yard, or in the front yard if it is at least 100 feet back from the front property line. The closest edge of any antenna may not be less than 2 feet to any side or rear lot line. Ground-mounted antenna may not extend above the accessory use height requirement.

C. If any antenna cannot receive a usable satellite signal by complying with the above standards without substantial removal of mature trees or vegetation, the zoning administrator may allow for an antenna to be located within the front yard if it can be proven in writing, by the satellite dish installer/company, that there are no other alternatives. A usable satellite signal is defined as a signal from a satellite which when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

D. All antennae shall meet manufacturers specifications, shall meet all applicable Building and Electrical Code requirements, shall be of non-combustible and corrosive-resistant material, shall be erected in a secure, wind-resistant manner and shall be adequately grounded for protection against a direct strike of lightning.

504.08 Outdoor display of merchandise, where permitted, and outdoor storage for any use, shall not extend into any street right-of-way, required parking area or bufferyard area and shall be maintained in a neat and orderly manner at all times. The following outdoor storage regulations shall also be met:

A. Any article or material stored temporarily outside an enclosed structure as an incidental part of the primary commercial operation, shall be so screened by opaque ornamental fencing, walls, or evergreen planting, that it cannot be seen from adjoining public streets or adjacent lots, when viewed by a person standing on ground level during any season of the year. This section does not apply to any commercial or industrial use unless the storage area is located within 100 feet of a residence or residential district line.

B. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, except tanks or drums of fuel connected directly with energy devises 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 the Industrial District.

C. All outdoor storage of raw materials, waste products, and similar materials shall be enclosed by an approved safety fence and shall be shielded from view of public streets and adjacent lots.

D. All materials or wastes which might cause fumes or dust or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects, shall be stored outdoors only if enclosed in containers adequate to eliminate such hazards. This section does not apply to agriculture or agribusiness uses.

504.09 Fences are permitted as accessory structures in any district and do not require any permit. However, fences, excepting partition fences as defined by IC 32-10, must meet the following standards:

A. Fences must be located entirely upon the lot which it serves, though it may be located immediately adjacent to the lot line.

B. Fences in residential districts or abutting residential uses may not have a height greater than 48 inches in the front yard setback, with the exception of a fence that does not encroach into the front yard setback to a greater extent than the farthest point of the principal structure.

C. Fencing in any district shall be constructed with typical fencing materials and styles, excluding barbed wire or electrically charged fences unless for an agricultural use.

1. Barbed wire may be used at the top portion of a permitted fence or wall in the AG, Agricultural, I-1, Light Industrial or I-2, General Industrial districts, provided that the fencing does not abut a residential district or residential use.

2. Barbed wire, where permitted, must be located more than 7 feet above the adjacent ground level. Such permitted barbed wire shall be considered part of the fence and subject to the fence height restrictions.

D. All fences shall meet the requirements of IC 32-10.

E. No fence in any district may exceed 8 feet in height. No fence abutting a residential lot or district may exceed 6 feet in height. All fences constructed abutting a residential lot or district must be designed so as not to prohibit more than 50% of the light and/or ventilation to a residence.

F. All fences shall meet the standards of this section if more than 75% of the fence is being repaired.

504.10 A refuse disposal container (dumpster) and/or refuse storage area or corral for a commercial or industrial use shall not be located within any required front or side yard, parking area or bufferyard. Refuse disposal containers and areas shall be opaquely screened from public streets and adjacent properties. This screening may be achieved by walls, landscaping or the bufferyard, or by virtue of the location on the lot.

504.11 Collection stations for used merchandise or for recyclable items are permitted in the Agricultural, Convenience Business, General Business, Agribusiness, Light Industrial, and General Industrial districts and are not subject to side or rear setback regulations provided they are not located in a way to create a traffic hazard and do not violate other sections of this Ordinance. The collection stations shall be routinely emptied and no outdoor storage of items is permitted.

504.12 Newspaper, soft drink and ice vending machines, and other similar devices are permitted in areas zoned commercial or industrial and are not subject to setback regulations provided they do not violate other sections of this Ordinance.

504.13 No mobile home shall be stored or parked, vacant or otherwise, in any zoning district, except in conformity with the provisions of the district in which it is located.

505 SIGNS: The purpose of this section is to regulate all exterior signs placed for exterior observance so as to protect property values, to protect the character of the various communities in the County to facilitate the creation of a convenient, attractive, and harmonious community, to protect against danger in travel and transportation, to improve and protect the public health, safety, convenience, and general welfare, and to further the stated purposes and intent of this Ordinance.

Any sign erected on a lot or building for the purpose of identification or for advertising a use conducted therein or thereon shall be an accessory structure to the principal use.

It is further intended that all signs within a given development be coordinated with the architecture of the principal use in such a manner that the overall appearance is harmonious in color, form, and proportion and that the signs shall be structurally sound so as to ensure the safety of the general public.

No sign shall be permitted in any district except as herein provided. No sign shall be permitted which creates a safety hazard. No sign shall be permitted between the street and the sidewalk. No sign, except as specified herein, shall hereafter be erected unless a sign permit has been issued by the Zoning Administrator.

Applications for sign permits shall include detailed drawings of the construction and design of the sign, and shall be accompanied by such fee as may be established by the Cass County Commissioners.

505.01 The following operations shall not be considered as creating a sign and therefore shall not require a sign permit:

A. The changing of the advertised copy or message on an approved painted or printed sign or billboard or a theater marquee and similar approved signs which are specifically designed for the use of replaceable copy.

B. Painting, repainting, cleaning and other normal maintenance and repair of an approved sign or sign structure, unless a structural alteration is made.

505.02 Signs Permitted in All Districts: The following signs are permitted in all districts. No sign permit is required for these signs.

A. One residential identification sign, not to exceed 2 square feet in area, for each residential dwelling, may be affixed to a fence or structure, or be freestanding. In addition, house numbers not to exceed 2 square feet depicting the address of the property are permitted. Also, a sign for an allowable home occupation is permitted as specified in Section 512.

B. Signs for the purposes of identifying the name of schools, churches, community buildings, or other public or semi-public institutional buildings, residential subdivisions, apartments or townhouse developments, or mobile home parks, shall be permitted provided the following conditions are met:

1. The sign shall not exceed 24 square feet.

2. If freestanding or monument, the sign shall be located not less than 15 feet from the road right-of-way. Either sign shall be double-faced or angled so that the vacant side cannot be seen:

a. Freestanding signs including any structure to which it is attached, shall not exceed 6 feet in height.

b. Monument signs including their encasement shall not exceed 6 feet in height or 10 feet in width and must be located within a landscaped area.

3. No sign mounted on a building shall project above the ridge line of a sloping roof nor above the eave line of a flat roof.

4. The Zoning Administrator may authorize additional signs if a building fronts on more than one street.

C. One bulletin board, not illuminated except by indirect light and not exceeding 24 square feet in surface area is permitted with any church, school, or other similar public or semi-public structure.

D. Permanent off-site directional signs intended for the purpose of directing traffic to such civic or public facilities as churches, schools, or public parks, shall be permitted, provided such signs do not exceed 1 square foot in area and are not placed so as to create a traffic hazard.

E. Signs erected by a duly constituted governing body or a public utility, such as traffic control and safety signs, handicapped parking signs, railroad signals, entrance and exit signs, signs indicating scenic or historical places, welcome signs, county facilities and public directional signs, and memorial plaques, are permitted.

F. Show window displays, including displays of merchandise, photographs, drawings, prices, promotional statements, etc., designed and intended to be viewed by pedestrians passing in front of the show window.

G. An exterior building directory, on a multiple tenancy structure, is not to exceed one sign and not to exceed 6 square feet in area.

H. Any flags bearing the official design of the nation, state, city, community, organization, corporation, or school are permitted, and up to one decorative flag per property is permitted.

I. On-site directional signs shall be permitted for the purpose of directing traffic and parking on the same lot as the sign(s). Such signs shall not exceed 5 square feet, shall not be located in any public right-of-way, and such sign, including any structure to which it is attached, shall not exceed 4 feet in height.

J. Signs located on-site warning the public against hunting, fishing, dumping, trespassing, dangerous animals, swimming or the like, shall be permitted. Such signs may be freestanding or attached to a fence, and such signs shall be no more than 4 square feet in area.

K. Names of buildings, dates of construction, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the building or structure.

L. Signs accessory to an agricultural use located on a parcel of not less than 20 acres for the purpose of identifying such agricultural uses or advertising the products thereof. No such sign shall exceed 30 square feet in area, and all such signs on a given farm shall not exceed a total of 60 square feet in area. No such sign shall exceed 8 feet in height or be located closer than 10 feet to any street right-of-way.

M. Signs erected by farm operators on their barns or other accessory buildings giving their name, the name of their farm and the year of the farm establishment.

505.03 Signs permitted in B1, Convenience Business District: The following signs are permitted in the convenience business district subject to the standards and restrictions set forth herein. No sign permits are required for these signs.

A. Window signs are signs that are displayed in windows for pedestrian view.

1. Signs are not to exceed 40% of the glass window and/or door area.
2. These signs will not be regulated as temporary signs.

B. Sidewalk "sandwich board" signs may be placed on the sidewalk of the proprietor's property, not within the public right-of-way, unless approved by the County Commissioners. There must be a 3-foot minimum clearance remaining on any sidewalk for ADA compliance.

1. A sandwich board's sign face is limited to 8 square feet.
2. Must also be double faced or angled so that the vacant side cannot be seen.

505.04 Signs Permitted in Business and Industrial Districts: The following signs are permitted in business and industrial districts subject to the standards and restrictions set forth herein. A permit is required for these signs.

A. One business sign mounted on the building occupied shall be permitted in connection with any legal business or industry, if the following requirements are met:

1. No sign shall contain information or advertising for any product not sold on the premises.
2. The business sign shall not have a surface area greater than 2 square feet for each foot of frontage of the building and shall not project above the ridge line of a sloping roof nor above the eave line of a flat roof.
3. No sign shall project over any public sidewalk or right-of-way, unless 8 feet above grade and approved by County Commissioners.

B. The Zoning Administrator may authorize additional business signs if one of the following conditions are met:

1. The business fronts on more than one thoroughfare.
2. More than one business is located in one building. In such instance, the combined total area of the business signs shall not exceed 2 square feet per front foot of the building.
3. The business has a rear parking lot, in which case one additional business sign may be permitted on the side or rear of the building occupied, provided such sign is constructed to the same standards as are required in the front of said premises.
4. The sign is part of a wall graphic, as defined in Article Two.

C. In addition to an attached business sign (or signs), one single or double-faced, freestanding sign may be erected on a business or industrial site, provided the following conditions are met:

1. The sign shall contain only the logotype, trademark, or name of the company, commercial, or industrial center on the property. Only one freestanding sign shall be permitted on each individual business site; however, within commercial or industrial centers, one freestanding or monument sign shall be permitted. In such instances where an individual business site or commercial or industrial center has access on more than one thoroughfare, the Zoning Administrator may authorize such additional signs as are warranted. Additional freestanding signs may be approved as a special exception by the Board of Zoning Appeals, where specific and special circumstances warrant.

a. Freestanding Pole Sign:

i.) The logo sign shall not be larger in total surface area than 25 square feet per face for each half acre of lot area on the premises or 160 square feet per individual business site, whichever area is less. Commercial and Industrial Centers may not exceed 300 sq.ft.

ii.) Businesses which require the frequent display of special prices and/or events shall be permitted, in addition to a logo sign, one permanent changeable message center sign which does not

exceed 20 square feet per face for each half acre of lot area on the premises or 55 square feet whichever area is less. Only one message center sign, whether changeable or electronic, shall be permitted on each individual business site; however, in such instances where an individual business site or commercial or industrial center has access on more than one thoroughfare, the Zoning Administrator may authorize such additional signs as are warranted. All such signs shall be mounted on the same pole or structure as the logo or signs.

iii) Such sign, including any structure to which the sign is attached, shall not exceed 35 feet in height, shall be set back not less than 10 feet from the road right-of-way and shall not be located less than 10 feet from any adjacent property. No sign shall impede any line of site.

iv.) Spacing between a logo and message sign may not exceed 4 ft.

b. Monument Signs: A sign mounted directly to the ground. No poles shall be visible. The maximum height is measured from the ground to the top of the sign including any base construction. Maximum width includes any frame or support structures. Total area represents each face of a sign.

- i. To determine required area, height, and width reference Table I of this ordinance
- ii. No sign shall be located closer than 10 feet to any property line or road right-of-way. No sign may impede any line of site
- iii. Monument signs must be located within a landscaped area.

TABLE I

Property Frontage (feet)	Area (square feet)	Height (feet)	Width (feet)
Less than 100	25	6	10
100-299	1)55	8	10
300 or more	1)65	8	10

1) or 0.33 sq. ft. per linear feet of frontage, whichever is less

D. In addition to other permitted signs, gasoline stations may have the following signs:

- 1. Signs on vending machines, provided that such machines are placed together in a single group against the building.
- 2. Wall signs, not exceeding 6 square feet in area for each sign, identifying the special functions of various service bays in the building facade, located above the doorways and containing no advertising.

3. Signs on pump islands and/or canopies relating to self-service or full-service locations, prices the numerals of which shall be between 12" and 18 " in height along local roads, 24" if located along a limited access highway, and canopies may provide up to 36" if viewed from a limited highway with a setback of more than 500 feet, promotions for products and services, displays of products, fuel availability, and so forth.

4. One sign stating hours of operation, in the form of a wall sign or window sign, not exceeding 4 square feet in area.

5. A single wall sign not exceeding 2 1/2 square feet, identifying the owner or manager, the address of the property and the telephone number.

E. Off-premise Signs: Off-premise signs (as defined) are permitted in the County. Off-premise signs may be either building-mounted or freestanding (as defined). For the purpose of this Ordinance, an off-premise sign shall be treated as a principal land use.

1. The following standards apply to both building-mounted and freestanding off-premise signs:

a. Signs shall be permitted in the following zoning districts: B-4 General Business, AB Agribusiness, I-1 Light Industrial and I-2 General Industrial.

b. The maximum height of an off-premise sign above the road grade from which it is to be viewed shall not exceed 35 feet.

c. Lighting for off-premise signs shall be indirect and non-flashing in nature.

d. No off-premise sign shall be placed so as to obstruct the view of on-coming traffic or create any kind of traffic hazard.

e. All signs shall meet the Uniform Sign Code, 1979 Edition, as amended.

2. The following additional standards apply to freestanding off-premise signs:

a. Each sign face shall contain no more than 300 square feet and no sign structure shall contain more than two such faces facing in the same direction and shall not be separated by more than 12 inches. However, a freestanding sign not exceeding 700 square feet in area per side may be permitted by special exception by the Board of Zoning Appeals.

b. Back-to-back freestanding signs may be separated in the shape of the letter "V" if the greatest point of separation between sign faces does not exceed 15 feet.

c. The distance between legally erected freestanding off-premise sign structures shall be a linear measure taken along right-of-way lines of that side of the street on which the sign is to be located.

Freestanding signs shall be at least:

(i) 500 feet or more from one sign to another on the same side of the street which need not be met where a physical obstruction exists which prevents viewing two off-premise sign structures at the same time.

(ii) 100 feet to any residential zone.

(iii) 100 feet to a church, school, or health care institution.

d. The distance measured at a right angle from the right-of-way line to the leading edge of an off-premise sign structure shall be no less than 15 feet.

3. The following additional standards apply to building-mounted off-premise signs:

a. Each building-mounted sign face shall contain no more than 300 square feet and there shall be no more than one such face on any building wall facing in the same direction.

b. No building-mounted sign shall extend beyond the edge of the building to which it is attached.

c. Building-mounted signs shall not be located closer than:

(i) 250 feet from any freestanding or building-mounted off-premise sign on the same side of the street or road.

(ii) 100 feet to any residential zone.

(iii) 100 feet to a church, school, or institution.

4. Notwithstanding the provisions of Article Seven of this Ordinance, a nonconforming off-premise sign structure may be continued but may not be extended, expanded, replaced, or otherwise increased in nonconformity except as specified herein or as permitted by the Board of Zoning Appeals in accordance with the provisions of this Ordinance. Nonconforming off-premise sign structures may be maintained and repaired subject to the above restrictions.

505.05 Temporary Signs: Temporary signs are permitted within all districts within the County subject to the requirements listed below. No permit is required for these signs.

A. Temporary real estate signs are permitted on any property being sold, leased, or developed if they are not illuminated, not in any required side or rear yard, and are no larger than 7 square feet in any residential, or agricultural district, nor 32 square feet in any commercial or industrial district. Such signs shall be promptly

removed when the sale, lease, or development of the property has been completed.

B. Temporary signs announcing such events such as “Grand Opening”, “Under New Management” or “Going Out of Business”. Such signs may be freestanding, building-mounted, or a banner and shall be subject to the following standards:

1. A maximum of 20 square feet in area,
2. If freestanding, not to exceed 8 feet in height or located closer than 10 feet to any lot line,
3. For a period not to exceed 45 days,
4. Only contain information and/or advertising pertaining to the special event,
5. On a given property, such temporary sign may be displayed only one time by the same proprietor in a 12-month period.

C. Any temporary construction sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building or development or announcing the character of a building enterprise or the purpose for which the building is intended. Such signs shall be located on the site of the construction work, not to exceed 4 square feet in any residential district or 32 square feet in any business or industrial district.

D. Seasonal displays and decorations, for events such as religious holidays and the Fourth of July, not advertising a product, service, or entertainment.

E. Freestanding, off-site directional sign(s) providing information as to the location of grand openings, private garage or yard sales, and other temporary uses or of real estate that is for sale or for rent. Such signs shall be subject to the following conditions:

1. No such sign shall exceed 3 square feet in area or 4 feet in height,
2. Such signs shall not exceed 5 in number per use being advertised,
3. Such signs shall not be located in any public right-of-way,
4. Such signs shall not be situated so as to cause an obstruction or distraction to passing motorists,
5. Such signs shall be removed promptly after the sale or temporary activity is over.

F. Temporary signs, announcing a campaign, drive, or event of a civic, charitable, educational, historical, or religious organization. Such signs may be either building-mounted or freestanding and shall not exceed 16 square feet in

area. If freestanding, no such sign shall exceed 6 feet in height or be located closer than 10 feet to any street right-of-way. Such signs may be located on or off-site, and may be posted prior to the event for a period not to exceed 21 days and must be removed immediately after the completion of the event.

G. Political campaign signs erected on election day at officially designated polling places.

H. Temporary political campaign signs may be permitted on-site or off-site in any district subject to the following conditions:

1. No one such sign shall exceed 32 square feet in area, and no freestanding sign shall exceed 8 feet in height.
2. No signs shall be erected for more than 45 days prior to the nomination, election, or referendum which they advertise.
3. Political signs shall be permitted during local special events, such as fairs, carnivals, and festivals. Signs must be removed immediately after the completion of the event.
4. All signs shall be removed within 14 days after voting.
5. Nothing in this provision shall be construed to authorize the posting of political campaign signs upon trees, utility poles, traffic control signs, lights or devices, or in any place or manner prohibited by this Ordinance.
6. Any temporary political campaign signs placed on buildings or in building windows which are visible to the outside shall meet the above requirements.

505.06 Temporary Signs Permitted in all Districts: The following signs are permitted in all districts subject to the requirements listed below. A permit is required for these signs.

A. Temporary on-site signs advertising any temporary use specified in Section 503. Such signs may be freestanding or building-mounted, shall not exceed one in number per use, shall not exceed 32 square feet in area and, if freestanding, shall not exceed 8 feet in height. Such signs may be erected only for the duration of the temporary use and shall be located only as approved by the Zoning Administrator. In addition, there may be off-site directional signs as specified by Section 505.03 E.

505.07 Temporary Signs Permitted in Business and Industrial Districts: The following temporary signs are permitted in the business and industrial districts subject to the requirements listed below. A permit is required for these signs.

A. Portable, mobile, or "tow-in" signs shall be permitted in business and industrial districts to substitute for a permanent sign prior to installation of the permanent sign, to announce grand openings, or to advertise special sales events providing the following requirements are met:

1. These signs may be permitted on the premises for the period of time specified in conjunction with those uses listed in Table H or for 45 days if the use is not specified in Table H. Additional days may be permitted by the Administrator, if the sign is being used in lieu of a permanent sign.
2. No more than 4 permits shall be issued in any 12-month period for the same enterprise.
3. No sign shall contain information on any event not conducted on the premises nor advertising for any product not sold on the premises.
4. In no instance shall such signs be permitted in the street right-of-way, nor shall they be placed so as to obstruct the view of on-coming traffic for cars exiting premises or intersecting street.
5. No such sign shall be permitted to flash.
6. All such signs shall be safely anchored to the ground.
7. No more than one portable, mobile, or "tow-in" sign may be permitted per enterprise.
8. When not in use, all portable, mobile, or "tow-in" signs shall be stored out of public view.
9. Any portable, mobile, or "tow-in" sign exceeding the above standard would require a special exception approval by the Board of Zoning Appeals.

B. Inflatable balloons used for the purpose of product or business advertising shall be permitted as temporary signs in any business or industrial district for a period not to exceed 7 days. The Zoning Administrator shall determine that no unsafe condition will exist due to the use of the device.

C. Search lights with a vertical beam may be placed temporarily on the premises for grand openings and other similar special events. The Zoning Administrator shall determine that no unsafe condition will exist due to the use of the device.

505.07 Signs Prohibited in All Districts: The following signs are specifically prohibited in all districts:

A. Any sign which is in need of maintenance, or which is no longer functional or is abandoned. Signs shall be considered no longer functional and abandoned when such sign is materially obstructed from view, when its essential elements are no longer readable, when a sign has been left by a business or other use which has ceased to operate, or when a condition of deterioration or dilapidation of the sign face or structure is in evidence. All signs shall be repaired, removed or relocated in compliance with the regulations of this Ordinance within a reasonable period of time after official notification by the Zoning Administrator.

B. Any sign which is constructed, altered, located, or illuminated in any manner which causes undue glare, distraction, confusion, nuisance, noise, or hazard to traffic or to other properties. No sign may be illuminated after 11:00 P.M. if it is located within or adjacent to any residential district, except those businesses remaining open beyond that time, in which case illumination shall cease upon closing.

C. No sign which has a rotating beam, beacon, flashing or alternating illumination shall be permitted for advertising or identification purposes where no hazard or need for caution exists. This section shall not be construed as prohibiting:

1. Time or temperature devices customarily identified with banks or lending institutions.
2. Barber poles, provided such devices meet all other applicable provisions of this Ordinance.

D. Any sign that is attached to a tree or other living vegetation, utility pole, rock, curbstone, sidewalk, lamppost, hydrant, bridge, highway marker, or other sign, except for public informational signs as provided for in Section 505.01 E.

E. Any sign displayed on a stationary vehicle or trailer when said vehicle or trailer is used primarily for the purpose of and serving the function of an off-site sign.

F. Any sign so placed that it obstructs any window, door, fire escape, stairway, ladder, opening, or access intended for light, air, ingress to, or egress from any building.

G. Signs advertising activities which are illegal under federal, state, or county laws or regulations.

H. Any sign that violates any provision of IC 8-12-2.5-2 or IC 9-4-1-38.

I. Any sign that is not expressly listed in this Ordinance.

506 MOBILE HOMES: Pre-manufactured structure, often constructed of metal that is designed to be transported to a site and semi-permanently attached. (Definition is in Section 2). Such a unit shall meet all of the following conditions:

A. The exterior walls and roof shall be structurally sound and tight and free from defects, which might admit rain or dampness.

B. All exterior surface materials, including wood, composition, or metal siding, shall be uniform in color, maintained weatherproof, and shall be properly surface coated when required to prevent deterioration.

C. Every window, door, and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to be weather-tight. Every window sash shall be fully supplied with approved glazing materials which are without open cracks and holes.

D. Each mobile home shall have suitable stairs and a porch or deck permitting access into the mobile home; the porch or deck providing primary access into the mobile home shall be a prefabricated or site-built porch or deck and shall be not less than 32 inches by 32 inches. Every stair, porch, deck or other apparatus attached to the mobile home shall be so constructed as to be safe to use and capable of supporting the anticipated loads and shall be maintained in sound condition and good repair and constructed in accordance with all applicable state and local codes. Every stair, porch, deck or other apparatus shall have rails if more than 30 inches above the ground surface. Concrete blocks, lumber, or other materials shall not be stacked and used as stairs or a porch.

E. Vinyl or aluminum skirting shall be installed around the perimeter of each mobile home within 30 days of placement of the mobile home. The required skirting must be securely attached and maintained against deterioration. The skirting must be uniform in color, material and appearance.

F. All mobile homes shall be securely anchored in accordance with 410 IAC 6-6-11.

G. All Utilities shall be permanently connected in accordance with County Code.

507 MOBILE HOME PARKS: Mobile home parks shall meet the following requirements:

507.01 No mobile home park shall have an area of less than 5 acres.

507.02 Each home site within the park shall have an area of at least 4,000 square feet.

507.03 There shall be at least 25 feet between homes.

507.04 No mobile home shall be closer than 40 feet to an adjacent property.

507.05 Not less than 10% of the gross area of the park must be improved for recreational activity of the residents of the park.

507.06 The park shall be appropriately landscaped and screened (as defined) from adjacent properties in accordance with an approved site plan.

507.07 All streets, sidewalks, and driveways shall be privately maintained and shall be constructed in accordance with the applicable standards contained in the Article V of the Cass County Subdivision Control Ordinance.

507.08 Applicable requirements of IC 13-1-7 shall be met.

507.09 Mobile home parks with 5 or more homes shall also meet Indiana State Board of Health Rule 410 IAC as amended.

508 MODULAR HOME: A factory built single family detached stick frame structure installed or assembled at the building site. (Definition is in Section 2).
Such a unit shall meet all of the following conditions:

A. contains at least nine hundred and fifty square feet of occupied space per dwelling unit. Occupied space is defined as the total area of earth horizontally covered by a modular home; excluding accessory appendages such as, but not limited to, garages, patios, breezeways, and porches;

B. shall meet all requirements applicable to single-family units and subject to all necessary improvement location, building and occupancy permits;

C. be placed onto a permanent under floor foundation installed in conformance with the Indiana One- and Two-Family Dwelling Code or the Indiana Uniform Building Code in the case of multi-family dwelling units, and the manufacturer's installation specifications;

D. be placed onto a permanent perimeter enclosure constructed in accordance with the Indiana One- and Two-Family Dwelling Code, or the Indiana Uniform Building Code in case of multi-family dwelling units;

E. have wheels, axles, and hitch mechanisms removed;

F. have siding material of a type customarily used on site-constructed residences;

G. have roofing material of a type customarily used on site-constructed residences. Roofing material shall be installed in accordance with the manufacturer's specifications.

509 RECREATIONAL VEHICLE PARKS/CAMPGROUNDS: All recreational vehicle parks and campgrounds must meet the following requirements:

509.01 Recreational vehicle parks and campgrounds shall have direct access to a public street with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of all vehicles into and out of the park.

509.02 Conditions of soil, ground water 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.

509.03 The minimum area of a recreational park or campground shall be three acres.

509.04 The density of a park shall not exceed 17 recreational vehicles or camping spaces per acre of gross site area.

509.05 Recreational vehicles and camping spaces shall be separated from each other and from other park structures by at least 10 feet.

509.06 In addition to complying with any required side or rear yard requirements of the district in which the park is located:

A. No recreational vehicle or camping space shall be nearer than 50 feet to the right-of-way line of a highway or street.

B. Where the boundary line of a recreational vehicle park coincides with that of a residential district, a yard of at least 25 feet shall be provided for a camping space.

509.07 In the Agricultural District, food stores, restaurants, sporting good stores, Laundromats, and similar convenience and service shops shall be permitted in recreational vehicle parks and campgrounds which contain 50 or more spaces provided:

A. Such shops and the parking areas required by their use shall not occupy more than 10% of the total area of the park.

B. The use of such shops shall be solely by the occupants of the park, and

C. Such shops shall be so located or designed within the park to present no visible evidence of their commercial nature to persons outside the park.

509.08 Management offices and storage, playground and picnic equipment, sanitation and laundry facilities, informational signs, and other structures customarily incidental to a recreational vehicle park or campground shall be permitted as accessory uses.

509.10 All applicable regulations of the Board of Health shall be met.

510 ADULT BUSINESS: In the development and adoption of those regulations, it is recognized that there are some adult business uses which due to their very nature have serious objectionable operational characteristics particularly when located in close Proximity to residential neighborhoods, thereby having a deleterious impact upon Property values and the quality of life in such surrounding areas. It has been acknowledged by communities across the nation that state and local governmental entities have a special concern in regulating the operation of such businesses under their jurisdiction to ensure that these adverse secondary effects will not contribute to the blighting or downgrading of adjacent neighborhoods nor endanger the well-being of the youth in their communities. The special regulations deemed necessary to control the undesirable externalities arising from these enterprises are set forth below, and, as such, serve a substantial government interest. The primary purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods, deter the spread of urban blight and to protect minors from the objectionable operational characteristics of these adult uses by restricting their close proximity to churches, parks, county courthouse, libraries, schools (both public and parochial) and residential areas, while, at the same time, allow for reasonable alternative avenues of communication. This section is based upon findings of a study entitled "Adult Entertainment Businesses in Indianapolis, An Analysis, 1984" which documents the blighting influences of adult businesses on surrounding neighborhoods. The findings of this study are valid for Logansport and Cass County because of the close proximity of Indianapolis and because of general social-economic similarities of the communities. A copy of this study is on file with the Zoning Administrator. All adult businesses shall comply with the following provisions:

510.01 The establishment of any adult business shall be prohibited if such business is within 500 feet of any other such adult businesses or within 500 feet of the property line of any church, public or parochial school, library, public park, or county courthouse or the boundary line of any residential zoning district or agricultural zoning district.

A. The distance between one adult business and another adult business shall be measured in a straight line, without regard to intervening structures or objects from the closest property line of each such business.

B. The distance between an adult business and any church, public or parochial school, library, public park, county courthouse, residential zoning district or agricultural zoning district shall be measured in a straight line, without regard to intervening structures or objects from the closest property line of the adult business to the nearest property line of the church, public or parochial school, library, public park or county courthouse; or the nearest boundary line of the residential zoning district or agricultural zoning district.

C. If any adult business is part of or included within a shopping center, only the portion of said center or leased space occupied by such adult business shall be included in determining the closest property line of said adult business.

510.02 No adult business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to matters or performances as defined by IC 35-49-2, as amended by display, decorations, sign, show window or other opening from any public right-of-way.

510.03 All adult businesses shall comply with IC 35-49-2.

511 JUNK YARDS AND SCRAP METAL YARDS: All junk yards and scrap metal yards must meet the following requirements and all other conditions deemed necessary by the Board:

511.01 The minimum lot area shall be 10 acres.

511.02 All operations shall be conducted entirely within an enclosed building or opaque fence not less than 8 feet in height which bears no advertising, and does not violate Section 504.08 of this Ordinance. Such building or fence shall be constructed on or inside the front, side, and rear yard setback lines required within the district in which located and shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property or highway. Storage, either temporary or permanent, between such fence and any property line is expressly prohibited. All applicable standards of IC 8-12-1 shall also be met.

511.03 All salvage processing shall be entirely within an enclosed building and no processing shall be permitted closer than 300 feet from a Rural Residential or Suburban Residential District line, or a residential use in the Agricultural District.

512 AUTOMOBILE SERVICE STATIONS AND COMMERCIAL GARAGES: All automobile service stations and commercial garages established after the effective date of this Ordinance shall meet the following standards:

512.01 The minimum lot size shall be 15,000 square feet and, in addition:

A. Gasoline service stations shall have 500 square feet of lot area for each additional pump over four and 1,000 square feet of lot area for each additional service bay over two.

B. Commercial garages shall have 1,000 square feet of lot area for each additional service bay over two. There shall also be 300 square feet of additional land area for each space intended for storage of disabled vehicles.

512.02 The minimum lot width shall be 150 feet.

512.03 All activities except those to be performed at the fuel pumps shall be performed within a completely enclosed structure.

512.04 Fuel pumps shall be at least 15 feet from any street right-of-way and any canopies shall meet the standards of Section 306.13 of this Ordinance.

512.05 There shall be no outdoor storage of merchandise such as tires or lubricants and there shall be no outdoor storage of discarded auto parts.

512.06 Vehicles shall not be stored outside while awaiting repairs for more than 7 days. No vehicles may be parked or stored on any public right-of-way.

512.07 Disabled vehicles may not be stored in the open at any time.

512.08 Parking areas, bufferyards, and signs shall meet applicable sections of this Ordinance.

513 NONCOMMERCIAL VEHICLE REPAIR: The outdoor storage of motorized vehicles and related materials in a manner that does not comply with this section shall constitute a junk yard.

A. The storage, repair, maintenance and restoration of motorized vehicles on single family dwellings shall involve any motorized vehicles as defined in the noncommercial vehicle repair definition. No repair, maintenance or restoration shall be performed on motorized vehicles for compensation or otherwise as a business.

B. Number of motorized vehicles allowed shall be limited based on the size of the lot, as shown below.

Minimum Lot Area	Number of Vehicles Allowed
< 1 acre	3
> 1 acre	5

C. Screening Required: When more than two (2) motorized vehicles are kept outside they shall be screened from the view of the public roads and/or adjoining lots by a structure, fence or plant material that is not less than six (6) feet in height and visually opaque.

D. Outdoor Repairs: No more than two motorized vehicles may be actively repaired outdoors at any one time. All other repairs shall occur within a garage or other fully enclosed area.

514 HOME OCCUPATIONS: Simple and Major Home Occupations may be permitted where allowed subject to the provisions of this section:

514.01 Simple home occupations may be approved by the Zoning Administrator when it is determined the following standards are met:

A. The home occupation is considered customary and traditional and incidental and subordinate to the residential use of the premises and not construed as a business.

B. The home occupation shall be carried on by a resident of the premises with no more than one employee not a resident on the premises.

C. There shall be no more than one separate home occupation per premises.

D. The home occupation shall not be conducted in any accessory building and shall not occupy more than 25% of the floor area of the principal dwelling unit, except in the Agricultural District, where an accessory structure may be used provided that the home occupation not exceed 50% of the gross floor area of the principal residential structure, and that the accessory structure, if new, comply with principal structure setbacks. In no case shall both the principal structure and an accessory structure be used for the home occupation.

E. There shall be no exterior indication of the home occupation or variation from the residential character of the premises.

F. There shall be no direct sales or displays of articles other than those items produced or repaired on the premises of the home occupation.

G. There shall be no outdoor storage of materials or goods produced and no display of goods visible from any adjoining property line or road.

H. The home occupation shall not increase vehicular traffic flow and parking by any more than one additional vehicle at a time, other than that of the one permitted employee.

I. Delivery of materials to or from the premises by commercial vehicles shall not exceed once per week and for a period any longer than one hour.

J. There shall be no use which creates noise, vibration, smoke, dust, electrical interference, smell, heat, glare, fire hazard, or any other hazard or nuisance to a greater or more frequent extent beyond what normally occurs from a residence.

K. No more than one sign shall be allowed. Such sign shall be no greater than 2 square feet in size.

L. A permit for a home occupation is not transferable and a new occupancy permit must be applied for whenever there is a change in the occupation, ownership or the property, or tenants in the dwelling unit.

514.02 Major Home Occupations may be approved by special exception in the Agricultural district or by the Zoning Administrator in the Business or Industrial districts when it is determined that the following standards are met:

A. The home occupation is incidental and subordinate to the residential use of the premises.

B. The home occupation shall be carried on by a resident of the premises with no more than 3 employees not residing on the premises.

C. There shall be no more than one separate home occupation per premises.

D. The home occupation may be conducted in the dwelling unit or in an accessory building. The home occupation shall not exceed 50% of the floor area of the principal building.

E. There shall be minimal exterior indication of the home occupation or variation from the residential character of the premises.

F. Any sales or displays of articles produced on or off the premises shall be effectively screened from adjoining properties and road.

G. No more than 5 vehicles and/or pieces of equipment shall be operated from the site or stored there overnight and shall meet Section 512.02 H of this Ordinance.

H. Any outdoor storage of materials, equipment, or goods produced shall be effectively screened from adjoining properties and roads.

I. The home occupation shall not increase vehicular traffic flow and parking by any more than 2 additional vehicles at a time, other than those of the permitted employees. Any parking generated by the home occupation shall be off-street and not in any required front yard.

J. No use shall create noise, vibration, smoke, dust, electrical interference, smell, heat, glare, fire hazard, or any other hazard or nuisance to a greater or more frequent extent beyond what normally occurs from a residence.

K. No more than one sign shall be allowed. Such sign shall be no greater than 4 square feet in size.

L. A permit for a home occupation is not transferable and a new occupancy permit must be applied for whenever there is a change in the occupation, ownership of the property, or tenants in the dwelling unit.

514.03 Cottage Industries provide for small-scale economic development activities on residential parcels, subordinate to the primary residential use, if the BZA or Zoning

Administrator finds that such activities can be conducted without substantial adverse impact on the residential environment and rural character and that the scale and intensity of the cottage industry is greater than could be accommodated as a Major Home Business, but less than would require a land use district designation of commercial or industrial.

A. The following permitted uses are allowable as Cottage Industries, including, but not limited to: sales of antiques and collectibles; art or photography studios; computer software development; handicrafts; ironwork; construction office; furniture repair or refinishing; personal services; pottery shop; professional offices; small equipment repair; small engine and farm equipment repair; woodworking shop; or light manufacturing uses (as defined).

B. The following are prohibited uses as cottage industries: auto, truck, or heavy equipment repair shop; auto body work; or paint shop.

C. A residence may be used as a temporary incubator for cottage industries involved with retail sales. The intent is for retail uses to eventually transition to a full-service business within established commercial areas. Cottage industries that involve retail sales are issued a temporary permit for 2 years, after which the BZA may grant a 2-year extension contingent upon a business plan that outlines a full-service retail strategy.

D. Cottage industries developed on parcels of less than 3 acres gross site area require special exception approval from the Board of Zoning Appeals. Cottage industries developed on a minimum parcel size of 3 acres gross site area may be approved by the Zoning Administrator when it is determined that the following standards are met:

1. The cottage industry is an accessory use to a residential function that will be maintained.
2. The cottage industry shall be operated by at least one full-time, bona fide resident in a single-family residence of the parcel on which the proposed use is being requested. The cottage industry may employ a total of 6 persons who resides off the subject property but may not have more than 3 persons who resides off the subject property working on the site at any one time.
3. Not more than one (1) cottage industry shall be allowed in or on the same premise.
4. Any new structure constructed to accommodate the cottage industry shall be limited in scale so that it is in character with neighboring properties. In no case shall more than five thousand (5,000) square feet of total building area on the property be devoted to the cottage industry. Only those buildings or areas as specifically approved by the Zoning Administrator may be utilized in the conduct of business.
5. There shall be minimal exterior indication of the cottage industry or variation from the residential character of the premises.

6. All activity related to the conduct of the business except for the display of agricultural produce and goods shall be conducted within an enclosed structure or be sufficiently screened from view of adjacent residences and public right-of-ways. Activities shall be screened using landscaping, fencing, the retention of native vegetation, or combination thereof necessary to meet Type V bufferyard screening requirements of Section 306.

7. Retail sales are limited to the following: products produced or repaired on-site; items collected, traded and occasionally sold but hobbyists, such as coins, stamps, and antiques, and their accessories; incidental retail sales directly associated with the cottage industry; and internet sales.

8. The cottage industry shall not increase vehicular traffic flow and parking by any more than 4 additional vehicles at a time, other than those of the permitted employees.

9. Any business requiring customers to visit the site shall provide adequate on-site parking spaces, in addition to one (1) for each full-time equivalent employee who reside off the subject property, and two (2) for the owners of the property. Any parking generated by the use shall be provided off-street and not in any required from yard.

10. Cottage industries shall be limited in their hours of operation. No on-site customer service or business shall be conducted before 8:00am or after 8:00pm, Monday through Friday, and before 9:00am or after 6:00pm, Saturday and Sunday.

11. No more than 3 commercial vehicles shall be operated from the site or stored there overnight.

12. No use shall be made of equipment of material which produces unreasonable vibration, noise, dust, smoke, odor, or electrical interference to the detriment of the quiet use and enjoyment of adjoining and surrounding property.

13. No more than one non-illuminated sign no greater than 12 square feet is allowed.

E. A permit for a cottage industry is not transferable and new occupancy permit must be applied for whenever there is a change in the occupation, ownership of the property, or tenants in the dwelling unit. The Zoning Administrator may attach additional conditions or requirements, or may make modifications to the site plan where necessary to protect the health, safety and welfare of the public.

515 BED AND BREAKFAST ESTABLISHMENTS AND COUNTRY INNS: Bed and breakfast establishments and country inns shall meet the following standards:

515.01 A bed and breakfast establishment shall have no more than 6 guest rooms or lodging units and a country inn shall have no more than 20 guest rooms or lodging units. These rooms or lodging units may be located within the principal structure or in an accessory structure. Accessory uses which are clearly incidental to the guest accommodations may be provided.

515.02 The owner and operator of the bed and breakfast establishment or country inn shall live on the property.

515.03 At a bed and breakfast establishment food service is to be limited to a continental breakfast. At a country inn full meal service may be provided for guests and the general public. In addition, a country inn may provide banquet facilities, gift shops, and/or other small retail sales.

515.04 No alterations shall be made to the external appearance of any principal or accessory structures or of the property which changes the residential character of the bed and breakfast establishment or country inn.

515.05 One non-illuminated sign no greater than 4 square feet in size shall be permitted.

515.06 There shall be one additional off-street parking space provided for each guest room at the bed and breakfast establishment or country inn.

516 ACCESSORY APARTMENT: A structure may be converted to allow the incorporation of one dwelling unit in addition to the single-family residence, or multiple dwelling units in addition to the commercial use of the building, to extend the economic life of a large, older building. Accessory apartments are subject to the following requirements:

516.01 There shall be no visible change in the exterior appearance of the structure containing the accessory apartment, except for additional windows and those changes necessary to meet Section 517.04.

516.02 All improvements associated with construction of the accessory apartment shall meet all applicable building and health codes.

516.03 Any additional parking as needed or required by this Section shall be provided in an off-street space.

516.04 Each accessory apartment shall have safe and proper means of entrance and exit.

516.05 There shall be a maximum of one accessory apartment which can be created from any single-family dwelling, and it shall not exceed 25% the floor space of the entire building.

516.06 Accessory apartments are allowed in conjunction with commercial structures provided they meet the following standards.

A. Accessory apartments may not be located on the street level of the structure.

B. That the accessory apartment must have a minimum of 500 sq. ft. for one bedroom unit and require 120 sq. ft. for each additional room.

516.07 Conversion of residential properties to accommodate accessory apartments shall be permitted only in structures built prior to the adoption date of this ordinance.

517 CONVERSION DWELLINGS: Except for accessory apartments, as defined, no structure may be converted to accommodate an increased number of dwelling units unless:

517.01 The single-family appearance of the structure is not altered;

517.02 Additional off-street parking shall be available as necessary; and

517.03 The conversion is in compliance with all other applicable codes and ordinances.

518 SIDEWALK CAFES: All sidewalk cafes shall meet the following requirements:

518.01 The café may be unenclosed, partially enclosed, or covered but must be clearly incidental to the operation of a restaurant on the same or adjacent private property.

518.02 The café shall not obstruct any entrances to adjoining buildings, any pedestrian traffic, or any access to the café from the sidewalk.

518.03 The café must meet ADA accessibility standards Titles 2 and 3.

518.04 All tables, awnings, canopies, partitions and accessory items shall be removed during the period of the year when the café is not in use.

518.05 The café must be approved by the appropriate governing body having jurisdiction and/or ownership of the sidewalk. Liability insurance must be provided to the satisfaction of the governing body.

518.06 The café shall meet all applicable health department, alcoholic beverage, and building code regulations.

518.07 If the café is within 500 feet of a residence within a residential district, there shall be no outdoor music or entertainment.

518.08 The café shall be designed to complement the character of the area and/or structures and shall be attractively landscaped and/or decorated.

518.09 The café and adjacent sidewalk areas shall be kept well maintained and free of debris.

519 MINERAL RESOURCES: Nothing in this Ordinance shall prevent the use and alienation of mineral resources by the owner or alienee. However, any such use shall be subject to the following standards:

519.01 No production shall be started nor shall any permit be issued until the Board shall have made a written determination with respect to the conditions under which such operation shall be conducted. The Board shall investigate the area to be developed, as

well as the surrounding area, in order to determine the conditions to be prescribed so as to protect surrounding property.

519.02 In their review, the Board shall determine that the following standards are met, but may, where deemed necessary, make reasonable exceptions:

- A. That the site will be used for mineral extraction activities (as defined). Concrete batching plants and mixing plants for portland cement or asphaltic concrete, and the manufacture of concrete, clay or cement products are only permitted if zoned industrial. All mineral extraction and related uses are subject to the performance standards prescribed in Section 309 of this Ordinance and shall be removed upon completion of active mining at the site upon which they are located.
- B. No production from an open pit shall be permitted which creates a finished slope steeper than two feet to one foot vertical for the excavation of sand and gravel, or which creates a finished slope steeper than one foot horizontal to one foot vertical for the excavation of products other than sand and gravel, except that in locations where the soil or rock content is such that vertical cuts are proven to be safe, a vertical cut thereafter of any depth shall be allowed.
- C. Property to be used for production shall be enclosed by a cyclone fence along the exterior boundaries for the promotion of safety and general welfare of the community.
- D. Where required, suitable plant material shall be placed and maintained to screen cut slopes from public view. There shall be no open storage of discarded machinery, trash, or junk which would present an unsightly appearance.
- E. Access roads to any site shall be limited to two, or at most three points and shall be constructed on a level with the pavement of any public street or highway for a distance of not less than 80 feet there from, and said 80 feet of road shall be improved with a dustless, all weather surface. Adequate sight distance shall be maintained for traffic safety in compliance with the standards and requirements of the highway department.
- F. Upon the completion of operations, the land shall be left in a safe condition as shown on the Plan of Rehabilitation (see Section 517.03) so that sufficient drainage is provided so as to prevent water pockets or undue erosion, with all grading and drainage such that natural storm water leaves the entire property at the original, natural drainage points, and that the area drainage to any one such point is not increased.
- G. Vehicles carrying materials from the site shall be loaded in such a manner as to prevent spilling rock, gravel, or sand or other materials of a similar nature while in transit upon roads and highways.
- H. Mining shall be done so as to keep noise and dust to a minimum. Explosives shall be used only between sun-up and sun-down except in the case of emergency.

519.03 All applications for mineral extraction shall be accompanied by a map or plat showing the existing conditions of the area proposed for mining (including existing contours and drainage); a plan of the operational and excavation areas; the time estimate for removal of the materials; and a plan of development showing the rehabilitation and reuse of the entire site following extraction (including proposed contours and drainage).

519.04 Mineral extraction must comply with all applicable sections of IC 13-4-6, and IC 14-4-2, and IC 14-4-2.1.

520 HAZARDOUS WASTE/NUCLEAR WASTE: In addition to review by the Board of Zoning Appeals, all processing, storage, recycling, recovery, and disposal of hazardous waste shall be in accordance with the provisions of IC 13-7-8.5 and 8.6, as amended, and all processing, storage, recycling, recovery, and disposal of nuclear waste shall be in accordance with the regulations of the Nuclear Regulatory Commission.

521 LAND APPLICATION OF SLUDGE AND WASTEWATER: Land application of sludge and wastewater shall be in accordance with the procedure, standards, and definitions of IC Title 13 and Article 330 IAC 3.3 of the Regulations of the State of the following , as amended.

522 WIRELESS FACILITIES: This section is in accordance with IC 8-1-32.3, and compatible with the provisions of Section 332(c)(7)(B) of the Federal Telecommunications Act of 1996 as in effect July 1, 2015, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. This Section does not apply to personal television antennas, ham radio, or short-wave radio antennas, or other communications equipment accessory to residential uses.

522.01 Prior to an improvement location permit, the applicant shall provide information demonstrating compliance with all FCC, FAA and ANSI standards.

522.02 All wireless towers may exceed normal height requirements.

- A. No standards or applications are required for an applicant regarding the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.
- B. All other new wireless towers within the right-of-way shall be reviewed by the Highway Superintendent.
- C. All wireless Collocations on all personal or public properties shall provide property owners consent and provide an engineer certificate that indicates that the collocation can handle the new service's weight load.
- D. All Wireless Towers located on all other personal or public properties shall provide property owner consent if not the owner and meet the following standards:
 - 1. Fall Zone Limitation (setback): fall zone requirements for a wireless support structure shall not be larger than the area within which the structure is designed to collapse, as set forth in the engineering certification for the structure. This section supersedes

any setback requirement in Table B of this Ordinance.

2. All new towers shall be designed and constructed to accommodate a minimum of three service providers.
3. Ingress and egress to the site shall only be from approved access points. Surfacing of all roadways, driveways, and off-street parking areas shall comply with the standards of this Ordinance and the Subdivision Control Ordinance.
4. Wireless facilities shall be entirely enclosed by a woven wire or chain link fence of no less than 6 feet. Such fence may be located in the front, side and rear yard.
5. Towers shall not be illuminated, except in accord with other state or federal regulations.
6. No signs shall be permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs which are required by a federal, state or local agency. Such signs shall not exceed 5 square feet.

522.03 Non-discrimination: among communications service providers or public utilities with respect to the following:

- (a) Approving applications, issuing permits, or otherwise establishing terms and conditions for construction of wireless or wireline communications facilities.
- (b) Authorizing or approving tax incentives for wireless or wireline communications facilities.
- (C) Providing access to rights-of-way, infrastructure, utility poles, river and bridge crossings, and other physical assets owned or controlled by the County.

523 WIND ENERGY CONVERSION SYSTEM FARM STANDARDS: PURPOSE AND INTENT

The purposes of this Section is to assure that any development and production of wind-generated electricity in Cass County is safe and effective, facilitate economic opportunities for local residents, and promote the supply of wind energy in support of Indiana's alternative energy sources potential and other such economic development tools. It is the intent of the Wind Energy Conversion Systems (WECS) siting regulations to provide a regulatory scheme for the construction and operation of WECS in the county; subject to reasonable restrictions these regulations are intended to preserve the health and safety of the public.

523.01 APPLICABILITY

The provisions of this Section are applicable to those districts which allow wind energy conversion systems (WECS), govern the siting of WECS and substations that generate electricity to be sold to wholesale or retail markets, or that generate electricity for private use. A reasonable attempt shall be made to notify all property owners within the defined area of the WECS project prior to making application for a WECS permit. Notification may be done by media, separate mailings, or through the public notice requirements

prescribed by IC 5-3-1 as amended from time to time. Said notice shall inform land owners of the intent to build any WECS and/or WECS Project.

523.02 PROHIBITION

No applicant shall construct, operate, or locate a wind energy conversion system (WECS) within Cass County without having fully complied with the provisions of this Section.

523.03 CONFLICT WITH OTHER REGULATIONS

Nothing in this Section is intended to preempt other applicable state and federal laws or regulations, including compliance with all Federal Aviation Administration rules and regulations and shall comply with the notification requirements of the Federal Aviation Administration. Nor are they intended to interfere with, repeal, or annul any other ordinance, rule, or regulation, statute or other provision of law. In the event that any provision of these regulations imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that are more restrictive or that imposes higher standards shall govern.

523.04 REGULATIONS

A. Location

Commercial, Non-commercial, and Micro WECS will be permitted, or not permitted, in various districts as stated in Table A: District Use Standards.

B. Height

1. Non-Commercial WECS or Meteorological Towers: Any Non-commercial WECS Towers or Meteorological Towers greater than two hundred (200) feet in height shall require a variance approval.
2. Commercial WECS or Operational Support Meteorological Towers: For Commercial WECS Towers and Operational Support Meteorological Towers the height shall not exceed six hundred (600) feet measured to the tip of the blade, if height limitations imposed by Federal Aviation Administration rules and regulations or the Department of Defense are stricter than this ordinance, those rules and regulations apply.
3. Micro WECS Tower shall be under sixty (60) feet in height.

C. Setback Requirements

1. Minimum setback distances for COMMERCIAL WECS TOWERS

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS Tower to the property line	3 times the total height of the WECS Tower (where the blade tip is at its highest point) provided that the distance is no less than one thousand eight hundred (1,800) FEET. ² (i) A WECS Tower may be placed up to the property line, if a fully executed and recorded written waiver agreement is secured from the affected adjoining Landowner. ³
Residential dwellings, measured from the center of the WECS Tower to the nearest corner of the structure	3 times the total height of the WECS Tower, (where the blade tip is at its highest point), provided that the distance is no less than one thousand eight hundred (1,800) feet. ^{1,3}
Public road right-of-way, measured from the center of the WECS Tower to the edge of the right-of-way	3 times the total height of the WECS Tower, (where the blade tip is at its highest point), provided that the distance is no less than one thousand eight hundred feet (1800) ² (i) A WECS Tower may be placed up to the public right-of-way, if a fully executed and recorded written waiver agreement is secured from owner or whomever oversees the right-of-way.
Other rights-of-way, such as railroads and public utility easements, measured from the center of the WECS Tower to the edge of the right-of-way	3 times the total height of the WECS Tower (where the blade tip is at its highest point). (i) A WECS Tower may be placed up to the public right-of-way, if a fully executed and recorded written waiver agreement is secured from owner or whomever oversees the right-of-way.
State and Federally owned public conservation lands, measured from the center of the WECS Tower to the nearest point of the public conservation land in question	3 times the total height of the WECS Tower, (where the blade tip is at its highest point), provided that the distance is no less than one thousand eight hundred (1,800) feet (i) A WECS Tower may be placed up to the property line, if a fully executed and recorded written waiver agreement is secured from the affected owner(s).
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the Army Corps of Engineers

Wabash or Eel River measured from the center of the WECS Tower to the shoreline	One-half (1/2) mile
Incorporated limits of a municipality, measured from the center of the WECS Tower to the corporate limits	One-half (1/2) mile
Above-ground electric transmission line, measured from the center of the WECS Tower	3 times the total height (where the blade tip is at its highest point) (i)A WECS Tower may be placed up to the transmission lines, if a fully executed and recorded written waiver agreement is secured from the affected owners.

1The setback for residential dwellings shall be no less than 1.5 times the total height of the WECS Tower provided that the distance is no less than one thousand (1,000) feet of a COMMERCIAL WECS Tower, measured from the center of the WECS Tower to the nearest corner of the structure, if on a participating property.

2 The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

3 If future residential dwellings or buildable land splits occur near a WECS Tower, they shall keep the 3 times the total height of the WECS or no less than 1,800 feet setback or a Memorandum of Understanding (MOU) must be signed, notarized and recorded with the Deed.

a. Commercial WECS Power Collection and Transmission System

1. WECS Substation: for all Substations, setbacks from property lines are waived if the affected adjoining landowners sharing the common property line are all Participating Landowners.
2. Poles: for all poles carrying overhead wiring connecting Commercial WECS Towers to a Substation for connection to a utility’s electric transmission line, there are no setback requirements from property lines as long as the poles are located within a recorded easement for such purpose.

2. Minimum setback distances for NON-COMMERCIAL and MICRO WECS TOWERS

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS Tower to the property line	1.5 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed for that district
Residential dwellings, measured from the center of the WECS Tower to the nearest corner of the structure	1.5 times the total height of the WECS Tower (where the blade tip is at its highest point)
Public road right-of-way, measured from the center of the WECS Tower to the edge of the right-of-way	1.5 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed for that district ³

Other rights-of-way, such as railroads and public utility easements, measured from the center of the WECS Tower to the edge of the right-of-way	1.5 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed for that district
Public conservation lands, measured from the center of the WECS Tower to the nearest point of the public conservation land in question	Seven hundred and fifty (750) feet
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the Army Corps of Engineers
Wabash or Eel River measured from the center of the WECS Tower to the shoreline	One half (1/2) of a mile
Above-ground electric transmission lines, measured from the center of the WECS Tower	1.5 times the total height of the WECS Tower (where the blade tip is at its highest point)

4 The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

- a. Horizontal extension for Non-commercial and Micro WECS
The furthest horizontal extension (including guy wires) shall not extend into a required setback by the zoning district or be closer than twelve (12) feet to any primary structure, or public right-of-way easement for any above-ground telephone, electric transmission or distribution lines.

3. Minimum setback distances for all Meteorological Towers

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the Meteorological Tower to the property line	1.5 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback (i) A WECS Tower may be placed up to the property line, if a fully executed and recorded written waiver agreement is secured from the affected adjoining Landowner.
Residential dwellings, measured from the center of the Meteorological Tower to the nearest corner of the structure	1.5 times the total height of the Meteorological Tower
Public road right-of-way, measured from the center of the Meteorological Tower to the edge of the right-of-way	1.5 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback ⁴
Other rights-of-way, such as railroads and public utility easements, measured from the center of the Meteorological Tower to the edge of the right-of-way	1.5 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback

5 The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

a. Horizontal extension for all Meteorological Towers

The furthest horizontal extension (including guy wires) shall not extend into a required setback by the zoning district or be closer than twelve (12) feet to any primary structure, or public right-of-way easement for any above-ground telephone, electric transmission or distribution lines.

523.05 SAFETY DESIGN AND INSTALLATION STANDARDS

A. Equipment type

1. Turbines: all turbines shall be constructed of commercially available equipment.
2. Meteorological Towers: all Meteorological Towers may be guyed.
3. Experimental, or proto-type equipment: experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.

B. Industry standards and other regulations

All WECS shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyed Wind Energie, or an equivalent third party.

C. Controls and brakes

1. Braking system: all WECS Towers 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. Stall regulation shall not be considered a sufficient braking system for over speed protection.
2. Operation mode: all mechanical brakes shall be operated in a fail-safe mode.

D. Electrical components

1. Standards: all electrical components of all WECS shall conform to applicable local, state and national codes, and any relevant national standards. Cables or lines in fields, shall be buried and trenched. Trenching depth shall be determined in the Road Use and Drainage agreements.
2. Collection cables: all electrical collection cables between each WECS Tower shall be located underground wherever possible.
3. Transmission lines: all transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication

underground lines standards or as negotiated with the land owner or the land owner's designee until the same reach the property line or a substation adjacent to the property line.

E. Color and finish

In addition to all applicable Federal Aviation Administration requirements, the following shall also apply:

1. Wind turbines and towers: all wind turbines and towers that are part of a WECS shall be white, grey, or another non-obtrusive color.
2. Blades: all blades shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing.
3. Finishes: finishes shall be matte or non-reflective.
4. Exceptions: exception may be made for all Meteorological Towers, where concerns exist relative to aerial spray applicators.

F. Warnings

1. The following notices shall be posted for all Commercial WECS:
 - a. A sign or signs shall be posted on the pad-mounted transformer and the Substation(s) warning of high voltage.
 - b. Private roads providing access to Commercial WECS shall have posted an Emergency-911 address road sign.
 - c. A sign shall be posted on the WECS tower listing an emergency telephone number.
2. For all guyed towers, one of the following warning mechanisms shall be used for each anchor point:
 - a. Visible and reflective objects, such as flags, plastic sleeves, reflectors, or tape placed on the anchor points of guy wires and along the innermost guy wires up to eight (8) feet above the ground.
 - b. Visible fencing not less than four (4) feet in height installed around anchor points of guy wires.
3. The following notices shall be clearly visible on all Non-commercial WECS and Micro WECS Towers and accessory facilities:
 - a. "No Trespassing" signs shall be attached to any perimeter fence.
 - b. "Danger" signs shall be posted at the height of five (5) feet on WECS Towers and accessory structures.
 - c. A sign shall be posted on the WECS Tower showing an emergency telephone number.

d. The manual electrical and/or over speed shutdown disconnect switch(es) shall be clearly labeled.

4. Consideration shall be given to paint aviation warnings as required by the Federal Aviation Administration on all Meteorological Towers.

G. Climb prevention

All Commercial WECS Tower designs shall include features to deter climbing or be protected by anti-climbing devices such as:

1. Fences with locking portals at least six (6) feet in height; or
2. Anti-climbing devices fifteen (15) feet vertically from the base of the WECS Tower; or
3. Locked WECS Tower doors.

H. Blade clearance

The minimum distance between the ground and any protruding blades(s) utilized on all Commercial WECS Towers shall be twenty-five (25) feet, as measured at the lowest point of the arc of the blades. The minimum distance between the ground and any protruding blade(s) utilized on all Non-commercial or Micro WECS Towers shall be a minimum of fifteen (15) feet, as measured at the lowest point of the arc of the blades, provided the rotor blade does not exceed 20 feet in diameter. In either instance, the minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

I. Lighting

1. Intensity and frequency: All lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations.
2. Shielding: except with respect to lighting required by the Federal Aviation Administration, lighting may require shielding so that no glare extends substantially beyond any WECS Tower.

J. Materials handling, storage and disposal

1. Solid wastes: all solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the WECS, including old parts and equipment related to the construction, operation and/or maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.
2. Hazardous materials: all hazardous materials or waste related to the construction, operation and/or maintenance of any WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

K. Anti-Icing Technology

A utility-grade wind turbine system shall utilize best industry accepted standards for protecting against shedding of significant pieces of ice capable of damaging nearby buildings, public roads, railroads or above-ground utilities.

L. Top Soil Preservation Plan

There shall be an installation plan approved by the Zoning Administrator that adequately preserved and provides for the restoration of topsoil for all staging and construction activities.

523.06 OTHER APPLICABLE STANDARDS

A. Guyed wire anchors

No guyed wire anchors shall be allowed within any required public road right-of-way setback.

B. Sewer and water

All facilities or structures that are part of the WECS Project shall comply with the existing septic and well regulations as required by the Cass County Health Department and/or the State of Indiana Department of Public Health.

C. Noise and vibration

The noise level of Non-commercial WECS shall be no greater than sixty (60)decibels measured from the nearest property line. Commercial WECS shall be no greater than sixty (60) decibels for a Non-participating property measured from the nearest property line. This level may only be exceeded during short term events such as utility outages and/or severe wind storms. All other noise and vibration levels shall be in compliance with all county, state and federal regulations. All noise concerns shall be documented, and mitigation will be determined by the County Commissioners and consulted with the Wind Company.

D. Utility interconnection

The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, as amended from time to time.

E. Signage

All signs pertaining to a WECS Project must comply with Section 505, Sign Standards, with the following exceptions.

1. Surface area

No sign shall exceed sixteen (16) square feet in surface area.

2. Height

No sign shall exceed eight (8) feet in height.

3. Manufacturer's or owner's company name and/or logo

The manufacturers or owner's company name and/or logo may be placed upon the compartment containing the electrical equipment.

4. Development signs

An identification sign relating to the WECS Project development may be located on each side of the total WECS Project area, provided that there are no more than four (4) signs located on any one WECS Project site.

5. Other signs and logos

No other advertising signs or logos shall be placed or painted on any structure or facility that is part of the WECS Project.

F. Feeder lines

Feeder lines installed as part of any WECS shall not be considered an essential service. All communications and feeder lines installed as part of any WECS shall be buried underground wherever possible.

G. Other appurtenances

No appurtenances other than those associated with the WECS construction, operations, maintenance, decommissioning/removal, and permit requirements shall be connected to any WECS Tower except with express, written permission by the Board of Zoning Appeals.

H. Flicker

There shall be no more than thirty (30) minutes a day and no more than thirty (30) hours a year on a residential structure. All flicker concerns shall be documented, and mitigation will be determined by the County Commissioners and consulted with the Wind Company. Mitigation may even entail stopping WECS Tower rotation during hours of documented flicker.

523.07 OPERATION AND MAINTENANCE

A. Physical modifications

In general, any physical modification to any 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. Therefore, prior to making any physical modification, the owner or operator shall discuss with the Planning Department and Building Commissioner to determine whether the physical modification requires re-certification.

B Interference

Prior to construction, a communications study to minimize interference with public or public serving utility microwave transmissions, Airports, and Air Reserve Bases shall be completed. If necessary, the applicant, owner and/or operator shall mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. In addition,

the applicant, owner, and/or operator shall comply with the following:

1. Pre-construction: The applicant shall complete a communications study prior to construction so as to minimize interference with any public or public serving utility microwave transmissions.
2. Post-construction: If, after construction of the WECS, the owner or operator receives a written complaint related to interference with the broadcast of residential television, telecommunication, communication or microwave transmissions, Airport, or Air Reserve Base, the owner or operator shall take reasonable steps to mitigate said interference. Interference with private telecommunications systems such as GPS shall be between the company and the complainant.
3. Failure to remedy a complaint: If an agreement to remedy a known interference is not reached within ninety (90) days, appropriate action will be taken, which may result in requiring the WECS to become inactive. This does not apply to interference with private telecommunications systems.

C. Maintenance Records

At least annually, the operator of the Commercial WECS will provide to the Planning Department a letter certifying that all required and periodic maintenance has been performed during a particular calendar year and that the WECS is operating safely and efficiently. Should the Planning Department not receive such annual certification, the Planning Department will send a notice to the WECS operator requesting the certification letter within thirty (30) day. If after the thirty (30) days, the Planning Department has not received the required maintenance certification, then the Planning Department may hire, at the WECS Operator's expense, a qualified Inspector to perform an inspection of the WECS System.

D. Declaration of public nuisance

Any WECS thereof declared to be unsafe by the Cass County Building Commissioner by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.

523.08 DECOMMISSIONING PLAN

Prior to receiving an Improvement Location Permit and Building Permit under this Ordinance, the County and the applicant, owner and/or operator shall formulate a decommissioning plan outlining the anticipated means and cost of removing a WECS at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned.

A. Content

A decommissioning plan shall include, at a minimum, language to the following:

1. Assurance: Written assurance that the WECS will be properly decommissioned upon the project life or in the event that the WECS Project is abandoned.

2. Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the WECS. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WECS.
3. Financial assurance: Applicant 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, for the cost of decommissioning each WECS Tower and related improvements constructed under the permit. Said security will be released when each WECS Tower is properly decommissioned as determined by Cass County. Review of estimate costs every five (5) years and the financial assurance reflect changes.
4. Abandonment by the owner or operator: In the event of abandonment by the owner or operator, the applicant will provide an affidavit to Cass County representing that all easements and/or leases for WECS Towers shall contain terms that provide financial assurances, including access to the salvage value of the equipment, for the property owners to ensure that the WECS Towers are properly decommissioned within one (1) year of expiration or earlier termination of the WECS Project.

B. Discontinuation and abandonment

All WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Planning Department outlining the steps and schedule for returning the WECS to service.

C. Removal

An applicant's obligations shall include removal of all physical material pertaining to the project improvements to no less than a depth of four (4) feet below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the WECS or WECS Project, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements. Removal obligations shall be completed by the owner or by Cass County at the owner's expense.

D. Written notices

Prior to implementation of the existing procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

E. Costs incurred by the County

If the County removes a WECS Tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor

grants a license to Cass County to enter the property to remove a WECS Tower and appurtenant facilities pursuant to the terms of an approved decommissioning plan.

523.09 LIABILITY INSURANCE

The owner or operator of any WECS shall maintain a current general liability policy covering bodily injury and property damage and may be required to name Cass County as an additional insured with dollar amount limits of at least \$2 million per occurrence and \$5 million in the aggregate and with a deductible of no more than \$5 thousand. A copy of the policy and renewals will be provided to the County.

523.10 PROCEDURES AND FEES

Procedures and fees shall be provided within the Developer Guidebook.

523.11 PRE-CONSTRUCTION REQUIREMENTS

Prior to the issuance of any Improvement Location Permit, the following shall be submitted to and reviewed by the Planning Department, who shall certify that the following are in compliance with all applicable regulations:

A. FAA permit application

A Federal Aviation Administration permit application.

B. Decommissioning plan

A decommissioning plan as prescribed in 523.08 of this Section.

C. Economic Development, Drainage, and Road Use and Maintenance Agreements

An Economic Development Agreement, a Drainage Agreement, and a Road Use and Maintenance Agreement approved by the County Commissioners. The agreements shall be developed in conjunction with the Cass County Economic Development office and copies provided to the Planning Department. These agreements must be signed before any Building Permit is issued. The Drainage Agreement must prescribe or reference provisions to address crop and field tile damages up to five (5) years after construction.

1. Drainage

Developer shall submit a drainage location map and existing conditions report within 100 feet of tower construction and from the center of all transportation routes used. These documents must make note of all known regulated or private open and tiled drains. Drainage preconstruction upgrade and post construction restoration schedule must be provided. These documents must be provided to the County Commissioners sixty (60) days prior to the project commencement.

2. Roads

Road use and road condition report construction location be submitted. Road preconstruction and post construction restoration schedule must be provided. These documents must be provided to the County Commissioners sixty (60) days prior to the project commencement.

D. Erosion control plan

An erosion control plan developed in consultation with the Natural Resources Conservation Services (NRCS), and any storm water quality management plan adopted by the applicable jurisdiction.

E. Utility plan

A utility plan drawn to the same scale as the site layout plan illustrating the location of all underground utility lines associated with the total WECS Project.

F. Avoidance and mitigation of damages to public infrastructure

In addition to complying with the approved Road Use and Maintenance Agreement, an applicant, owner, or operator proposing to use any county road(s), for the purpose of transporting any component of a Commercial WECS Project and/or equipment for construction, operation or maintenance of a Commercial WECS Project, shall comply with the following pre-construction requirements.

1. Identification of roads and services: Identify all roads and services, to the extent that any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it shall be approved by the Cass County Highway Superintendent.
2. Pre-construction survey: The applicant shall conduct a pre-construction baseline survey acceptable to the Cass County Highway Superintendent to determine existing road conditions for assessing potential future damage. The survey shall include photographs, or video, or a combination thereof, and a written agreement to document the condition of the public facility.

G. Assurance

Prior to construction the developer/company will put in place two (2) forms of financial assurance one repair bond and one performance bond for road and drainage pre-construction and post construction. These must be issued and adopted by the County Commissioners prior to the project commencement.

523.12 CONSTRUCTION REQUIREMENTS

During construction, the applicant shall demonstrate that the following requirements are being met:

A. Dust control

Reasonable dust control measures shall be required by the County during construction of a Commercial WECS Project.

B. Drainage

Reasonable storm water best management practices as required by the Soil and Water Conservation Office and in some cases with the approval of a Drainage Plan/Agreement on file with the Cass County Surveyor.

C. Roads

If there is a road closure or limited access to a road, you must notify and work with the Highway Superintendent.

523.13 POST-CONSTRUCTION REQUIREMENTS

Post-construction, the applicant shall comply with the following provisions:

A. Road Repairs

Any road damage caused by the construction of project equipment, the installation of the same, or the removal of the same, shall be repaired as per the Road Use and Maintenance Agreement approved by the County Commissioners. The Cass County Highway Superintendent may choose to require either remediation of road repairs 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 Cass County Highway Superintendent to insure the county that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.

B. As-Built Plans Requirement

Where upon completion of all development, the exact measurements of the location of utilities and structures erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, or operator shall submit a copy of the Final Construction Plans (as-built plans), as amended, to the Planning Department with the exact measurements thereon shown. The Building Commissioner, after being satisfied that the measurements are substantially the same as indicated on the originally approved final plan(s), shall approve, date and sign said Construction Plans for the project, which the applicant, owner, or operator shall then record.

C. Change in ownership

It is the responsibility of the owner or operator listed in the application to inform the Planning Department of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

524 SOLAR ENERGY SYSTEM:

524.01 Commercial Solar Energy System (CSES).

A. The CSES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society of Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar rating and Certification Corporation (SRCC), International Building Code (IBC), Federal Aviation Administration (FAA), and National Electric Code (NEC) including all other applicable local and state standards. The manufacturer's specifications for the key components of the system shall be submitted as part of the application.

B. Upon completion of installation, the CSES shall be maintained in good working order. Failure of the owner and/or operator to maintain the CSES in good working order is grounds for appropriate enforcement actions.

C. When possible, all on-site utility, transmission lines, and conductors should be underground. If not underground, conduit for conductors is to be used with approved hangers. Conduit will be suspended from the solar array.

D. The owner of a CSES shall provide in writing confirmation that the utility company to which the CSES will be connected has been informed of the customer's intent to install a cogeneration system and approved such connection.

E. No portion of the CSES shall contain or be used to display advertisement. The manufacture's name and equipment information or indication of ownership shall be allowed on any equipment of the CSES provided they comply with the prevailing sign regulations for that zoning district.

F. Glare from a CSES is prohibited from being directed towards vehicular traffic and any habitable portion of an adjacent inhabited structure. The applicant has the burden of proving that there is no glare produced on inhabited structures or in the roadway. All glare concerns shall be documented, and mitigation will be determined by the County Commissioners and consulted with the CSES Owner.

G. A noise potential study shall be performed and included in the application. Noise from a CSES shall be no greater than sixty (60) decibels measured from nearest property line.

H. CSES are a minimum 5 acres.

I. The CSES owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Planning Department for their file. The CSES owner and/or operator shall make reasonable efforts to respond to the public's inquires and complaints.

J. An Economic Development Agreement, a Drainage Agreement, and Maintenance Agreement must be approved by the County Commissioners. The agreements shall be developed in conjunction with the Cass County Economic Development, Surveyor and Highway Department Offices and copies provided to the Planning Department. These agreements must be signed before any Building Permit is issued. The Drainage Agreement must prescribe or reference provisions to address crop and field tile damages for the life of the project for participating properties.

K. Decommissioning. In order to facilitate and ensure appropriate removal of the energy generation equipment of a CSES a decommissioning agreement must be approved and signed by the County Commissioners before a building permit is issued. This agreement must include a description of implementing the decommissioning, a description of the work required, a cost estimate for decommissioning, a schedule for contributions to the decommissioning fund, and a demonstration of financial assurance. Salvage value can be considered in determining decommissioning cost. In the event of a fire, flood, tornado or other unforeseen events that results in the absence of electrical generation for

twelve months, the applicant must demonstrate that the project will be substantially operational producing electricity with-in twelve months of the event after such time it will be considered abandoned and need to follow decommissioning as such.

1. Applicant 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, for the cost of decommissioning CSES and related improvements constructed under the permit. Said security will be released when CSES is properly decommissioned as determined by Cass County Commissioners. Review of estimated cost shall be done every five (5) years and the financial assurance reflect the changes.
2. The CSES owner is required to notify the Planning Department immediately upon cessation or abandonment of the operation. The CSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
3. The CSES owner shall have ninety (90) days to start decommissioning and one hundred and eighty (180) days to totally dismantle and remove the CSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, electrical components, roads, foundations, and other associated facilities from the property. If the owner fails to dismantle and/or remove the CSES within the established timeframes, the municipality may complete the decommissioning at the owner's expense.
4. If a ground mounted CSES is removed, any earth disturbance resulting from the removal must be graded and reseeded shall be discussed with property owner.

L. By submitting a permit, applicants acknowledge that approval of such permit shall not give the property owner or their successor the right to remain free of shadows and/or obstructions to solar energy caused by development of other properties or the development or growth of any vegetation on such properties.

M. Any CSES ground mounted equipment, excluding any security fencing, poles, roads and wires necessary to connect to facilities if the electric utility ("Equipment"), must be fifty (50) feet from property lines of any non-participating property and edge of road or road right-of-way unless a fully executed and recorded written waiver agreement is secured from the affected land owner. Additionally, CSES Equipment shall have a minimum setback of one hundred fifty (150) feet away from property lines of land that has residential unit(s).

N. All ground-mounted CSES shall be completely enclosed by a six (6) foot high fence. In areas abutting residential properties two (2) times a classification V buffer shall be provided.

O. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence on the surrounding the CSES informing individuals of potential voltage hazards.

P. Although lighting is not required, any lighting used at a CSES shall be full-cutoff and directed down. Lighting shall only be used when necessary for safety and operational purposes.

Q. The project owner shall plant, establish, and maintain for the life of the project vegetated ground cover on the ground around and under the solar panels where possible. The use of pollinator seed mixes in the plantings of ground cover is encouraged. A vegetation plan must be submitted that is compatible for that specific project. Such plan shall use native and naturalized species for the appropriate region. No plants listed on the Indiana Invasive Species list shall be included. It is the responsibility of the project owner to make sure noxious vegetation is controlled.

R. Solar Panels shall not exceed 22'6" in height. The height is determined from the ground to the top of the panel at any angle.

524.02 Solar Energy System – Accessory (ASES).

A. The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society of Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar rating and Certification Corporation (SRCC), International Building Code (IBC), Federal Aviation Administration (FAA), and National Electric Code (NEC) including all other applicable local and state standards.

B. Upon completion of installation, the ASES shall be maintained in good working order. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement actions.

C. When possible, all on-site utility, transmission lines, and conductors should be underground. If not underground, conduit for conductors is to be used with approved hangers. Conduit will be suspended from the solar array.

D. The owner of an ASES shall provide written confirmation that the Utility Company to which the ASES will be connected has been informed of the customer's intent to install a net metering system and approved of such connection. Off-grid systems shall be exempt from this requirement.

E. The display of advertisement is prohibited except for reasonable identification of the manufacturer of the system.

F. All ASES shall be placed such that glare does not project onto nearby structures or roadways causing safety and health concerns.

G. By submitting a permit, applicants acknowledge that approval of such permit shall not give the property owner or their successor the right to remain free of

shadows and/or obstructions to solar energy caused by development of other properties or the development or growth of any vegetation on such properties.

H. Decommissioning must start in 90 day and be totally removed within 180 days for each ASES and all solar related equipment if no electricity has been generated by such solar collection within twelve (12) months. At such time the use will be considered discontinued or abandoned by system owner and/or operator. Decommission maybe also be determined for systems that are not maintained in a good working order. If a ground mounted ASES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

I. Roof Mounted and Wall Mounted Accessory Solar Energy Systems:

1. A roof mounted or wall mounted ASES may be located on a principal or accessory structure.
2. For roof and wall mounted systems, the applicant shall provide evidence that the roof and/or wall is capable of holding the load based off of the International Building Code.

J. Ground Mounted Accessory Solar Energy System:

1. The minimum yard setbacks from side and rear property lines shall be 20ft. and a 50ft. setback from the front property line or edge of road improvement.
2. Freestanding ground mounted ASES shall not exceed the maximum accessory structure height 20ft.
3. The foundation and mechanical components of a ground mounted ASES shall be considered in lot coverage calculations.

ARTICLE SIX
PLANNED UNIT DEVELOPMENT

601 PURPOSE: Planned Unit Development districts are for the purpose of allowing greater flexibility in the development of real property with innovative and diverse design plans which foster a harmonious variety of land uses, and/or provide for an economy of shared services and facilities and public works, and/or promote the protection of the natural environment and establishment of permanent open spaces, and/or create efficient and compatible neighborhoods. Planned Unit Development (PUD) districts are not subject to other provisions of this Ordinance. Planned Unit Development districts may adopt regulations approving smaller lot sizes, lesser setbacks and with variation to other standards contained in this Ordinance, than would normally be allowed, provided adequate open space and/or other special amenities are provided, and the Planned Unit Development districts are consistent with the goals and policies of the Cass County Comprehensive Plan.

602 ESTABLISHMENT AND AMENDMENT: The adoption and amendment of a Planned Unit Development (PUD) District Ordinance is established through a legislative act pursuant to IC 36-7-4-600 series and as provided for in Section 905 of this Ordinance. The establishment of a PUD district includes a legally recorded textual ordinance amendment delineating development requirements and a zone map amendment which specifically establishes the uses, restrictions, and regulations of the PUD district as authorized in I.C. 36-7-4-1508 and I.C. 36-7-4-601 (d) (2).

602.01 Planned Unit Development (PUD) districts may be established in any district as listed in Table A of the Ordinance. PUD districts are subject to the standards and purposes of this Article and the intent of this Ordinance, and must be consistent with the goals of the Cass County Comprehensive Plan and the regulations of the Cass County Subdivision Control Ordinance where applicable.

602.02 Planned Unit Development districts may be applied to the development of presently developed lands, or open or vacant lands, and may apply to parcels of relatively small size as well as large-scale developments and their relationship with other surrounding uses and the overall characteristics of the area in which located.

602.03 As part of approval of a Planned Unit Development District Ordinance, a primary plan and a secondary plan of the Planned Unit Development shall be filed and approved as specified in this Article. All development within the PUD district shall comply with the land use requirements, development requirements, and limitations and specifications of the adopted primary and secondary plans of the PUD District.

A. Subdivision plat approval, as may be required by the Cass County Subdivision Control Ordinance, may be obtained simultaneously as the PUD District Ordinance, if so requested by the petitioner.

603 DESIGN STANDARDS: The following design standards apply to Planned Unit Development districts:

603.01 All applicable design and construction standards of the Cass County Subdivision Control Ordinance shall be met for Planned Unit Developments requiring subdivision approval.

603.02 Drainage systems shall be provided that meet the standards of Section 313 of this Ordinance and the standards of the Cass County Subdivision Control Ordinance, if applicable. Planned Unit Developments which include retention ponds as part of a drainage system may use the retention pond area when calculating for open space.

603.03 Principal vehicular access to the development shall be from roads capable of supporting existing traffic and the traffic that will be generated by the development. Access points shall be designed to provide smooth traffic flow controlled turning movements, and minimum hazard to vehicular or pedestrian traffic. No streets or roads within the development shall connect to exterior streets in any such way as to encourage use of local streets as through-streets.

603.04 Walkways shall be provided to form a logical, safe, and convenient system. All walkways shall be located to minimize contacts with normal automotive traffic and shall have street crossings held to a minimum.

603.05 Private road or street right-of-ways and pavements shall be constructed in conformity with the minimum street specifications prescribed by the Cass County Subdivision Control Ordinance.

603.06 If topographical or other barriers are not sufficient to assure the privacy of the adjacent or facing properties from the development, the following requirements shall be imposed:

A. Structures on the perimeter must be setback sufficiently to protect the privacy and amenity of the adjacent or facing properties and the development.

B. Screening the perimeter beyond normal bufferyards required by this Ordinance shall also be required.

603.07 The requirements determining the spacing of structures shall be as flexible as possible so as to encourage imaginative site design. The spaces between structures shall guarantee adequate light, air, and emergency access.

603.08 Utility easements and right-of-ways shall be adequate and shall be in conformity with the minimum standards prescribed by the respective utilities.

604 DEVELOPMENT REQUIREMENTS: Each Planned Unit Development district shall determine the specific development requirements that must be met in the PUD district.

604.01 Specific development requirements must be set out in the Planned Unit Development District Ordinance pursuant to I.C. 36-7-4-1508 and I.C. 36-7-4-601 (d) (2). These specific development requirements must determine the following:

- A. requirements for the area of front, rear, and side yards, courts, other open spaces and total lot area;
- B. requirements for site conditions, signs, and nonstructural improvements, such as parking lots, ponds, fills, landscaping, and utilities;
- C. provisions for the treatment of uses, structures, or conditions that are in existence when the zoning ordinance takes effect;
- D. restrictions on development in areas prone to flooding;
- E. requirements to protect the historic and architectural heritage of the community;
- F. requirements for structures, such as location, height, area, bulk, and floor space;
- G. restrictions on the kind and intensities of uses;
- H. performance standards for the emission of noises, gases, heat, vibration, or particulate matter into the air or ground or across lot lines;
- I. standards for population density and traffic circulation;
- J. any other provisions that are necessary to implement the purposes of the zoning ordinance.

- 605 **ADVISORY MEETING:** Prior to submitting an application for a PUD district, the petitioner is required to have an advisory meeting with the Planned Unit Development Administrative Officer to discuss the details and purposes of the proposed PUD district. If the PUD district request includes the subdivision of land, the advisory meeting shall be in conjunction with the Subdivision Administrator as required for subdivision approval. The petitioner shall present at the advisory meeting a sketch plan and purpose statement of the proposed PUD district. The sketch plan shall include a drawing to approximate scale of the proposed plan including, the parcel or parcels to be included in the PUD district and all owners names and addresses, and a location map showing all surrounding properties and streets or roads. If in conjunction with the subdivision advisory meeting, the sketch plan shall include all materials required by Section 302 and Section 303 of the Subdivision Control Ordinance. During this meeting the Planned Unit Development Administrative Officer, in conjunction with the Subdivision Administrator, if applicable, shall review the sketch plan, make comment as to the applicability of the plan to the Planned Unit Development purpose and procedure, determine its subdivision classification, if applicable, and give instruction on making application and the subsequent procedure for the adoption of a Planned Unit Development District Ordinance.
- 606 **PROCEDURE:** The adoption of a Planned Unit Development District Ordinance requires primary plan review by the Plan Commission and approval by the Cass County Board of Commissioners and secondary plan approval by the Plan Commission.

606.01 The Planned Unit Development procedures for primary plan approval shall be as follows. This approval may proceed simultaneously with primary plat approval required by the Subdivision Control Ordinance, where applicable.

A. An application signed and notarized by all owners of real estate included in the PUD district request along with the appropriate filing fee is filed in the Office of the Plan Commission;

B. A submission including a site plan according to Section 903.03 B and the general development requirements of this section, and if the Planned Unit Development involves the subdivision of land, a primary plat according to Article Three of the Cass County Subdivision Control Ordinance, is filed. The submission shall also include the following:

1. a drawing to scale of the site in its predeveloped state, including any existing structures, historical structures or sites and the proposed use of each.
2. a general statement of the protective covenants or maintenance agreements or horizontal property ownership documents, if applicable;
3. 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;
4. an Open Space Plan which indicates the boundaries of all open space areas and designates the type and use of all open space areas and specifies the manner in which the open space shall be perpetuated, maintained, and administered;
5. evidence that all performance standards of Section 309 shall be met. If in order to determine whether a proposed use will conform to the requirements of this Ordinance, a qualified consultant may be required to testify, whose cost for services shall be borne by the petitioner;
6. any other information or documentation deemed necessary by the Planned Unit Development Administrative Officer.

C. A technical review committee is held and/or written approvals of all agencies are obtained;

D. The Planned Unit Development Administrative Officer determines if the submission is complete. If the submission is found to be incomplete, the PUD Administrative Officer shall provide in writing a statement outlining the deficiencies;

E. Within thirty days of the filing of the application and site plan, which has been determined to be complete by the Planned Unit Development Administrative Officer, the PUD district request is docketed for public hearing before the Cass County Plan Commission in accordance with I.C. 36-7-4-608 and Section 905 and the By-laws and Rules of Procedure of the Cass County Plan Commission;

F. Within (10) ten days of public hearing, the Cass County Plan Commission certifies, according to I.C. 36-7-4-608 and Section 905 of this Ordinance, a favorable, unfavorable or no recommendation to the Cass County Board of Commissioners. Along with the recommendation the Plan Commission may impose reasonable conditions. Conditions may be in the form of written commitments as allowed in I.C. 36-7-4-1015 9g0 and Section 905 of this Ordinance.

G. The Cass County Commissioners, following certification from the Cass County Plan Commission, acts upon the PUD District Ordinance primary plan approval pursuant to I.C. 36-7-4-608 and Section 905 of this Ordinance;

H. If approved or approved with conditions, the primary plan constitutes the establishment of a Planned Unit Development District. Primary plan approval of a PUD District does not constitute primary approval of a subdivision plat. Primary approval of a subdivision plat granted by the Cass County Plan Commission cannot be effective until the Planned Unit Development District is granted primary plan approval by the Cass County Board of Commissioners.

I. Primary plan approval of a Planned Unit Development District shall be valid for one year from the date of approval of the Cass County Board of Commissioners unless an extension is granted by the Cass County Board of Commissioners.

606.02 No improvement location permit may be applied for nor any development may begin until secondary plan approval has been granted by the Cass County Plan Commission. The Planned Unit Development procedure for secondary plan approval shall be as follows:

A. Secondary plan approval for all or any phase of a Planned Unit Development District may be filed after the Planned Unit Development District Ordinance is in effect;

B. All secondary plans and subdivision plats shall be in substantial compliance with the adopted corresponding Planned Unit Development District Ordinance and the primary plan;

C. An application for secondary plan approval is filed in the Office of the Plan Commission and shall consist of the following:

1. evidence that all conditions of primary plan approval have been met, or performance guaranteed as allowed in Section 605.02 E of this Ordinance, for any phase or all of the Planned Unit Development being applied for;
2. a secondary subdivision plat, construction plans and all other required information in accordance with the Cass County Subdivision Control Ordinance, if applicable;
3. site plan and all documentation of the primary approval;

4. land use delineation of all existing and proposed structures and sites and buildable sites;

5. construction plans for all easements and public improvements drawn at a scale no more than 1" equals 50' on sheets which measure 24" x 36" and numbered in sequence. Construction plans shall consist of the following:

a. topographic contours at intervals of 1 foot if the general slope of the tract is less than 5% or intervals of 2 feet if the slope exceeds 5%. Contours shall be referenced to mean sea level elevations.

b. profiles showing existing and proposed elevations along center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within 100 feet of the intersection. Approximate radii of all curves, lengths of tangents, and center angles on all streets. Where steep slopes exist, cross sections of all proposed streets at 100' stations shall be shown on a line at right angles to the center line of the street, at each lot line and at points 25 feet inside each property line.

c. plans, profiles and written approvals of all respective agencies showing the location and typical cross-section of all new and existing streets and utilities including curbs and gutters, sidewalks, rights-of-way, drainage facilities, manholes, and catch basins; the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems; the location of street trees, street lighting standards, and street signs; and exact location and size of all water, gas, or other underground utilities or structures.

d. location, size, elevation, and other appropriate description of any other existing physical and natural features including easements, water bodies, streams, flood plains and the approximate high and low water elevations of each, trees with a diameter of 8 inches or more (measured 4 feet above ground level). All elevations shall be referred to the U.S.G.S. datum plane.

6. Drainage Plan reviewed by the Cass County Drainage Board and the Cass County Soil and Water Conservation District, as appropriate;

7. Erosion Control Plan as approved by the Cass County Soil and Water Conservation District and proof of compliance with I.A.C. Rule 4, if applicable;

8. Final Grading Plan as certified by an Indiana registered land surveyor or engineer;

9. Landscaping/Buffering Plan;

10. Open Space Plan for all areas to be dedicated or reserved for public use or for the common use of all property owners including location, use, and maintenance agreement;

11. name, address, seal, certification, and signature of the Registered Engineer and/or Land Surveyor, plus date, including all revision dates on all submitted plans and documents;

12. signed and notarized copy of any protective covenants and horizontal property ownership and owners' association documents, and maintenance agreements of all common areas and facilities and private streets.

D. The Planned Unit Development Administrative Officer determines if the submission is complete. If he determines the submission is found to be incomplete, the PUD Administrative Officer shall provide in writing a statement outlining the deficiencies. If the submission is determined to be complete, within thirty days it is docketed for the Cass County Plan Commission consideration. Secondary plan approval does not require a public hearing.

E. Before the Cass County Plan Commission may grant secondary plan approval, all roads or streets, infrastructure, and other required improvements shall be constructed in accordance with the approved plans, or shall be performance guaranteed. The performance guarantee shall be in the amount of 125% of the estimated cost of completion of all required improvements in the form of a performance bond, irrevocable letter of credit, or certificate of deposit as prescribed by the Cass County Subdivision Control Ordinance.

F. The Cass County Plan Commission shall then pass a resolution approving the secondary plan upon an affirmative finding that the plan is complete and consistent with the primary plan as approved by the Cass County Board of Commissioners. The decision of the Cass County Plan Commission may be appealed to the Cass County Board of Commissioners, if filed in writing within 30 days of the date of the decision.

G. Before applying for any improvement location permit, performing any development or construction, or filing any required horizontal property documents, the petitioner shall record in the Office of the Cass County Recorder the Planned Unit Development District Ordinance and all written text, drawings and documents of the secondary plan approval. One copy of the recorded secondary plan approval shall be submitted to the Cass County Auditor. Any construction which does not fully comply with the recorded secondary plan approval is subject to appropriate enforcement action and shall be subject to fines as provided in Section 904 and 906 of this Ordinance.

H. Secondary plan approval shall expire after a period of one year unless the secondary plan approval has been recorded as specified and is not more than 50% completed in terms of public improvements and infrastructure.

Determination of completion shall be made by the Planned Unit Development Administrative Officer. If secondary plan approval expires, the petitioner must reapply for secondary plan approval in accordance with the above procedure. No improvement location permit may be applied for if the secondary plan approval has expired.

I. In the event that no secondary plan approval is obtained after one year following primary approval for all, or a phase of, a Planned Unit Development District, the Plan Commission or the Board of Commissioners may initiate a zone map amendment following the procedure in Section 905 to remove the Planned Unit Development District designation and designate the property an appropriate zoning district.

607 AMENDMENTS: Planned Unit Developments must be constructed and developed according to the approved Planned Unit Development District Ordinance and the approved secondary plan as recorded. All recorded documents and amendments shall be binding on the petitioners, their successors, grantees, and assigns. Amendments to Planned Unit Developments as adopted and recorded shall be in accordance with Section 905 of this Ordinance and I.C. 36-7-4-600 series.

607.01 Amendments to the Planned Unit Development District Ordinance or secondary plan which constitute a minor modification may be granted by the Cass County Plan Commission after public hearing in accordance with I.C. 5-3-1 and the Cass County Plan Commission By-laws and Rules of Procedure.

A. Minor modifications are any changes that do not alter the concept or intent of the Planned Unit Development, change any land use, increase the density, reduce the open space, reduce the landscaping or buffering, change any lot line, change any structure location, alter or redesign any street, or change any protective covenants, horizontal property ownership or owners' association documents or maintenance agreements. Determination if the request constitutes a minor modification shall be made by the Planned Unit Development Administrative Officer.

B. Minor modification requests must be submitted in writing with appropriate documentation as determined by the Planned Unit Development Administrative Officer.

C. Minor modification requests, if determined by the Planned Unit Development Administrative Officer to be complete, will be docketed for hearing within thirty days of the submission.

ARTICLE SEVEN
NON CONFORMITIES

701 NON CONFORMING USES OF LAND OR STRUCTURES: The following provisions shall apply to all non conforming uses:

701.01 A non conforming use of land or structure or both in combination may be continued but may not be extended, expanded, or changed unless to a conforming use, except as specified herein or as permitted by the Board of Zoning Appeals in accordance with the provisions of this Ordinance.

A. Any use existing in any Floodway Overlay or Floodway Fringe Overlay District at the time of adoption of this Ordinance which is not in accordance with the standards and regulations specified in Section 402 herein may be expanded or enlarged, provided such modification does not increase the value of the use by more than 50% of its pre-improvement market value (excluding the value of the land). Prior to the issuance of any local permits, such modification must be reviewed and approved by the Indiana Department of Natural Resources.

B. A non conforming residential use may be expanded, subject to the approval of a special exception by the Board of Zoning Appeals. No expansion may result in additional dwelling units. In reviewing petitions, the Board shall, in addition to other criteria, consider the following:

1. The number of times a home may be expanded shall be limited to once, unless special circumstances warrant.
2. Expansions which would significantly increase the market value of the home shall be discouraged unless special circumstances warrant. As a general guide, the Board shall consider an increase of 50% over the pre-improvement market value as being a significant increase.

701.02 An existing non conforming use which occupies only a portion of an existing structure may be extended throughout such structure, provided such change or extension does not eliminate, displace, prevent, or restrict the continuance of any then existing use being concurrently carried on in said structure which conforms with the requirements of this Ordinance.

701.03 If no structural alterations are made, any non conforming use of a structure, or structure and land, may be changed to another non conforming use provided that the Board of Zoning Appeals approves of such change as a special exception. In reviewing specific cases, the Board shall only approve a proposed use if it is equally appropriate or more appropriate to the district than the existing or former non conforming use. In addition, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.

701.04 If any non conforming use of land or structure or both in combination ceases for any reason for a period of more than 12 consecutive months, the land, structure, or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located, unless -- after this time period has elapsed -- a use is approved as a special exception by the Board of Zoning Appeals.

701.05 Whenever a non conforming use has been changed to a conforming use, it shall not thereafter be changed again to a non conforming use unless permitted by the Board of Zoning Appeals in accordance with the use variance procedure.

701.06 There shall be no expansion whatsoever of a non conforming junkyard to cover a greater land area than what was covered on the effective date of this Ordinance.

701.07 An existing use which is listed herein as a special exception, and which is located in a district in which such special exception may be permitted, is a conforming use. Any expansion of such special exception involving the enlargement of buildings, structures, and land area devoted to such use, shall be subject to special exception approval by the Board of Zoning Appeals.

702 NON CONFORMING LOT OF RECORD: In any zoning district, notwithstanding limitations imposed by other provisions of this Ordinance, a lot of record may be sold, or used, or structures and customary accessory structures may be erected on any single lot of record as of the effective date of the Ordinance provided that there is no encroachment of use or structure over a lot line. If adjoining lots of record are under single ownership, a lot of record may be sold, or used, or structures and customary accessory structures may be erected providing all setback requirements, excepting area and width, as established by the zoning district in which the lots under single ownership are located can be met. Variance from any requirement other than area or width shall be obtained through the Board of Zoning Appeals.

703 NON CONFORMING STRUCTURES: Where a structure exists that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, and other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

703.01 No such structure may be enlarged or altered in a way which increases its nonconformity.

A. Any structure which is non conforming only with respect to the regulations specified in Section 402 may be expanded or enlarged, provided such modification is on a one-time basis and further provided that such modification does not increase the value of the structure by more than 40% of its pre-improvement market value (excluding the value of land). Prior to the issuance of any local permits, such modification must be reviewed and approved by the Indiana Department of Natural Resources.

B. An open porch or carport non conforming only to setbacks may be enclosed provided the original foundation or roof and supports are not removed, but in no event shall such improvement be less than 50% of that distance required.

C. A structure non conforming only to the setback regulations may be added to or enlarged if said additions or enlargements do not encroach into any portion of any required yard to a greater extent than the existing non conforming building, but in no event shall any such additions or enlargements be less than 50% of that distance required by the yard requirements of the district in which the lot is located.

703.02 If any non conforming structure is damaged by fire, flood, explosion, or other casualty to an extent more than 75% of its pre-damaged value, such structure shall not be restored except in conformity with the regulations of the district within which it is located. Any non conforming structure damaged to a lesser extent shall be subject to approval of required variances by the Board of Zoning Appeals prior to reconstruction or restoration.

A. Non conforming structures located in any Floodway Overlay or Floodway Fringe Overlay District may not be reconstructed if the amount of damage exceeds 40% of the pre-damaged value of the structure.

ARTICLE EIGHT
BOARD OF ZONING APPEALS

- 801 CREATION: There is hereby created a Board of Zoning Appeals consisting of five members who shall be appointed and serve in accordance with Title 36, Article 7, Chapter 4, Series 900 of the Indiana Code.
- 802 RULES: The Board of Zoning Appeals shall adopt rules, which may not conflict with the zoning ordinance, nor IC 7-4-900 series concerning:
- 802.01 the filing of appeals;
- 802.02 the application for variances and special exceptions;
- 802.03 the giving of notice;
- 802.04 the conduct of hearings; and
- 802.05 the determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area).
- 803 MINUTES AND RECORDS: The Board of Zoning Appeals shall keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken. All minutes and records shall be filed in the Office of the Zoning Administrator and shall be a public record.
- 804 APPEALS: A Board of Zoning Appeals shall hear and determine appeals from and review:
- 804.01 any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance;
- 804.02 any order, requirement, decision, or determination made by an administrative board or other body except a plan commission in relation to the enforcement of the zoning ordinance; or
- 804.03 any order, requirement, decision, or determination made by an administrative board or other body except a plan commission in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an Improvement Location Permit or Certificate of Occupancy.
- 805 SPECIAL EXCEPTIONS: A Board of Zoning Appeals shall approve or deny all special exceptions from the terms of the zoning ordinance, but only as specified in the zoning ordinance. The Board may impose reasonable conditions as a part of its approval.
- 805.01 A Special Exception shall be approved if, and only if, it is found to meet the following criteria:
- A. the proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons;

- B. That the proposed use shall comply with the performance standards herein;
- C. the proposed use shall be sited, oriented, and landscaped so that the relationship of its buildings and grounds to adjacent buildings and properties does not impair health, safety, or comfort, and does not adversely affect values of adjacent properties;
- D. the proposed use shall produce a total environment effect which is harmonious with, and not harmful to, the environment of the neighborhood;
- E. the proposed use shall organize vehicular access and parking to minimize conflicting traffic movement on adjacent streets;
- F. in the case of a change in nonconforming use, the proposed use shall be equally appropriate or more appropriate to the district than the existing or former non conforming use; and
- G. the proposed use shall promote the objectives of this Ordinance and the Comprehensive Plan.

806 VARIANCES - USE: A Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The Board may impose reasonable conditions as a part of its approval.

806.01 A variance may be approved under this section only upon a determination in writing that:

- A. the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- B. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- C. the need for the variance arises from some condition peculiar to the property involved;
- D. the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- E. the approval does not interfere substantially with the Comprehensive Plan.

807 VARIANCE - DEVELOPMENTAL STANDARDS: A Board of Zoning Appeals shall approve or deny variances from the developmental standards (such as height, bulk, or area) of the zoning ordinance.

807.01 A variance may be approved under this section only upon a determination in writing that:

- A. the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

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

C. the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the "practical difficulties" standard prescribed by this section.

808 FLOODPLAIN VARIANCE: Petitions for variances to the provisions set forth in Section 402 herein may be considered provided any terms and conditions imposed by the Department of Natural Resources shall be incorporated into the issuance of any local permit.

808.01 The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this Ordinance provided the applicant demonstrates that:

A. there exists a good and sufficient cause for the requested variance;

B. the strict application of the terms of this Ordinance will constitute an exceptional hardship to the applicant; and

C. the granting of the requested variances will not increase flood heights, create additional threats to the public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

808.02 The Board of Zoning Appeals may issue a variance to the terms and provisions of this Ordinance subject to the following standards and conditions:

A. no variance or exception for a residential use within a floodway subject to Section 402.06 A or 402.06 B may be granted;

B. any variance or exception granted in a floodway subject to Section 402.06 A or 402.06 B will require a permit from the Department of Natural Resources;

C. variances or exceptions to the Building Protection Standards of Section 402.07 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade;

D. variances or exceptions may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;

E. all variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and

F. the Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased

risks to life and property and could require payment of increased flood insurance premiums.

809 PROCEDURE: An appeal filed with the Board of Zoning Appeals must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the Board of Zoning Appeals by rule.

809.01 The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the Board of Zoning Appeals, transmit to it all documents, plans, and papers constituting the record of the action from which the appeal is taken.

809.02 Certified copies of the documents, plans, and papers constituting the record may be transmitted for purposes of Section 809.01.

809.03 Upon appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken.

809.04 The Board shall make a decision on any matter that it is required to hear under the 900 series either:

- A. at the meeting at which that matter is first presented; or
- B. at the conclusion of the hearing on that matter if it is continued.

809.05 Within five days after making any decision, the Board of Zoning Appeals shall file in the Office of the Zoning Administrator a copy of its decision.

809.06 If the variance, exception, use, or appeal petitioned for is granted, an Improvement Location Permit may be applied for up to twelve months from the date of approval. An extension of time may be granted by the Zoning Administrator for good and sufficient cause.

810 HEARINGS: The Board of Zoning Appeals shall fix a reasonable time for the hearing of administrative appeals, exceptions, uses, and variances.

810.01 Public notice in accordance with IC 5-3-1-2 and IC 5-3-1-4 and due notice to interested parties shall be given at least 10 days before the date set for the hearing if the notification is hand delivered and signed and dated by the interested party by the 10 day date, or 12 days prior to the hearing, if the notification is certified mailed and post marked by the 12 day date.

810.02 The party taking the appeal, or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties. At the hearing, each party may appear in person, by agent, or by attorney.

810.03 The Board shall by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.

810.04 The Planning Department staff, if any, may appear before the Board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.

810.05 Other persons may appear and present relevant evidence.

810.06 A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board. Not less than 5 days before the hearing, however, the staff (as defined by ordinance), if any, may file with the Board a written statement setting forth any facts or opinions relating to the matter.

810.07 The Board may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than 4 days before the hearing, the Board may also require the petitioner to furnish each adverse party with a copy of the petition and a site plan of the property involved.

811 COMMITMENTS: In the case of a petition for a special exception or a variance from the terms of the zoning ordinance, the Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel.

811.01 The Board may:

- A. adopt rules governing the creation, form, recording, modification, enforcement, and termination of commitments; and
- B. adopt rules designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

811.02 Commitments shall be recorded in the Office of the Cass County Recorder and take effect upon the granting of the exception, use, or variance. Unless modified or terminated in accordance with I.C. 36-7-4-1015, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment may be modified or terminated only in accordance with the I.C. 36-7-4-1015 and the Cass County Plan Commissions Bylaws and Rules of Procedures.

811.03 By permitting or requiring commitments, the Board does not obligate itself to approve or deny any request.

811.04 Conditions imposed on the granting of an exception, use, or variance are not subject to the rules applicable to commitments.

811.05 This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

812 HEARING OFFICER: In accordance with IC 36-7-4-923, the Plan Commission may authorize a hearing officer who has the power of a Board of Zoning Appeals to approve or deny a variance for developmental standards or a special exception.

812.01 The hearing officer may be a Board member, a staff member, or other person.

812.02 All hearing officer rules and proceedings shall be in accordance with IC 36-7-4-924.

ARTICLE NINE
ADMINISTRATIVE PROCEDURES

901 ZONING ADMINISTRATOR: The Zoning Administrator shall be appointed by the Executive Director of the Plan Commission. The Zoning Administrator shall have the following duties:

901.01 to administer and enforce the provisions of this Ordinance in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this Ordinance;

901.02 to issue Improvement Location Permits and Certificates of Occupancy;

901.03 to maintain a permanent file of all permits and applications as public records; and

901.04 to ensure that during his review of Improvement Location Permit applications, all National Flood Insurance Program regulations, pertaining to State and Federal permits, subdivision review, utility construction, record keeping (including lowest floor elevation), and water course alteration and maintenance have been met.

902 IMPROVEMENT LOCATION PERMIT: The Zoning Administrator shall issue Improvement Location Permits in accordance with this section.

902.01 Except as provided below, an Improvement Location Permit shall be obtained before any person may:

- A. occupy or use any land; or
- B. construct, reconstruct, move, alter, or enlarge any structure; or
- C. change the use of a structure or land to a different use; or
- D. change a non conforming use.

902.02 Improvement Location Permits are not required for the following:

- A. water management and use facilities;
- B. yard improvements listed in Section 306.04 of this Ordinance;
- C. land preparation activities, as listed below:
 - 1. normal plowing and working of the land for gardens and yards
 - 2. normal trimming and/or removal of trees and shrubs for maintenance or agricultural purposes;
 - 3. earth movements related to farming and other agricultural activity, including sod farming;
 - 4. public and private road construction;

5. installation of utilities;
6. drain tile laying and ditch cleaning;
7. top soil removal, other than mineral excavation (as defined);
8. forest management activities such as timber harvesting and timber stand improvement, including sawmills on property where the lumbering is being done;

D. soft side above ground swimming pools, hot tubs, spas, and saunas as specified in Section 504.04 B of this Ordinance;

E. storage of recreational vehicles and trucks as specified in Sections 504.05 and 504.06 of this Ordinance;

F. fences as specified in Section 504.09 of this Ordinance; and

G. vending machines listed in Section 504.12 of this Ordinance.

902.03 Applications for an Improvement Location Permit will be defined within the Developer Guidebook.

902.04 Improvement Location Permits (ILP) shall become null and void one year from the date of issue. If the work described in the Improvement Location Permit has not been substantially completed by the expiration of this time, no further work may proceed unless and until a new Improvement Location Permit has been obtained. Standards that were in place for the initial ILP application may be applied to the new ILP for up to 10 years, after which an ILP application must meet all new standards to receive approval.

902.05 Within 30 days after the receipt of an application, the Zoning Administrator shall either approve or disapprove the application in conformance with the provisions of this Ordinance. If the Improvement Location Permit application is approved, the applicant may proceed to secure any other applicable permits; e.g., Building Permits. If the application is disapproved, the Zoning Administrator shall state the reasons for disapproval in writing and shall deliver such notice or refusal to the applicant.

903 CERTIFICATE OF OCCUPANCY: Prior to occupancy of land or structure for which an Improvement Location Permit was issued, a Certificate of Occupancy must be obtained to insure full compliance with the terms of the Improvement Location Permit.

904 ENFORCEMENT REMEDIES AND PENALTIES: In case any structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance is hereby declared to be a common nuisance. Failure, by any person, to abide by any provision of this Ordinance shall be deemed a violation of this Ordinance and shall be guilty of a Class C Infraction. Upon conviction, a violator shall be responsible for reasonable attorney fees and fines of not less than \$100 and not more than \$300 per violation, and for each day that the violation continues unabated, a separate offense shall be deemed to have been committed.

904.01 For and on behalf of the Commission, the Board of Zoning Appeals, the Department, or the County as their interests may appear, the Commission Attorney may

institute, in a court of appropriate jurisdiction, causes of action against any person who violates any of the terms of this Ordinance. Said causes of action shall include, but not be limited to, the filing of a charge of Class C Infraction; filing suit for temporary or permanent restraining order; or filing suit against the maintenance of a common nuisance. In addition, the Department may pursue any other action, or remedy, authorized by the laws of Indiana, all of the foregoing actions shall be cumulative.

904.02 The Commission may, as deemed prudent or necessary under the circumstances, enter into any compromise or settlement involving a violation of this Ordinance, providing such compromise or settlement is in the best interest of the enforcement of this Ordinance.

904.03 Applications for improvement location permits or petitions to the Board of Zoning Appeals or Cass County Plan Commission will not be accepted by the Administrator from any person or entity that has been notified that they are in violation of the zoning ordinance, except if it is required to effect remedial action pursuant to such violation. The ban on accepting applications from persons or entities in violation of the Ordinance extends beyond the specific property in violation of the Ordinance and includes applications or petitions upon any property within the jurisdiction of the Ordinance.

905 AMENDMENTS: In preparing and considering amendments to this Ordinance and the adoption or amendment of a Planned Unit Development District Ordinance, the Plan Commission must prepare the amendment in accordance with I.C. 36-7-4-600 series and the following procedures.

905.01 Textual amendments to this Ordinance may be initiated by the Cass County Plan Commission or the Cass County Commissioners. Zone Map Amendments may be initiated by the Cass County Plan Commission, by the Cass County Commissioners, or by owners of 50% or more of the area involved in the petition. The adoption of a Planned Unit Development District Ordinance may be initiated by the single owner, or in the case of multiple owners, all owners acting jointly and united in interest, who are owners of all real property included in the legal description submitted with the application. The amendment of an established Planned Unit Development District Ordinance may be initiated by the single owner, or in the case of multiple owners, all owners acting jointly and united in interest, or a legally established owners' association acting on behalf of a majority of property owners in the PUD district as constituted in the recorded by-laws of the association.

905.02 Where a proposal is initiated by a party other than the Cass County Plan Commission or the Cass County Commissioners, the party shall pay a fee as prescribed in the duly adopted fee schedule.

905.03 The Plan Commission shall cause notice of public hearing to be published and notice to interested parties be given and hold public hearing in accordance with I.C. 5-3-1 and the Cass County Plan Commission By-laws and Rules of Procedure.

905.04 The Plan Commission shall pay reasonable regard to the following matters:

A. the Cass County Comprehensive Plan and I.C. 36-7-4-600 series;

- B. current conditions and the character of current structures and uses in each district;
- C. the most desirable use for which the land in each district is adapted;
- D. the conservation of property values throughout the jurisdiction; and
- E. responsible development and growth.

905.05 Within (10) ten day business days after the Plan Commission determination, the Plan Commission shall certify the amendment to the Cass County Board of Commissioners with a favorable, unfavorable, or no recommendation. Written commitments may be permitted or required for a zone map amendment or Planned Unit Development District Ordinance as specified in I.C. 36-7-4-1015 and Article Six of this Ordinance.

A. Commitments shall be recorded in the Office of the Cass County Recorder and take effect upon the approval of the zone map amendment or Planned Unit Development District Ordinance. Unless modified or terminated in accordance with the I.C. 36-7-4-1015 and the Cass County Plan Commission Bylaws and Rules of Procedures, a commitment is binding on the owner of the property, each subsequent owner, and each other person acquiring interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment.

B. By permitting or requiring a written commitment, the Plan Commission does not obligate itself to make a favorable or unfavorable recommendation.

C. A new commitment may be made or a commitment may be modified or terminated only in accordance with the I.C. 36-7-4-1015 and the Cass County Plan Commission Bylaws and Rules of Procedures.

D. A commitment must be in substantially the form set forth in the Cass County Plan Commission By-laws and Rules of Procedure.

E. The owner of the property shall be required to notify the Office of the Plan Commission of his timely compliance with such commitments by filing an affidavit to such effect. This affidavit must be submitted before any development or construction begins.

F. Written commitments shall be enforced in accordance with I.C. 36-7-4-1015 Section 904 of this Ordinance.

905.06 Upon receipt of said certification the Cass County Board of Commissioners shall vote on the amendment within 90 days. Final action by the Board of Commissioners shall be in accordance with I.C. 36-7-4-600 series. Final action by the Board of Commissioners on a Planned Unit Development District Ordinance shall be in accordance with I.C. 36-7-4-608 and I.C. 36-7-4-1512.

905.07 If the proposal is adopted, the Plan Commission shall update the Ordinance and the zoning maps accordingly. If the proposal or amendment for a Planned Unit Development District Ordinance is adopted the Plan Commission shall update the Ordinance and the zoning maps to reflect the designation and requirements of the parcel as a Planned Unit Development District.

906 SCHEDULE OF FEES: Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by a filing fee. Such fees and deposits shall be set by the Cass County Commissioners, and a schedule shall be kept on file in the Office of the Zoning Administrator.

907 ADMINISTRATIVE DECISIONS: Whenever, in the course of administration and enforcement of this Ordinance, it is necessary to make an administrative decision which is not clearly governed by standards contained herein, such decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the area affected.

908 RULES: The Plan Commission shall adopt rules which may not conflict with the Zoning Ordinance nor the Indiana Code concerning:

908.01 Improvement Location Permits, Certificates of Occupancy, and site plan application and approval procedures;

908.02 Planned Unit Development application and approval procedures;

908.03 Zoning text and Zone Map Amendment application and approval procedures;

908.04 Enforcement procedures;

908.05 Hearing Officer procedures; and

908.06 All other procedures necessary for the proper administration and enforcement of this Ordinance.

909 PLAN COMMISSION: The Cass County Plan Commission is established in accordance with I.C. 36-7-4-200 series and shall have the duties and powers prescribed in I.C. 36-7-4-400 series and all other procedures necessary for the proper administration and enforcement of this Ordinance. The Cass County Plan Commission shall adopt rules for the purpose of its supervision and administration and investigations and hearings which may not conflict with the Zoning Ordinance nor the Indiana Code.

909.01 The powers and duties prescribed to the Plan Commission in regard to Article Six, Planned Unit Development shall include, but not be limited to:

A. the application, procedures and documentation for Planned Unit Development;

B. the authorization to hear and decide secondary plan for Planned Unit Development;

C. the authorization to impose and enforce written commitments;

D. the authorization to hear and decide minor modifications to Planned Unit Development;

E. the authorization to enforce the Planned Unit Development District Ordinance and plans.

910 PLANNED UNIT DEVELOPMENT ADMINISTRATIVE OFFICER: The Planned Unit Development Administrative Officer shall be appointed by the Plan Commission. The Planned Unit Development Administrative Officer shall have the following duties:

910.01 to administer the procedures of Article Six, Planned Unit Development, of this Ordinance, in accordance with its provisions;

910.02 to hold advisory meetings in accordance with Article Six;

910.03 to conduct and grant approvals for secondary reviews in accordance with the provisions of Article Six;

910.04 to make determinations of and administer minor modifications to Planned Unit Developments as provided for in Article Six.