Table of Contents

DIVISION I - INTRODUCTION

Article 1. Title, Purpose and Enacting Clause

01.01 Preamble and Enacting Clause

01.02 Purpose

01.03 Scope of Application

01.04 County Land Development Plan

01.05 Michigan City North End Plan

01.06 City of LaPorte

DIVISION II – ZONING DISTRICTS

Article 2. Zoning Districts and Map

02.01 Zoning Districts

02.02 Official Zoning Map

02.03 District Boundaries Interpreted

02.04 Zoning of Vacated Lands

02.05 Annexed Land

02.06 District Use Regulations

Article 3. Agricultural Districts

03.01 Intent

03.02 Uses

03.03 Lot Area and Width Requirements

03.04 Building Dimensional Requirements

03.05 Right to Farm Act

Appendix 03.A Notice of Agricultural Activity Form

Article 4. Single Family Residential Districts

04.01 Intent

04.02 Uses

04.03 Lot Area and Width Requirements
04.04 Building Dimensional Requirements

Article 5. Multiple Family Residential Districts

05.01 Intent
05.02 Uses
05.03 Lot Area and Width Requirements
05.04 Building Dimensional Requirements

Article 6. Manufactured Housing District

06.01 Intent
06.02 Uses
06.03 Lot Area and Width Requirements
06.04 Building Dimensional Requirements

Article 7. Business Districts

07.01 Intent
07.02 Uses
07.03 Lot Area and Width Requirements
07.04 Building Dimensional Requirements

Article 8. Central Business Districts

08.01 Intent
08.02 Uses
08.03 Lot Area and Width Requirements
08.04 Building Dimensional Requirements

Article 9. Industrial Districts

09.01 Intent
09.02 Uses
09.03 Lot Area and Width Requirements
09.04 Building Dimensional Requirements

Article 10. Marina District

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Article 11. Airport Districts

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Article 12. Overlay Districts

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Article 13. Michigan City North End Form-Based Districts

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DIVISION III – GENERAL PROVISIONS

Article 14. Use Regulations

14.01 Residential

14.02 Agriculture and Animal Related Uses
14.03 Retail Trade
14.04 Services
14.05 Motor Vehicle Dealers and Service
14.06 Accommodation and Food Services
14.07 Finance, Insurance, Real Estate, Professional, Scientific, and Technical Services
14.08 Health Care and Social Assistance
14.09 Entertainment and Recreation
14.10 Civic, Religious and Social Organizations
14.11 Educational Services
14.12 Public Administration
14.13 Transportation and Warehousing
14.14 Manufacturing
14.15 Utilities
14.16 Construction
14.17 Waste Processing and Disposal
14.18 Mining

Article 15. General Provisions

15.01 Uses per Lot
15.02 Lot Area Allocation
15.03 Voting Place
15.04 Height Limit
15.05 Projections into Required Yards
15.06 Corner Clearance
15.07 Basement Construction

Article 16. Accessory Buildings, Structures & Uses

16.01 Accessory Structures
16.02 Residential Accessory Buildings
16.03 Porches, Decks and Patios
16.04 Pools and Hot Tubs
16.05 Fences and Walls
16.06 Restrictions along Lakes & Streams

16.07 Reception Antennas
16.08 Recreational Vehicles and Equipment
16.09 Parking of Semi-Trucks, Shipping Containers and Construction Equipment
16.10 Entranceways
16.11 Non-Residential Accessory Buildings
16.12 Agricultural and horticultural fairs

Article 17. Site Development Provisions

17.01 Building Design Requirements
17.02 Landscaping Requirements
17.03 Screening Walls
17.04 Lighting Regulations
17.05 Waste Receptacles
17.06 Mechanical Equipment
17.07 Overly Districts

Article 18. Parking and Transportation Provisions

18.01 Off-Street Parking Requirements
18.02 Off-Street Parking Facility Design
18.03 Off-Street Loading Requirements
18.04 Driveway Access Management
18.05 Nonmotorized Pathways and Sidewalks

Article 19. Signs

19.01 Intent
19.02 Scope of Requirements
19.03 Signs Not Requiring Permit
19.04 Permitted Signs
19.05 Prohibited Signs
19.06 General Provisions for Permitted Signs
19.07 Sign permits
19.08 Application Procedure
19.09 Sign Inspection and Maintenance
19.10 Fees

Article 20. Stormwater Management

20.01 Intent

20.02 General Requirements

20.03 Applicability

20.04 Reference Regulations

20.05 Compliance

20.06 Stormwater BMP Requirements

20.07 Basic Stormwater Management Design Criteria

20.08 Restoration of Drainage

20.09 Obstruction of Drainage

20.10 Drainage Easements

20.11 Operation and Maintenance

20.12 Stormwater Management Permit Procedures and Requirements

20.13 Performance Guarantee

20.14 Waivers

20.15 Enforcement and Penalties

Article 21. Floodplain

21.01 **"RESERVED"** Ordinance for Flood Hazard Areas for LaPorte County

Article 22. Natural Resource Protection

22.01 Intent

22.02 Lands to which this Article Applies

22.03 Activities Allowed by Right

22.04 Establishment of Setback Requirements

22.05 Requirement for Natural Resources Due Diligence Inventory

22.06 Compliance

22.07 Duties and Responsibilities of Enforcement Official

22.08 Inventory Procedures

22.09 Basis for Protected Natural Resource Areas Determination

22.10 Standards for Subdivision Proposals

22.11 Riparian Management Plan

22.12 Compensatory Mitigation

22.13 Variances

22.14 Enforcement and Penalties

DIVISION IV – APPROVAL PROCEDURES

Article 23. Improvement Location Permits, Site Plans, Building Permits and Certificates of Occupancy

23.01 General Requirements

23.02 Required Materials

23.03 Site Plan/Sketch Plan Requirements

23.04 Permit Review

23.05 Occupancy Certificate

23.06 Records

23.07 Performance Guarantees

Article 24. Special Exception Review Requirements and Procedures

24.01 Special Exception Approval

24.02 Application

24.03 Notification

24.04 Public Hearing

24.05 Decision Criteria

24.06 Conditions and Commitments

24.07 Limitations

24.08 Special Exception Use Expansion

Article 25. Planned Unit Development

25.01 Intent

25.02 Qualifying Conditions

25.03 Permitted Uses

25.04 Dimensional Requirements

25.05 Open Space

25.06 Application and Review Procedure for Preliminary and Final PUD Site Plan

25.07 Preliminary PUD Site Plan Submittal Requirements

25.09 PUD Site Plan Standards for Approval

25.10 Final PUD Site Plan Submittal Requirements

25.11 Final PUD Site Plan Standards for Approval

25.12 Deviations from Approved Final PUD Site Plan

DIVISION V – ADMINISTRATIVE PROVISIONS

Article 26. Administration and Enforcement

26.01 Enforcement Official Designated
26.02 Duties of the Enforcement Official
26.03 Schedule of Fees
26.04 Penalties for Violation
26.05 Separate Violations
26.06 Enforcement by Injunction
26.07 Common Nuisance
26.08 Procedure to Impose a Fine for Violation

Article 27. Plan Commissions

27.01 Establishment
27.02 Officers and Employees
27.03 Duties
27.04 Policy Covering Plan Commission Activities
27.05 Meetings
27.06 Official Action; Discussion and Voting
27.07 Minutes and Records
27.08 Public Hearings
27.09 Notice Requirements; Public Hearings
27.10 Conduct of Public Hearings
27.11 Final Disposition of Cases
27.12 Conformance with County Land Development Plan
27.13 Actions for Injunction for Restraint of Violation
27.14 Coordination with State Statutes

Article 28. Board of Zoning Appeals

28.01 Establishment
28.02 Powers and Duties of the BZA
28.03 Officers and Employees

28.04 Meetings
28.05 Official Action; Discussion and Voting
28.06 Minutes and Records
28.07 Public Hearings
28.08 Rules and Procedures
28.09 Variance, Use, Exception and Appeal Procedure
28.10 Notice Requirements
28.11 Variance
28.12 Commitments and Conditions Authorized
28.13 Approval Period
28.14 Appeal

Article 29. Nonconforming

29.01 Nonconforming Uses
29.02 Nonconforming Structures and Buildings
29.03 Nonconforming Lots
29.04 Nonconforming Sites
29.05 Nonconformity Resulting In Right-Of-Way Dedication

Article 30. Amendments and Rezonings

30.01 Application Initiation
30.02 Application
30.03 Notification
30.04 Plan Commission Public Hearing
30.05 Certification
30.06 Legislative Action
30.07 Decision Criteria
30.09 Written Commitments
30.10 Zoning Text Amendments

Article 31. Definitions

31.01 Construction of Language
31.02 Definitions "A"
31.03 Definitions "B"
31.04 Definitions "C"
31.05 Definition "D"

31.06 Definition “E”
31.07 Definition “F”
31.08 Definition “G”
31.09 Definition “H”
31.10 Definition “I”
31.11 Definition “J”
31.12 Definition “K”
31.13 Definition “L”
31.14 Definition “M”
31.15 Definition “N”
31.16 Definition “O”
31.17 Definition “P”
31.18 Reserved
31.19 Definition “R”
31.20 Definition “S”
31.21 Definition “T”
31.22 Definition “U”
31.23 Definition “V”
31.24 Definition “W”
31.25 Definition “Y”
31.26 Definition “Z”

Article 32. Uses by Zoning District

32.01 Severability
32.02 Adoption

Article 01
Title, Purpose and Enacting Clause

Section 01.01 Preamble and Enacting Clause

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR La PORTE COUNTY, INDIANA, AND THE INCORPORATED CITIES OF La PORTE AND MICHIGAN CITY, PROVIDING FOR THE ADMINISTRATION AND PENALTIES FOR VIOLATION THEREOF, AND FOR THE REPEAL OF ALL CONFLICTING ORDINANCES.

Section 01.02 Purpose

THIS ORDINANCE is in accordance with a comprehensive plan, hereafter referred to as the county land development plan and is adopted so that adequate light, air, convenience and access, and safety from fire, flood and other danger may be secured; that congestion in the public streets may be lessened or avoided; that the local environmental heritage be enhanced and protected; and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted. This Ordinance is made with reasonable regard to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted and the conservation of property values and the overall quality of life throughout the territory under the jurisdiction of the plan commissions of La Porte County, the City of La Porte, the City of Michigan City, and the Town of Westville, Indiana.

Section 01.03 Scope of Application

(a) No building or structure, or part thereof, shall hereafter be erected, constructed, renovated, altered or maintained and no new use shall be made of any building or land except in conformity with the provisions of this Ordinance.

(b) Any building or structure which is erected, repaired, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.

(c) Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or use of any building on which actual construction was lawfully begun prior to the effective date of this Ordinance. The construction shall be completed within two (2) years from the effective date of this Ordinance.

(d) The provisions of this Article shall apply to all buildings, structures and uses in any zoning district, unless otherwise noted.

(e) The regulations established by this Ordinance shall be the minimum necessary and shall apply uniformly to each class or kind of structure, land, or use.

(f) This Ordinance shall apply to all areas of La Porte County and the incorporated municipalities of the city of La Porte and the city of Michigan City and those areas outside the City of La Porte that are included in the La Porte Overlay District provided for in Article 12. Land uses and buildings shall also be subject to all other ordinances of the applicable jurisdiction where the lot is located.

Section 01.04 County Land Development Plan

(a) The objective of future land use planning and development in La Porte County and the incorporated municipalities of the city of La Porte and the city of Michigan City considers:

(1) Establishment of land use patterns that are logical, orderly, attractive, and convenient;

(2) Protection of private investment;

(3) Protection of the environment;

(4) Efficient use of public resources; and

(5) Improvement of the quality of life.

(b) The policy for land use planning and development considers:

(1) Land use patterns involving topographical features and existing land uses;

(2) Land use intensity based on current uses and projected demographic trends;

(3) Growth patterns and projected land uses and housing needs;

(4) Environmental protection, open space, recreational facilities, and agricultural uses; and

(5) Existing capital facilities and sound fiscal economic development.

(c) The policy for the development of public ways, public places and lands, public structures, and public utilities considers:

(1) Land available by donation or dedication for public use;

(2) Development of public ways within large residential development;

(3) Location of public structures and utilities for greatest convenience of use and facility; and

(4) Current land use of public land

(d) In planning for development of future growth and use of this plan, the following additional criteria and documents are considered:

(1) Histories of the county and communities, population, and growth trends, as well as physical site conditions;

(2) Population densities and land use;

(3) Land utilization, including agriculture, forests, and suburban development trends;

(4) Conservation of energy, water, soil, ecological and agricultural and mineral resources; and

(5) Survey studies, maps, charts, plats, and other descriptive material of development histories and trends within the county.

Section 01.05 Michigan City North End Plan

Michigan City has forged a collective vision for the redevelopment of the downtown and waterfront and the Michigan City North End Plan. This ordinance is intended to facilitate a transformative change to Michigan City's downtown and waterfront area by doing the following:

(a) Direct urban growth in the city's North End.

(b) Develop a fully integrated, mixed-use, pedestrian-oriented and transit-oriented environment.

(c) Create a synergy of uses to support economic development and redevelopment.

(d) Minimize traffic congestion, inefficient surface parking lots, infrastructure costs and environmental impacts by promoting compact, mixed-use, pedestrian-friendly and transit-oriented development.

(e) Regulate building height and placement to achieve appropriate scale along streets and critical mass of development to support transit.

(f) Establish clear controls on building form and placement to frame a well-defined public realm comprised of human-scale streets, neighborhoods and public spaces, all of which contribute to creating a safe, comfortable and livable environment.

(g) Advocate the building of civil communities through economically and environmentally sustainable development practices.

(h) Build and preserve places that are useful, beautiful and meaningful.

(i) Guide future deliberations and decisions which affect the way people build and live.

Section 01.06 City of La Porte

This ordinance is intended to encourage redevelopment in the city of La Porte to maintain a traditional, mixed-use, pedestrian-oriented community by doing the following:

(a) Ensure that new development maintains the "traditional" scale and atmosphere that currently exists within the city.

(b) Ensure that the orientation and placement of buildings on their sites promotes visibility from the street, pedestrian-oriented environment and the connectivity between different land uses.

(c) Minimize traffic congestion infrastructure costs and environmental impacts by promoting compact, mixed-use, pedestrian-friendly development.

(d) Capitalize on the opportunity to reconnect the fabric of La Porte by extending the roadway grid system with well-designed streets and sidewalks that promote a walkable community and encourage pedestrian, and bicycle activity, while still accommodating automobiles, and parking.

(e) Capitalize on the waterfront and bring new meaning and identity to La Porte.

(f) Create a synergy of uses to support economic development and redevelopment.

Section 01.07 Town of Westville

Westville will utilize this ordinance to further its vision and Comprehensive Plan for the future growth of Westville. Westville will move forward with its plan by doing the following:

(a) Adopt an agricultural or conservation easement program.

(b) Pair with one of the two Land Trusts operating in La Porte County.

(c) Use zoning to designate agricultural land and protect it from development.

(d) Establish and implement an infill development program.

(e) Ensure contiguous and compact development to preserve the unique character of the town.

(f) Ensure aesthetically pleasing transitions between land use zones.

(g) Transform brownfield site into a productive economic use.

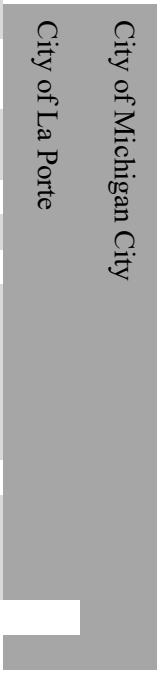
(h) Create policy on landscaping to ensure effective transitions between land uses.

Article 02
Zoning Districts and Map

Section 02.01 Zoning Districts

The county of La Porte, including the city of La Porte and the city of Michigan City, is divided into the following Districts. Certain districts are only applicable to the county or cities.

Symbol	District Name	Regulated in
A	Agriculture	Article 03
R1A	Single family residential	Article 04
R1B	Single family residential	Article 04
R1C	Single family residential	Article 04
R1D	Single family residential	Article 04
R1E	Waterfront residential	Article 04
R2A	Townhouse	Article 05
R2B	Townhouse	Article 05
R3A	Low-Rise Multiple Family Residential	Article 05
R3B	Mid-Rise Multiple Family Residential	Article 05
R4	Manufactured Housing Park	Article 06
B1	Neighborhood Commercial	Article 07
B2	General Commercial	Article 07
B3	Highway Commercial	Article 07
OS	Office Service	Article 07
CBD1	Downtown Core	Article 08
CBD2	Transition or Hamlet Center	Article 08
M1	Light Industrial	Article 09
M2	Heavy Industrial	Article 09
MD	Marina District	Article 10
AP	Airport	Article 11



Section 02.02 Official Zoning Map

(a) An official Zoning Map is adopted as a part of this Ordinance, and hereby incorporated in this article by reference. The Zoning Map shows the boundaries of the zoning districts and the applicable zoning district that regulates each parcel of land. Pursuant to IC 36-7-4-610(c) the official zone map is on file and available for inspection and copying during regular business hours at:

(1) **La Porte County.** See Section 33.03 and the office of the building commissioner of the county.

(2) **City of La Porte.** See Section 33.01 and the office of the city of La Porte clerk-treasurer and the office of the city plan commission in the office of the engineering department of the city of La Porte.

(3) **City of Michigan City.** See Section 33.02 and the office of the Michigan City clerk.

Section 02.03 District Boundaries Interpreted

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

(a) When the exact boundaries of a district are uncertain, they shall be determined by use of the scale on the Zoning Maps.

(b) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow the centerlines.

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

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

(e) Boundaries indicated as following shorelines shall be construed to follow the shoreline, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the centerline. Any use or structures extending into or over a lake or other water body shall be subject to the same zoning restrictions as the adjoining land.

(f) When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated.

Section 02.04 Zoning of Vacated Lands

Zoning of vacated areas means whenever any road, alley or other public way shall be vacated, the road, alley or other public way or portion thereof shall automatically be classified in the same zone district as the property to which it attaches.

Section 02.05 Annexed Land

Where land within the county is annexed to one of the cities it shall retain its existing zoning until such time as the city takes action to rezone the land to another district.

Section 02.06 District Use Regulations

Each zoning district article includes a schedule of permitted uses indicating uses that are permitted by right, and allowed by special exception. A use that is not listed as permitted or special exception in a district shall not be permitted in that district. Appendix A provides a combined schedule of permitted uses for all districts. A use that is not listed in any zoning district may be permitted upon determination by the enforcement official that the use is clearly similar in nature and compatible with a use that is listed in a particular district. In making this determination, the enforcement official shall consider the following:

(a) The enforcement official shall consider specific characteristics of the proposed use and compare them to the characteristics of the uses that are listed in the zoning ordinance. Characteristics considered shall include, but are not limited to, traffic generation, types of services offered, types of goods produced, methods of operation, noise, hours of operation and building characteristics.

(b) If the enforcement official determines that the proposed use is consistent and compatible with a permitted use, the use shall be permitted under that use category. If the enforcement official determines that the proposed use is consistent and compatible with a special exception use, the use shall be allowed with special exception approval. The use shall be subject to all requirements of the similar use.

(c) A proposed use shall not be permitted in a district where the use is specifically listed in any other district, as shown in Appendix A, or where the enforcement official determines that the use is more similar in nature and compatible with uses listed in another district.

(d) The use determination of the enforcement official may be appealed to the board of zoning appeals for an interpretation of the use provisions of the zoning ordinance.

Article 03
Agricultural Districts

Section 03.01 Intent

County

A Agricultural District. The A Agricultural District is established primarily for agricultural uses, but also allows for limited non-farm rural residential development. The intent of this district is to protect agricultural areas from encroachment of residential and commercial sprawl by limiting the amount of residential development. This district applies to areas of the county designated for rural estate and traditional agriculture in the County Land Development Plan. This may also apply to planned growth or urban expansion areas where the current use of the land is agricultural and there is not a short term need for dense residential development.

Section 03.02 Uses

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

P: **Permitted Use.** Land and/or buildings in this District may be used for the purposes listed by right subject to any use limitations set forth in this ordinance.

S: **Special Exception Use.** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Article 24 Special Exception Review Requirements and Procedures are met, subject to any use limitations set forth in this ordinance.

-: **Not Permitted.** The use is not permitted in the district. Uses not listed in the table are also not permitted. Uses that are not listed in any district of the zoning ordinance, as shown in Appendix A, may be allowed based upon a similar use determination in accordance with Section 02.06.

Table 03.02
Schedule of Permitted Uses

Use	A	Use Requirements
Residential limited to the following:		
Single-family detached dwellings	P	14.01(a)
Home occupations	P	14.01(a)(05)
Accessory Dwelling Units	S	14.01(a)(6)
Agriculture and animal-related uses limited to the following:		
Agricultural uses	P	
Confined feeding operations	S	14.02(a)
Boarding stables	P	14.02(b)
Farm implement dealers	S	

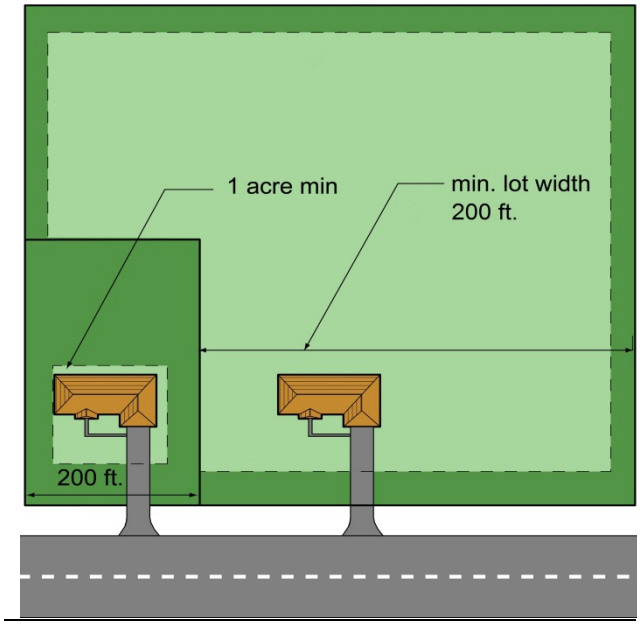
Farm seasonal worker housing	P	
Grain elevator and storage	P	
Hatcheries	P	
Keeping of horses and livestock	P	14.02(c)
Kennels	P	
Livestock yards	S	
Locker plants	S	
Plant nursery and commercial greenhouses	P	
Produce terminals	P	
Roadside stands	P	14.02(d)
Veterinary hospital for large animals	S	
Veterinary hospital for small animals	S	
Retail trade limited to the following:		
Feed stores	P	
Lawn & garden supply, greenhouse, and retail nurseries without outdoor sales	S	
Lawn & garden supply, greenhouse, and retail nurseries with outdoor sales	S	
Gift, souvenir handicraft stores	S	
Produce markets	S	
Services limited to the following:		
Taxidermists	S	
Accommodation and food services limited to the following:		
Bed & breakfasts	S	14.06(a)
Entertainment and recreation limited to the following:		
Archery ranges	S	
Campgrounds	S	
Forestry/wildlife preserve	P	
Golf course and country clubs	S	
Parks/playgrounds	P	
Shooting ranges, indoors/outdoors	S	
Civic, religious, social assistance organizations limited to the following:		
Cemeteries	S	14.10(b)
Public administration limited to the following:		
Government buildings excluding correctional facilities	P	
Museums, civic buildings and landmarks preserved for public inspection	P	
Transportation and warehousing limited to the following:		
Airstrips	S	14.13(a)
Utilities limited to the following:		
Public utility buildings	P	
Transmission lines for gas, oil and electricity	P	
Utility substations	S	
Single accessory wind energy conversion systems	S	14.15(b)
Commercial wind energy conversion systems	S	14.15(b)
Wireless communication facility - collocation	P	14.15(c)
Wireless communication facility tower	S	14.15(c)
Wireless communication facility on institutional site	S	14.15(c)
Construction		
Concrete and gravel crushing	S	14.16(a)
Landscaping services	P	14.16(a)
Waste processing and disposal		
Sanitary landfills	S	14.17(d)
Mining		
Mineral extraction & general mining operations	S	14.18(a)

Section 03.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a manner that does not comply with the following requirements.

	Min. lot size (g)	
District (a)	Lot area (acres) (b)	Lot width (ft.)(c)(d)(e)
A - Agricultural	10 1 **acre**	**200'** **frontage**

A - Agricultural



(a) **Subdivision of Land.** All divisions to land shall be subject to the requirements set forth in the Subdivision Regulations of La Porte County, city of La Porte, city of Michigan City or Town of Westville, as applicable.

(b) **Lot Area Calculation.** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake, river or stream.

(c) **Lot Width and Frontage.** Lot width shall be measured as a straight line between the side lot lines at the minimum front yard setback of the district. All lots shall have frontage along a public road. The width along the road shall be sufficient to meet the lot width requirement at the minimum front yard setback.

(d) **Dominant Parcel.** The dominant tract or parcel from which any newly created lot has been divided from must also maintain the required lot width.

(e) **Depth to Width Ratio.** This provision shall not apply to the unincorporated areas of La Porte County.

(f) **(A) Agriculture Residential Lots.** In the Agriculture District, lots may be created as follows:

(1) Lots shall be on improved dedicated roadways or streets (see definition for improved roadways).

(2) The new lot that is subdivided shall be at least one (1) acre in area and have at least 200 feet of road frontage.

(3) Residential lots shall have an INDOT minimum sight distance for driveways.

(4) Residential lots shall have two approved septic system designs.

(5) Residential lots shall have minimum 10' wide improved driveways, minimum 6" deep base (see driveway improved definition.)

(6) Lots may be subdivided from an existing tax parcel of record under separate tax i.d. and title as of the date of the adoption of this ordinance.

(7) Storm water runoff management plan to protect downstream properties from additional surface water runoff.

(g) **Nonconforming Lots.** Lots of record that were in existence prior to the effective date of this ordinance may be used subject to the provisions of the nonconforming lot regulations of Section 29.03.

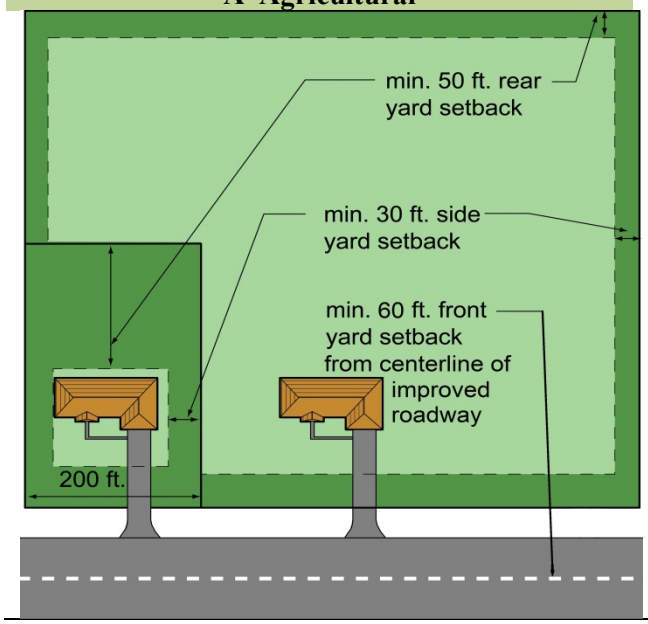
Section 03.04 Building Dimensional Requirements

All structures shall be subject to the dimensional regulations of the following table.

Table 03.04
Building Dimensional Requirements (a)

	Max. building height (b)		Min. setbacks (ft.) (c, d, e, f)				Min. floor area	
District	Height (ft.)	Height (st.)	Front yard	Side yard	Rear yard	Waterway (g, h)	Total (sq.ft.)	First floor (sq.ft.)
A –Agricultural	45	2.5	60	30	50	50	1000	800

A–Agricultural



(a) **Accessory Structures.** Residential accessory structures shall be regulated under the requirements of Article 16. Buildings used for agricultural purposes shall not be considered accessory structures regulated by Article 14.

(b) **Height Exceptions.** No structure shall exceed the maximum height of the district except for the allowable exceptions to height limits contained in Section 15.04.

(c) **Projections into Yards.** All required yard spaces shall remain as landscaped open space, except for pavement, accessory structures and architectural features that are allowed to extend or project into required setbacks under Section 15.05.

(d) **Setback from Road.** The front yard setback shall be a minimum of 60 feet measured from the centerline of the improved roadway or a minimum of 25 feet from the right-of-way.

(e) **Corner Lots.** Corner lots shall provide the minimum front yard setback from both road frontages.

(f) **Double Frontage Lots.** In all districts, where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way.

(g) **Wetlands.** A minimum setback of 50 feet shall be maintained from all wetlands. The setback may be adjusted according to requirements of natural resource preservation guidelines contained article 22.

(h) **Waterway Setback.** The waterway setback shall be measured from the shoreline of the lake, river or stream. In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum waterway setback. The setback may be adjusted according to requirements of Natural Resource Preservation Guidelines.

Section 03.05 Right to Farm

In accordance with Indiana Code § 32-30-6-9, it is the policy of the County of La Porte, to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products as set forth in the Indianan “Right to Farm” Act. The purpose of the “Right to Farm” Act is to protect farm operations from unwarranted nuisance suits by neighbors who move next to an existing farm operation.

Persons applying for a Building Permit in an area of La Porte County that is zoned A1 for Agricultural will be provided with a notice as found in Appendix 03.A in this Article. This notice is to ensure the applicant is aware that all agricultural operations are allowed in areas zoned A1.

Appendix 03.A Notice of Agricultural Activity Form

NOTICE OF AGRICULTURAL ACTIVITY

TO: ALL APPLICANTS FOR LOCATION IMPROVEMENT PERMITS FOR HOMES IN A1 ZONED AGRICULTURAL AREAS OF LA PORTE COUNTY

This notice is given to you because of your application for a Building Permit to build or move a home into an area of La Porte County that is zoned A1 for Agriculture. The purpose of this notice is to assure you are aware that all agricultural operations are allowed in this area.

Agricultural activity may include, but is not limited to, grazing of livestock, confined feeding of livestock, application of animal manure to land, application of pesticides to fields and growing crops, creation of dust from field operations and noise from livestock and machinery operations at all hours.

Single family dwellings are permitted uses of land in an Agricultural Zone, and this is not restricted to farm families. However, people who chose to live in these areas must understand that agricultural operations may be occurring nearby.

You must also understand that Indiana has a "RIGHT TO FARM" law that protects farm operations from unwarranted nuisance suits by neighbors who move next to an existing farm operation. Farm operations do not constitute a nuisance as long as they are not negligently maintained, do not endanger human health and do not cause bodily injury to third parties.

By signing this notice form, you verify that you have received it, read it, and understand it. You are not giving up the right to seek redress for negligence by individuals associated with a farm operation or by other residents of the area.

MY SIGNATURE CERTIFIES THAT I HAVE RECEIVED THIS NOTICE.
I HAVE READ IT AND UNDERSTAND IT.

_____	_____
Printed Name	Signature
_____	_____
Street Address	Date

Article 04
Single Family Residential Districts

Section 04.01 Intent

County

Cities

(a) **R1A Residence District.** The R1A Single Family Residential District is established to include areas of low density single-family residences and limited agricultural uses. Certain other institutional, social and recreational uses are also included in this district, such as schools, child care and recreational uses. The intent is to create a transitional residential area in the planned urban expansion areas of the county designated in the County Land Development Plan.

(b) **R1B Residence District.** The R1B Single Family Residential District is established to include areas of moderate density single-family residences. Certain other institutional, social and recreational uses are also included in this district, such as schools, child care and recreational uses. This district may apply to outlying areas of incorporated cities with larger lot development. This district may also apply to unincorporated areas of the county that are identified in the County Land Development Plan for planned urban expansion adjacent to established cities where sufficient public services are available to support the density. This district is intended for areas where community sewer is available or scheduled in the near future.

(c) **R1C Residence District.** The R1C Single Family Residential District is established to include urban neighborhoods with moderate sized lots and larger single family dwellings. Certain other institutional, social and recreational uses are also included in this district, such as schools, child care and recreational uses. The intent is to maintain and enhance traditional, walkable, pedestrian-oriented neighborhoods and to provide for infill development that is consistent with the established character of the neighborhood. The R1C is only intended for incorporated areas of cities where all necessary utilities and community services are available to serve a higher density population.

(d) **R1D Residence District.** The R1D Single Family Residential District is established to include urban neighborhoods with small lots. This district will include single family and two family dwellings. Certain other institutional, social and recreational uses are also included in this district, such as schools, child care and recreational uses. The intent is to maintain and enhance traditional, walkable, pedestrian-oriented neighborhoods and to provide for urban infill development that is of a form and character consistent with established historic neighborhoods. The R1D is only intended for incorporated areas of cities where all necessary utilities and community services are available to serve a higher density population.

(e) **R1E Waterfront Residence District.** The R1E Waterfront Residential District is established to apply to existing waterfront residential areas developed on small lots. This district will primarily include single family dwellings. Certain other community and recreational uses are also included in this district. The intent is to provide for continued maintenance of these older waterfront neighborhoods, but to prevent overbuilding of small lots and protect from new residential construction that is out of scale with surrounding smaller homes. The R1E is only intended for existing historic waterfront neighborhoods and small scale infill development in waterfront areas. This district is not intended for new development of large areas of undeveloped land.

Section 04.02 Uses

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

P: **Permitted Use.** Land and/or buildings in this District may be used for the purposes listed by right, subject to any use limitations set forth in this ordinance.

S: **Special Exception Use.** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Article 24 Special Exception Review Requirements and Procedures are met, subject to any use limitations set forth in this ordinance.

-: **Not Permitted.** The use is not permitted in the district. Uses not listed in the table are also not permitted. Uses that are not listed in any district of the zoning ordinance, as shown in Appendix A, may be allowed based upon a similar use determination in accordance with section 02.06.

Table 04.02
Schedule of Permitted Uses

Use	R1A	R1B	R1C	R1D	R1E	Use Requirements
Residential limited to the following:						
Single-family detached dwellings	P	P	P	P	P	14.01(a)
Two-family dwellings	-	-	-	P	-	14.01(a)
Home occupations	P	P	P	P	P	14.01(a)(5)
Accessory Dwelling Units	S	S	S	S	S	14.01(a)(6)
Agriculture and animal-related uses limited to the following:						
Agriculture	P	P	-	-	-	
Keeping of horses and livestock	P	P	-	-	-	14.02(c)
Retail trade and Services limited to the following:						
Planned neighborhood shopping centers	-	-	S	S	-	14.03(c)
Accommodation and food services limited to the following:						
Bed & breakfasts	S	S	S	S	S	14.06(a)
Health care and social assistance limited to the following:						
Day care centers, commercial	S	S	S	S	S	14.08(a)
Day care homes, residential licensed for 12 or fewer children	P	P	P	P	P	
Foster care homes	P	P	P	P	P	
Funeral homes/mortuaries	-	-	S	S	-	14.08(b)
Group homes licensed for 8 or fewer residents	P	P	P	P	P	
Nursing homes and senior assisted living	-	-	-	S	-	14.08(c)
Entertainment and recreation limited to the following:						
Boat clubs	S	S	S	S	S	
Forestry/wildlife preserve	P	P	P	P	P	
Golf course and county clubs	S	S	S	S	S	
Parks/playgrounds	P	P	P	P	P	
Civic, Religious and Social Organizations limited to the following:						
Cemeteries	-	-	S	S	-	14.10(a)
Churches, chapels, temples, synagogues and similar places of worship	S	S	S	S	-	14.10(b)
Community centers	S	S	S	S	S	
Educational services limited to the following:						
Libraries	P	P	P	P	P	
Schools, elementary, middle and high	P	P	P	P	P	
Public administration limited to the following:						

Table 04.02
Schedule of Permitted Uses

Use	R1A	R1B	R1C	R1D	R1E	Use Requirements
Government buildings excluding correctional facilities	P	P	P	P	P	
Museums, civic buildings and landmarks preserved for public inspection	P	P	P	P	P	
Utilities limited to the following:						
Public utility buildings	S	S	S	S	S	
Transmission lines for gas, oil and electricity	P	P	P	P	P	
Utility substations	S	S	S	S	S	
Single accessory wind energy conversion systems	S	S	S	S	S	14.15(b)
Wireless communication facility - collocation	P	P	P	P	P	14.15(c)
Wireless communication facility on institutional site	S	S	S	S	S	14.15(c)

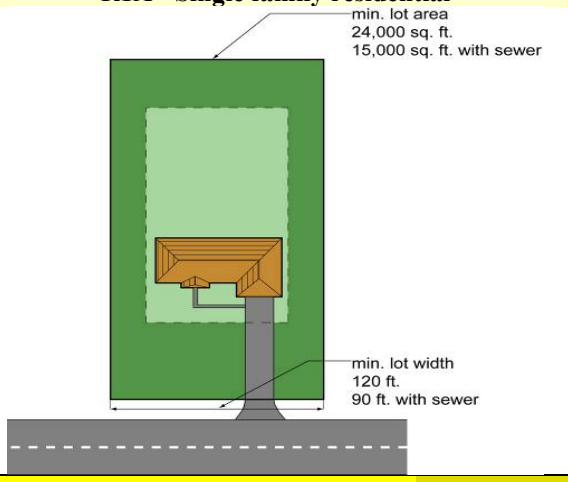
Section 04.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a manner that does not comply with the following requirements.

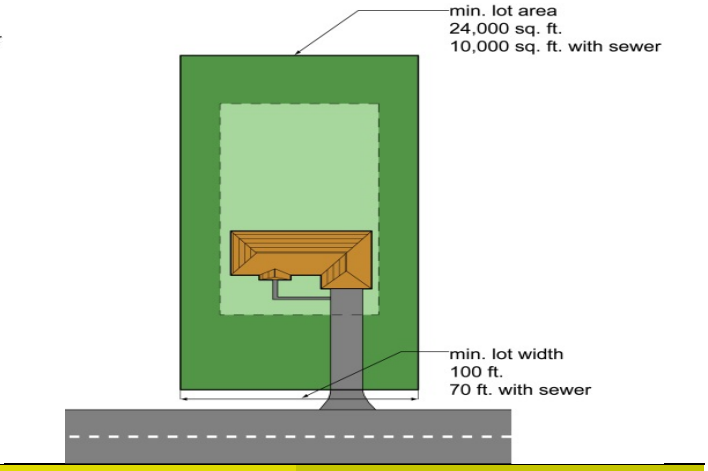
Table 04.03
Lot Area And Width Requirements

		Min. lot size (h)		
District (a)	**(b)**	**Lot area (sq. ft.) (c)(d)**	**Lot width (ft.)(d)(e)(f)(g)**	**Max. res. density (dwellings/ac.)**
R1A - Single family residential (h)	Individual septic	24,000	120	1.8
	Community sewer or cluster system	15,000	90	2.9
R1B - Single family residential (h)	Individual septic	24,000	100	1.8
	Community sewer or cluster system	10,000	70	4.4
R1C - Single family residential	Community sewer or cluster system required	7,200	60	6.1
R1D - Single family residential	Community sewer required	5,000	50	8.7
R1E – Waterfront residential	Community sewer required	5,000	50	8.7

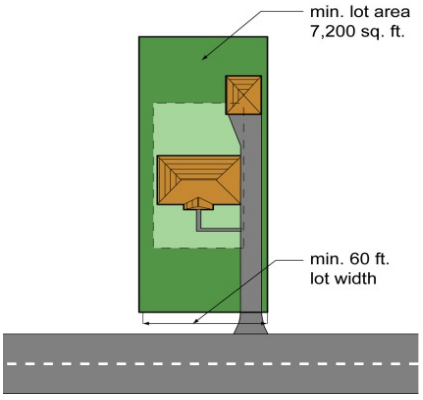
R1A - Single family residential



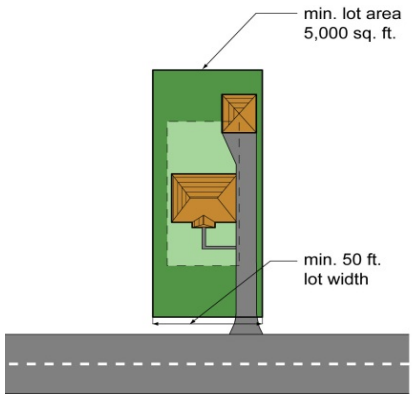
R1B - Single family residential



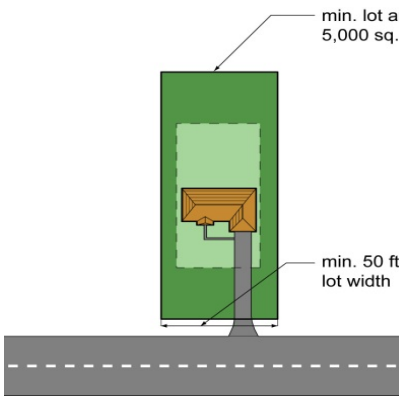
R1C - Single family residential



R1D - Single family residential



R1E – Waterfront residential



(a) **Subdivision of Land.** All divisions to land shall be subject to the requirements set forth in the Subdivision Regulations of La Porte County, city of La Porte, ~~or~~ city of Michigan City or Town of Westville, as applicable.

(b) **Community Sewer.** Community sewer refers to a community or municipal wastewater system. All lots not served by community sewer shall be subject to State and County Health Department regulations regarding accommodation of septic or other onsite wastewater treatment systems, which may require larger lot sizes than those indicated in Table 04.03. Any new lots created in the R1C, R1D or R1E must be served by community sewer. Community sewer may include onsite cluster systems.

(c) **Lot Area Calculation.** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake, river or stream.

(d) **Lots not Part of a Major Subdivision.** In the unincorporated areas of the county, lots that are created through the recording of a minor subdivision plat shall be required to meet the following requirements:

(1) The minimum lot area shall be one (1) acre.

(2) The minimum lot width shall be 200 feet.

(e) **Lot Width and Frontage.** Lot width shall be measured as a straight line between the side lot lines at the minimum front yard setback of the district. All lots shall have frontage along a public road or street. The width along the road shall be sufficient to meet the lot width requirement at the minimum front yard setback.

(f) **Dominant Parcel.** The dominant tract or parcel from which any newly created lot has been divided from must also maintain the required lot width.

(g) **Nonconforming Lots.** Lots of record that were in existence prior to the effective date of this ordinance may be used subject to the provisions of the nonconforming lot regulations of Section 29.03.

(h) **Recreation Area.** All residential subdivisions containing more than 40 lots shall provide an active recreational area as required by the Subdivision Regulations.

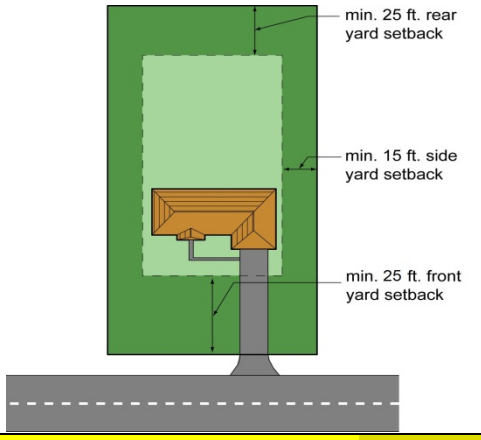
Section 04.04 Building Dimensional Requirements

All structures shall be subject to the dimensional regulations of the following table.

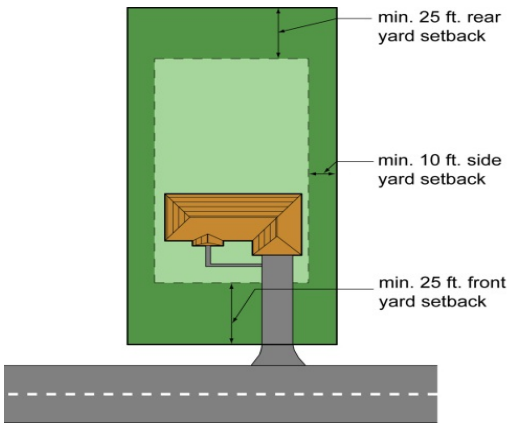
Table 04.04
Building Dimensional Requirements (a)

District	Max. building height (b, j)		Min. setbacks (ft.) (c, d, e, f, g, j)					% Lot coverage (k)		Min. floor area	
	Height (ft.)	Height (st.)	Front yard	Side yard	Total both sides	Rear yard	Waterway (h, i)	Building	Imper. Surface	Total (sq.ft.)	First floor (sq.ft.)
R1A – Single family residential	35	2.5	25	15	30	25	50	35%	45%	1000	800
R1B – Single family residential	35	2.5	25	10	20	25	50	35%	45%	1000	800
R1C – Single family residential	35	2.5	25	5	15	25	50	45%	55%	1000	800
R1D – Single family residential	35	2.5	20	5	15	20	50	45%	55%	1000	800
R1E – Waterfront residential	35	2.5	20	7	14	20	50	45%	55%	1000	800

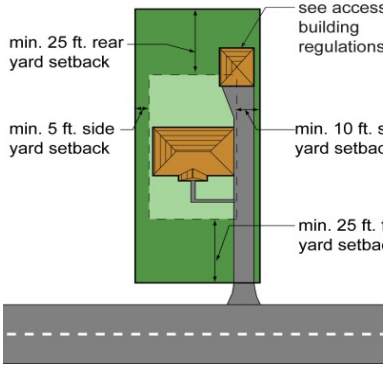
R1A - Single family residential



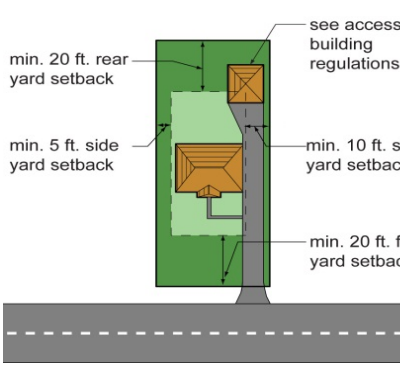
R1B - Single family residential



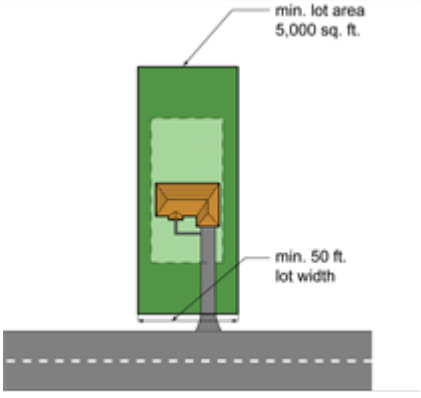
R1C - Single family residential



R1D - Single family residential



R1E – Waterfront residential



(a) **Accessory Structures.** Accessory structures shall be regulated under the requirements of Article 16.

(b) **Height Exceptions.** No structure shall exceed the maximum height of the district except for the allowable exceptions to the height limits contained in Section 15.04.

(c) **Projections into Yards.** All required yard spaces shall remain as landscaped open space, except for pavement, accessory structures and architectural features that are allowed to extend or project into required setbacks under Section 15.05. Driveways and other paved or gravel areas for vehicles shall not cover more than 40% of the front yard area. At least 60% of the front yard shall remain as landscaped green space.

(d) **Setback from Road.** The front yard setback shall be measured from the road right-of-way or private road easement. Where a majority of lots on a block face are existing, the average setback shall dictate the front yard setback requirements.

(e) **Corner Lots.**

(1) In the R1A, R1B and R1C districts, corner lots shall provide the minimum front yard setback from both road frontages.

(2) In the R1D, R1E and R1F districts, corner lots shall provide the minimum front yard setback from the road that the lot has the narrowest along frontage. The longer road frontage shall be considered a side-street and shall be required to provide a minimum ten (10) foot side yard setback along that street. The enforcement official may adjust the front lot line designation based upon the orientation of the building on the lot and adjacent lots.

(f) **Double Frontage Lots.** In all districts, where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way.

(g) **Driveway Access.** Corner and double frontage residential lots shall only have driveway access from one road, which shall be the lesser traveled road as determined by the enforcement official.

(h) **Wetlands.** A minimum setback of 50 feet shall be maintained from all wetlands. The setback may be adjusted according to requirements of natural resource preservation guidelines contained article 22.

(i) **Waterway Setback.** The waterway setback shall be measured from the shoreline of the lake, river or stream. In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum waterway setback. The setback may be adjusted according to requirements of Natural Resource Preservation Guidelines.

(j) **Waterfront View Protection.** See additional regulations of section 12.03 that apply to residential lots in the Waterfront View Protection overlay zoning district.

(k) **Maximum Lot Coverage.** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:

(1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.

(2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading, storage areas and normal pool of wet detention basins to the net lot area.

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Article 05
Multiple Family Residential Districts

Section 05.01 Intent

Cities | County

(a) **R2A Townhouse Residential District.** The R2A Townhouse Residential District is established to allow development of attached single family dwellings with common side walls. This district may be utilized for infill development in cities and may also apply to unincorporated areas that are identified in the County Land Development Plan for planned urban expansion adjacent to cities, if community sewer and community services are available. Onsite cluster systems may also be a permitted option for community wastewater treatment in unincorporated areas. Certain other institutional, social and recreational uses are also permitted in this district, such as schools, child care and recreational uses. The intent is to maintain or create walkable, pedestrian-oriented neighborhoods. In cities, development within this district should be of a form and character consistent with the established historic character of the community.

(b) **R2B Townhouse Residential District.** The R2B Townhouse Residential District is established to allow development of higher density attached single family dwellings with common side walls. This district is intended for infill development in cities only and is not intended for unincorporated areas of the county. Certain other institutional, social and recreational uses are also permitted in this district, such as schools, child care and recreational uses. The intent is to maintain and enhance traditional, walkable, pedestrian-oriented neighborhoods and to provide for urban infill development that is of a form and character consistent with established historic character of the community.

(c) **R3A Low-Rise Multiple Family Residential District.** The R3A Low-Rise Multiple Family Residential District is established to allow development of moderate density apartment style multiple family development as well as townhouse development. This district may also apply to unincorporated areas that are identified in the County Land Development Plan for planned urban expansion adjacent to cities, if community sewer and community services are available. Onsite cluster systems may also be a permitted option for community wastewater treatment in unincorporated areas. Certain other institutional, social and recreational uses are also permitted in this district, such as schools, child care and recreational uses. The intent is to maintain or create walkable, pedestrian-oriented neighborhoods. In cities, development under this district should be of a form and character consistent with established historic character of the community.

(d) **R3B High-Rise Multiple Family Residential District.** The R3A High-Rise Multiple Family Residential District is established to allow development of higher density apartment style multiple family development as well as townhouse development. This district is intended for infill development in cities only and is not intended for unincorporated areas of the county. Certain other institutional, social and recreational uses are also permitted in this district, such as schools, child care and recreational uses. The intent is to maintain and enhance traditional, walkable, pedestrian-oriented neighborhoods and to provide for urban infill development that is of a form and character consistent with established historic character of the community.

Section 05.02 Uses

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

P: **Permitted Use.** Land and/or buildings in this District may be used for the purposes listed by right, subject to any use limitations set forth in this ordinance.

S: **Special Exception Use.** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Article 24 Special Exception Review Requirements and Procedures are met, subject to any use limitations set forth in this ordinance.

-: **Not Permitted.** The use is not permitted in the district. Uses not listed in the table are also not permitted. Uses that are not listed in any district of the zoning ordinance, as shown in Appendix A, may be allowed based upon a similar use determination in accordance with section 02.06.

Table 05.02
Schedule of Permitted Uses

Use	R2A	R2B	R3A	R3B	Use Requirements
Residential limited to the following:					
Single-family detached dwellings	P	P	P	-	14.01(a)
Two-family dwellings	P	P	P	P	14.01(a)
Single-family attached/townhouses	P	P	P	P	
Multiple-family dwellings	-	-	P	P	
Fraternity, sorority or student cooperatives	S	S	S	S	
Home occupations	P	P	P	P	14.01(a)(5)
Accessory Dwelling Units	P	P	P	P	14.01(a)(6)
Retail trade limited to the following:					
Planned neighborhood shopping centers	-	S	S	S	14.03(c)
Accommodation and food services limited to the following:					
Bed & breakfasts	S	S	S	S	14.06(a)
Health care and social assistance limited to the following:					
Day care centers, commercial/preschools	S	S	S	S	14.08(a)
Day care homes, residential licensed for 12 or fewer children	P	P	P	P	14.08(a)
Foster care homes	P	P	P	P	
Funeral homes/mortuaries	S	S	S	S	
Group homes licensed for 8 or fewer residents	P	P	P	P	
Group homes licensed for more than 8 residents	-	-	P	P	
Halfway houses	-	-	S	S	
Nursing homes and senior assisted living	S	S	S	P	14.08(c)
Philanthropic and eleemosynary institutions	-	-	S	S	
Entertainment and recreation limited to the following:					
Boat clubs	S	S	S	S	
Forestry/wildlife preserve	P	P	P	P	
Golf course and country clubs	P	P	P	P	
Parks/playgrounds	P	P	P	P	
Civic, religious, social assistance organizations limited to the following:					
Cemeteries	S	S	S	S	14.10(a)
Churches, chapels, temples, synagogues and similar places of worship	S	S	S	S	14.10(b)
Community centers	S	S	S	S	
Convents, monasteries and seminaries	S	S	S	S	

Table 05.02
Schedule of Permitted Uses

Use	R2A	R2B	R3A	R3B	Use Requirements
Educational services limited to the following:					
Colleges, universities, and accessory uses, including housing for students	S	S	S	S	
Libraries	P	P	P	P	
Schools, elementary, middle and high	P	P	P	P	
Public administration limited to the following:					
Government buildings excluding correctional facilities	P	P	P	P	
Museums, civic buildings and landmarks preserved for public inspection	P	P	P	P	
Utilities limited to the following:					
Public utility buildings	S	S	S	S	
Transmission lines for gas, oil and electricity	P	P	P	P	
Utility substations	S	S	S	S	
Single accessory wind energy conversion systems	S	S	S	S	14.15(b)
Wireless communication facility - collocation	P	P	P	P	14.15(c)
Wireless communication facility on institutional site	S	S	S	S	14.15(c)

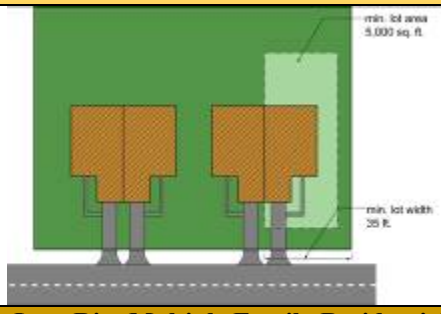
Section 05.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a manner that does not comply with the following requirements.

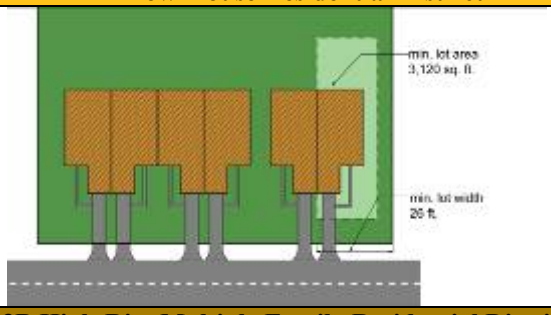
Table 05.03
Lot Area And Width Requirements

	Min. lot size (g)(h)(i)		
District (a)(b)	Lot area (sq. ft.) (c)	Lot width (ft.)(d)(e)(f)	Max. res. density (units/ac.)
R2A Townhouse residential district	5,000	35	8
R2B Townhouse residential district	3,120	26	14
R3A Low-rise multiple family residential district	- -	100	18
R3B High-rise multiple family residential district	- -	80	30

R2A Townhouse Residential District

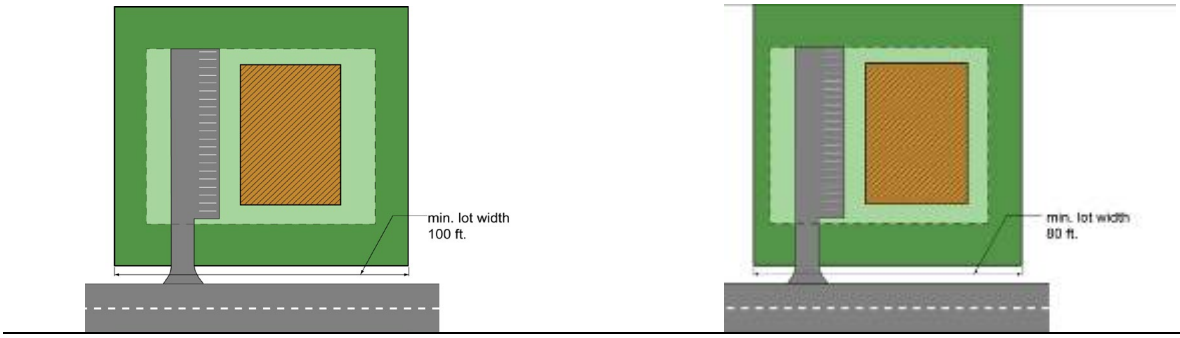


R2B Townhouse Residential District



R3A Low-Rise Multiple Family Residential District

R3B High-Rise Multiple Family Residential District



(a) **Subdivision of Land.** All divisions to land shall be subject to the requirements set forth in the Subdivision Regulations of La Porte County, city of La Porte or city of Michigan City, as applicable.

(b) **Community Sewer.** All new lots created in the R2A, R2B, R3A and R3B districts must be served by community sewer. Community sewer refers to a community or municipal wastewater system. Community sewer in districts R2A and R3A may include onsite cluster wastewater treatment systems.

(c) **Lot Area Calculation.** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake, river or stream.

(d) **Lot Width and Frontage.** Lot width shall be measured as a straight line between the side lot lines at the minimum front yard setback of the district. All lots shall have frontage along a public road or street. The width along the road shall be sufficient to meet the lot width requirement at the minimum front yard setback. This requirement shall not apply to individual units within a development that has access by a private road system that is internal to the development.

(e) **Dominant Parcel.** The dominant tract or parcel from which any newly created lot has been divided from must also maintain the required lot width.

(f) **Depth to Width Ratio.** This provision shall not apply to the unincorporated areas of La Porte County.

(g) **Nonconforming Lots.** Lots of record that were in existence prior to the effective date of this ordinance may be used subject to the provisions of the nonconforming lot regulations of Section 29.03.

(h) **Single Family Detached and Two Family Lots.** Lots created for the purpose of single family detached or two family dwellings shall be required to meet the lot area and width requirements of the R1D - Single Family Residential District.

(i) **Recreation Area.** All multiple family residential developments containing more than 40 dwelling units shall provide an active recreational area, which shall contain a common park area equal in size to 1,500 square feet per dwelling unit. The required recreation area shall be exclusive of required setbacks, buffers, greenbelts, individual lots, public rights-of-way, private road easements and stormwater management areas. The recreational park area shall be well drained, graded, seeded or sodded, safe from hazard, accessible to all dwellings, and the location shall be approved by the enforcement official. Recreational facilities such as playscapes, athletic fields, trails, picnic tables or other suitable recreation facility shall be provided within the recreation area to meet the needs of the residents.

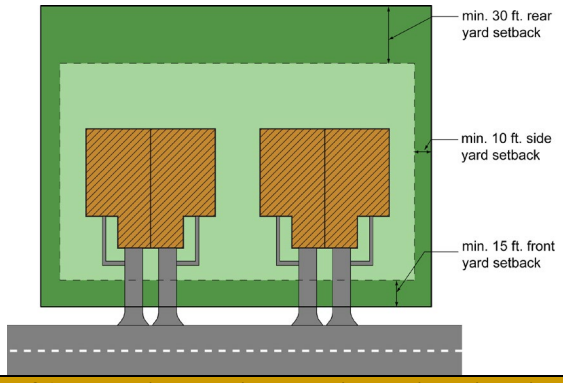
Section 05.04 Building Dimensional Requirements

All structures shall be subject to the dimensional regulations of the following table.

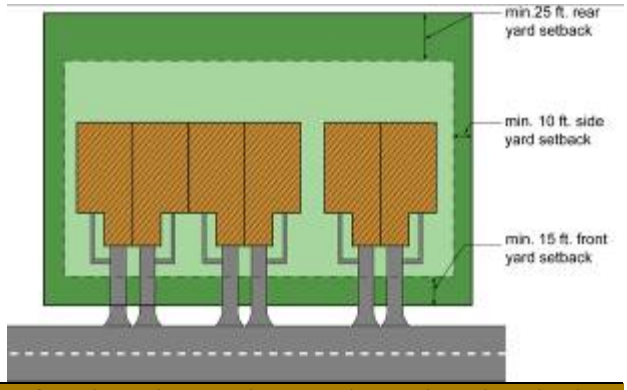
Table 05.04
Building Dimensional Requirements (a)(k)

District	Max. building height (b) Height (ft.)	Height (st.)	Min. setbacks (ft.) (c, d, e, f, g) Front yard	Side yard	Total both sides	Rear yard	Waterway (h, i)	% Lot coverage (j) Building	Imper. surface	Min. floor area per unit (sq.ft.)
R2A Townhouse residential district	40	2.5	15	10	20	30	75	55%	75%	1000
R2B Townhouse residential district	45	3.5	15	10	20	25	75	65%	85%	1000
R3A Low-rise multiple family residential district										
Townhouses	45	4	15	10	20	25	75	65%	75%	800
Multiple-family	45	4	25	20	40	25	75	55%	75%	500
R3B High-rise multiple family residential district										
Townhouses	45	4	15	10	20	25	75	65%	75%	800
Multiple-family	120	11	25	20	40	30	75	55%	75%	500

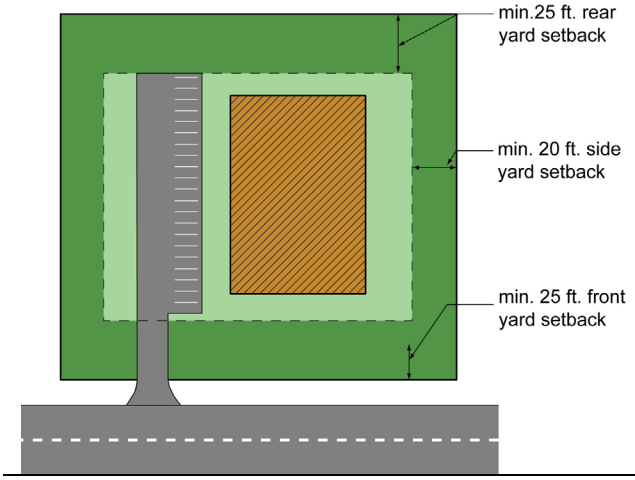
R2A Townhouse Residential District



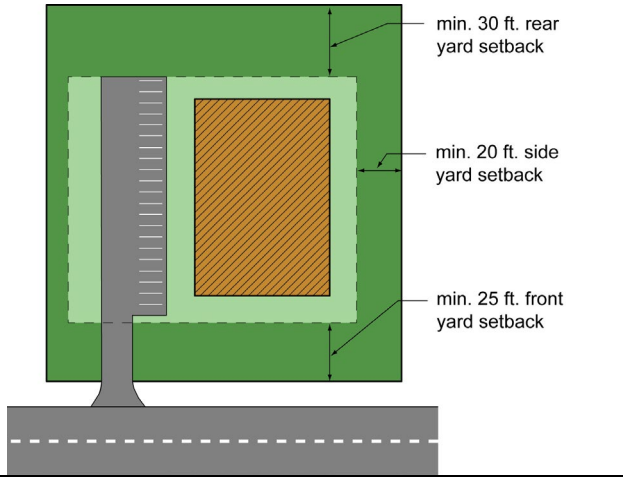
R2B Townhouse Residential District



R3A Low-Rise Multiple Family Residential District



R3B High-Rise Multiple Family Residential District



(j) **Accessory Structures.** Accessory structures shall be regulated under the requirements of Article 16.

(k) **Height Exceptions.** No structure shall exceed the maximum height of the district except for the allowable exceptions to the height limits contained in Section 15.04.

(l) **Projections into Yards.** All required yard spaces shall remain as landscaped open space, except for pavement, accessory structures and architectural features that are allowed to extend or project into required setbacks under Section 15.05.

(m) **Setback from Road.** The front yard setback shall be measured from the road right-of-way or private road easement.

(n) **Corner Lots.** Corner lots shall provide the minimum front yard setback from both road frontages.

(o) **Double Frontage Lots.** In all districts, where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way.

(p) **Driveway Access.** Corner and double frontage residential lots shall only have driveway access from one road, which shall be the lesser traveled road as determined by the enforcement official.

(q) **Wetlands.** A minimum setback of 50 feet shall be maintained from all wetlands. The setback may be adjusted according to requirements of natural resource preservation guidelines contained article 22.

(r) **Waterway Setback.** The waterway setback shall be measured from the shoreline of the lake, river or stream. In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum waterway setback. The setback may be adjusted according to requirements of Natural Resource Preservation Guidelines.

(s) **Maximum Lot Coverage.** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:

(1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.

(2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading and storage areas, normal pool of wet detention basins to the net lot area.

(t) **Single Family Detached and Two Family Lots.** Single family detached or two family dwellings shall be required to meet the dimensional requirements of the R1D - Single Family Residential District.

Article 06
Manufactured Housing Park District

Section 06.01 Intent

Cities | County

(a) R4 **Manufactured Housing Park District.** The R4 Manufactured Housing Park District is established to permit development of manufactured home parks. This district is intended to provide a transitional land use between higher intensity non-residential uses and residential districts. This district will apply in the cities and areas of the county that are identified in the County Land Development Plan as urban where community sewer is available and there is sufficient public infrastructure and services to support the increased density.

(b) The regulations of this article do not apply to manufactured homes on individual lots that are located in other zoning districts. Manufactured homes that are not located in manufactured home parks, but are located on individual lots, shall be subject to the single family residential requirements of the district in which they are located and further subject section 14.01(a).

Section 06.02 Uses

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

P: **Permitted Use.** Land and/or buildings in this District may be used for the purposes listed by right, subject to any use limitations set forth in this ordinance.

S: **Special Exception Use.** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Article 24 Special Exception Review Requirements and Procedures are met, subject to any use limitations set forth in this ordinance.

-: **Not Permitted.** The use is not permitted in the district. Uses not listed in the table are also not permitted. Uses that are not listed in any district of the zoning ordinance, as shown in Appendix A, may be allowed based upon a similar use determination in accordance with section 02.06.

Table 06.02
Schedule of Permitted Uses

Use	R4	Use Requirements
Residential limited to the following:		
Home occupations	P	14.01(b)
Mobile home parks	P	
Mobile home subdivisions	P	
Health care and social assistance limited to the following:		
Day care centers, commercial/preschools	S	14.08(a)
Day care homes, residential licensed for 12 or fewer children	P	14.08(a)
Foster care homes	P	
Group homes licensed for 8 or fewer residents	P	
Entertainment and recreation limited to the following:		
Forestry/wildlife preserve	P	

Table 06.02
Schedule of Permitted Uses

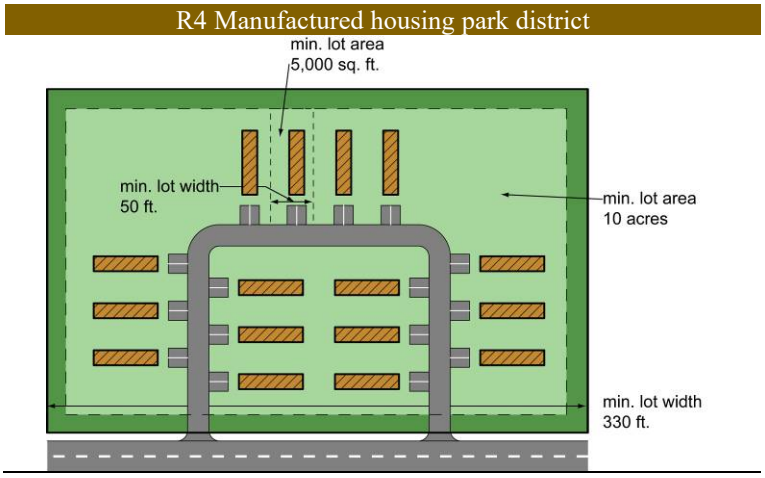
Use	R4	Use Requirements
Golf course and country clubs	P	
Parks/playgrounds	P	
Civic, religious, social assistance organizations limited to the following:		
Community centers	S	
Educational services limited to the following:		
Libraries	P	
Schools, elementary, middle and high	P	
Public administration limited to the following:		
Government buildings excluding correctional facilities	P	
Museums, civic buildings and landmarks preserved for public inspection	P	
Utilities limited to the following:		
Public utility buildings	S	
Transmission lines for gas, oil and electricity	P	
Utility substations	S	
Single accessory wind energy conversion systems	S	14.15(b)
Wireless communication facility - collocation	P	14.15(c)
Wireless communication facility on institutional site	S	14.15(c)

Section 06.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a manner that does not comply with the following requirements.

Table 06.03
Lot Area And Width Requirements

	Min. lot size (g)		
District (a)(b)	Lot area (c)	Lot width (ft.)(d)(e)(f)	Max. res. density (dwellings/ac.)
R4 Manufactured housing park district			
Overall development	10 acres	330	8
Home sites within a park	5,000	50	8



(a) **Subdivision of Land.** All divisions to land shall be subject to the requirements set forth in the Subdivision Regulations of La Porte County, city of La Porte or city of Michigan City, as applicable.

(b) **Community Sewer.** All manufactured home parks must be served by community sewer. Community sewer refers to a community or municipal wastewater system, including an onsite cluster wastewater treatment system.

(c) **Lot Area Calculation.** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake, river or stream.

(d) **Lot Width and Frontage.** Lot width shall be measured as a straight line between the side lot lines at the minimum front yard setback of the district. All lots shall have frontage along a public road or street. The width along the road shall be sufficient to meet the lot width requirement at the minimum front yard setback. This requirement shall not apply to individual home sites within a manufactured home park that have access by a private road system that is internal to the development.

(e) **Dominant Parcel.** The dominant tract or parcel from which any newly created lot has been divided from must also maintain the required lot width.

(f) **Depth to Width Ratio.** This provision shall not apply to the unincorporated areas of La Porte County.

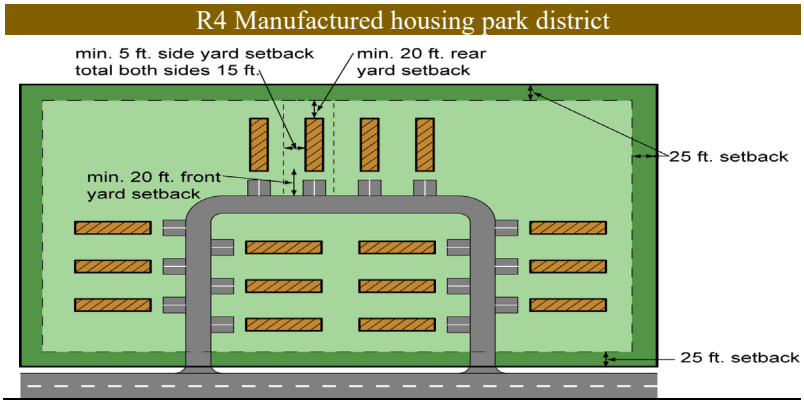
(g) **Nonconforming Lots.** Lots of record that were in existence prior to the effective date of this ordinance may be used subject to the provisions of the nonconforming lot regulations of Section 29.03.

Section 06.04 Building Dimensional Requirements

All structures shall be subject to the dimensional regulations of the following table.

Table 06.04
Building Dimensional Requirements (a)

	Max. building height (b)		Min. setbacks (ft.) (c, d, e, f, g)					% Lot coverage (l)		Min. floor area
District	Height (ft.)	Height (st.)	Front yard	Side yard	Total both sides	Rear yard	Waterway (h, i)	Building	Imper. surface	per unit (sq.ft.)
R4 Manufactured housing park district										
Perimeter setbacks for overall development	- -	- -	25 (j)	25 (k)	50 (k)	25 (k)	75	- -	- -	- -
Individual manufactured home sites	25	2	20	5	15	20	75	45%	55%	800



(a) **Accessory Structures.** Accessory structures shall be regulated under the requirements of Article 16.

(b) **Height Exceptions.** No structure shall exceed the maximum height of the district except for the allowable exceptions to the height limits contained in Section 15.04.

(c) **Projections into Yards.** All required yard spaces shall remain as landscaped open space, except for accessory structures and architectural features that are allowed to extend or project into required setbacks under Section 15.05.

(d) **Setback from Road.** The front yard setback shall be measured from the road right-of-way or private road easement.

(e) **Corner Lots.** Corner lots shall provide the minimum front yard setback from both road frontages.

(f) **Double Frontage Lots.** In all districts, where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way.

(g) **Driveway Access.** Individual manufactured home sites within a manufactured home park shall only have access from an internal road within the park. Individual units shall not have direct driveway access to a major thoroughfare.

(h) **Wetlands.** A minimum setback of 50 feet shall be maintained from all wetlands. The setback may be adjusted according to requirements of natural resource preservation guidelines contained article 22.

(i) **Waterway Setback.** The waterway setback shall be measured from the shoreline of the lake, river or stream. In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum waterway setback. The setback may be adjusted according to requirements of Natural Resource Preservation Guidelines.

(j) **Frontage Greenbelt.** Manufactured housing parks shall be required to provide a 25-foot wide greenbelt along all public road frontages in accordance with section 17.02(b).

(k) **Side and Rear Buffer Zones.** Manufactured housing parks shall be required to provide landscape buffer zones around the exterior of the manufactured home park in accordance with section 17.02(c).

(l) **Maximum Lot Coverage.** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:

(1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.

(2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading and storage areas, normal pool of wet detention basins to the net lot area.

Article 07
Business Districts

Section 07.01 Intent

Cities

County

(a) **B1 Neighborhood Commercial District.** The B1 Neighborhood Commercial District is established to provide for small-scale neighborhood commercial nodes. This district is intended to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. B1 District designations are located within close proximity to residential neighborhoods and are intended to serve the immediate vicinity so as not to draw additional traffic from other areas of the county or cities. In order to promote business development compatible with nearby residential, the size and scale of uses is limited and uses that would create hazards, loud noises, odors, truck traffic or late hours of operation are not allowed. This district will apply to neighborhood shopping nodes along major corridors within the cities and convenience commercial nodes in unincorporated areas of the county.

(b) **B2 General Commercial District.** The B2 General Commercial District is established to serve a larger population than is serviced by a B1 District. The district is generally characterized by an integrated cluster of establishments serviced by a common parking area and generating a large volume of vehicular and pedestrian traffic. The intent of this district is also to encourage the concentration of regional business areas to the mutual advantage of both the consumers and merchants and thereby to promote the best use of land at certain strategic locations and avoid encouraging marginal strip business development along major streets. Special attention must be given to site layout, building design, vehicular and pedestrian circulation and coordination of site features between adjoining sites.

(c) **B3 Highway Commercial District.** The uses in the B3 Highway Commercial District will be more automotive oriented and serve a market that includes the traveling public. The permitted uses would be located near highway interchanges and are generally not appropriate immediately adjacent to residential zoning districts. Special attention must be given to site layout, vehicular circulation, building design and buffering from other nearby uses.

(d) **O1 Office Service District.** O1 Office District is intended to accommodate uses such as offices for professional and business services, planned office developments, medical centers, as well as appropriately located ancillary services and uses. The O1 District is further intended to provide a buffer or zone of transition between residential and commercial districts and between residential districts and major streets.

Section 07.02 Uses

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

P: **Permitted Use.** Land and/or buildings in this District may be used for the purposes listed by right, subject to any use limitations set forth in this ordinance.

S: **Special Exception Use.** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Article 24 Special Exception Review Requirements and Procedures are met, subject to any use limitations set forth in this ordinance.

-: **Not Permitted.** The use is not permitted in the district. Uses not listed in the table are also not permitted. Uses that are not listed in any district of the zoning ordinance, as shown in Appendix A, may be allowed based upon a similar use determination in accordance with section 02.06.

Table 07.02
Schedule of Permitted Uses

Use	B1	B2	B3	O1	Use Requirements
Residential limited to the following:					
Multiple-family dwellings	P	-	-	-	
Dwellings in mixed-use buildings	P	-	-	-	
Dwelling units for watchmen and operating personnel and their families	P	P	P	-	
Fraternity, sorority or student cooperatives	S	S	-	S	
Agriculture and animal-related uses limited to the following:					
Farm implement dealers	-	P	-	-	
Kennels	-	S	-	-	
Plant nursery and commercial greenhouses	P	P	-	-	
Roadside stands	P	-	-	-	14.02(d)
Veterinary hospital for large animals	S	P	-	S	
Veterinary hospital for small animals	S	P	-	S	
Retail trade limited to the following:					
Retail uses up to 40,000 square feet gross floor area, except where otherwise listed	P	P	P	-	
Any retail use between 40,000 and 60,000 square feet gross floor area	S	P	-	-	14.03(a)
Any retail use over 60,000 square feet gross floor area	-	P	-	-	14.03(a)
Retail uses with accessory drive through service	S	P	P	-	14.03(b)
Art and school supply stores	P	P	-	P	
Bait shops	P	P	-	-	
Bakeries, retail sales only	P	P	-	-	
Business machine sales and service	P	P	-	P	
Computer sales	P	P	-	P	
Convenience stores	P	P	P	P	
Convenience stores with gasoline sales	-	S	S	-	
Feed stores	-	P	-	-	
Grocery stores/super markets	P	P	-	-	
Furnace/air conditioner sales/service	-	P	-	-	
Lawn & garden supply, greenhouse, and retail nurseries without outdoor sales	-	P	-	-	
Lawn & garden supply, greenhouse, and retail nurseries with outdoor sales	-	P	-	-	
Gift, souvenir handicraft stores	P	P	P	-	
Glass sales & service	-	P	-	-	
Hardware, electrical, plumbing, paint and floor covering sales without open storage	P	P	-	-	

Table 07.02
Schedule of Permitted Uses

Use	B1	B2	B3	O1	Use Requirements
Home improvement, building material sales and lumber with open storage	-	S	-	-	
Lawn mower sales/service	P	P	-	-	
Liquor stores	P	P	-	-	
Machinery and equipment sales	-	S	-	-	
Mail order business	-	P	-	-	
Marine accessory shops	-	P	-	-	
Mobile homes and trailer sales/rental	-	S	-	-	
Monument establishments--including accessory open sales lots	-	P	-	-	
Newsstands	P	P	-	P	
Office supply stores	P	P	-	P	
Open air markets and outdoor sales	-	S	-	-	
Pet shops, dog grooming and day care (not including overnight boarding)	P	P	-	-	
Petroleum products sales	-	S	-	-	
Pharmacies	P	P	-	S	
Produce markets	P	P	-	-	
Secondhand stores and rummage shops	-	P	-	-	
Services limited to the following:					
Barber/beauty shops	P	P	-	P	
Cleaning services	-	P	-	-	
Dry cleaners, pick-up	P	P	-	P	
Dry cleaning plants/commercial laundries	-	S	-	-	
Interior decorating shops	P	P	-	P	
Laundries	P	P	-	-	
Locksmith shops	P	P	-	-	
Office service centers	P	P	-	P	
Pawnshops	-	S	-	-	14.04(a)
Pest control services	-	S	-	-	
Photographic studios	P	P	-	P	
Repair shops, nonautomotive	-	P	-	-	
Shoe repair shops	P	P	-	P	
Tailor shops	P	P	-	P	
Tattoo establishment	-	S	-	-	14.02(b)
Taxidermists	P	P	-	-	
Tool and equipment rental	-	P	-	-	
Video rental store	P	P	-	-	
Motor vehicle dealers and service limited to the following:					
Automobile rental	S	P	P	S	
Automobile sales (new/used)	-	S	P	-	
Automobile washes	-	S	S	-	14.05(b)
Minor automobile service and repair	-	S	S	-	14.05(a)
Major automobile service, body repair and painting	-	S	-	-	14.05(a)
Motorcycle, snowmobile and ATV sales/service	-	P	P	-	14.05(a)
Parts stores	S	P	P	-	
Truck rental	-	S	S	-	
Truck sales (new/used)	-	S	S	-	
Truck stops	-	-	S	-	14.05(c)
Vehicle service stations	-	S	S	-	14.05(c)
Vehicle auctions	-	S	-	-	
Accommodation and food services limited to the following:					
Banquet halls	P	P	P	P	

Table 07.02
Schedule of Permitted Uses

Use	B1	B2	B3	O1	Use Requirements
Bed & breakfasts	P	P	P	-	
Cafeterias (as an accessory use)	P	P	P	P	
Candy and ice cream shops	P	P	P	-	
Catering services	P	P	P	-	
Delicatessens	P	P	P	P	
Exhibition halls	-	P	P	P	
Hotel-minimums	-	-	P	-	
Hotels/motels	-	P	P	P	
Restaurants, carryout	P	P	P	P	
Restaurants, standard not including drive-thru/in	P	P	P	P	
Restaurant, drive-thru/in	-	S	S	-	14.06(b)
Restaurant and taverns with outdoor seating	S	P	P	S	
Taverns and bars	P	P	P	P	
Finance, insurance, real estate, professional, scientific, and technical limited to the following:					
Banks & financial institutions	P	P	P	P	14.07(a)
Blueprinting and photostating establishments	-	P	-	P	
Newspaper offices including printing	P	P	-	P	
Offices, general and professional with accessory research and testing	P	P	P	P	
Printing and publishing establishments	P	P	-	P	
Radio, television and recording studios	-	P	-	P	
Research & development laboratories	-	-	P	P	
Travel agencies	P	P	P	P	
Health care and social assistance limited to the following:					
Day care centers, commercial/preschools	P	P	P	P	14.08(a)
Day care homes, residential	P	P	-	-	14.08(a)
Foster care homes	-	-	-	-	
Funeral homes/mortuaries	P	P	-	P	14.08(b)
Hospital-related uses	-	P	-	P	
Hospitals	-	S	-	S	
Medical and dental clinics	P	P	P	P	
Medical laboratories	-	P	-	P	
Nursing homes and senior assisted living	P		-	P	14.08(c)
Optical sales	P	P	-	P	
Orthopedic and medical appliance sales	P	P	-	P	
Philanthropic and eleemosynary institutions	-	S	-	S	
Entertainment and recreation limited to the following:					
Amusement/arcade establishments	-	S	-	-	
Amusement parks	-	S	S	-	
Boat clubs	S	S	-	-	
Boat harbors / public marinas, including service, storage, and fuel sales	-	S	-	-	
Boat sales, including service	-	S	S	-	
Bowling alleys	-	P	-	-	
Canoe rental	-	P	-	-	
Commercial outdoor recreation facilities such as batting cages, driving ranges and putt-putt golf	-	S	S	-	14.09(d)
Campgrounds	-	S	P	-	
Dance schools	P	P	-	P	
Forestry/wildlife preserve	P	P	P	-	
Golf course and country clubs	P	P	S	P	

Table 07.02
Schedule of Permitted Uses

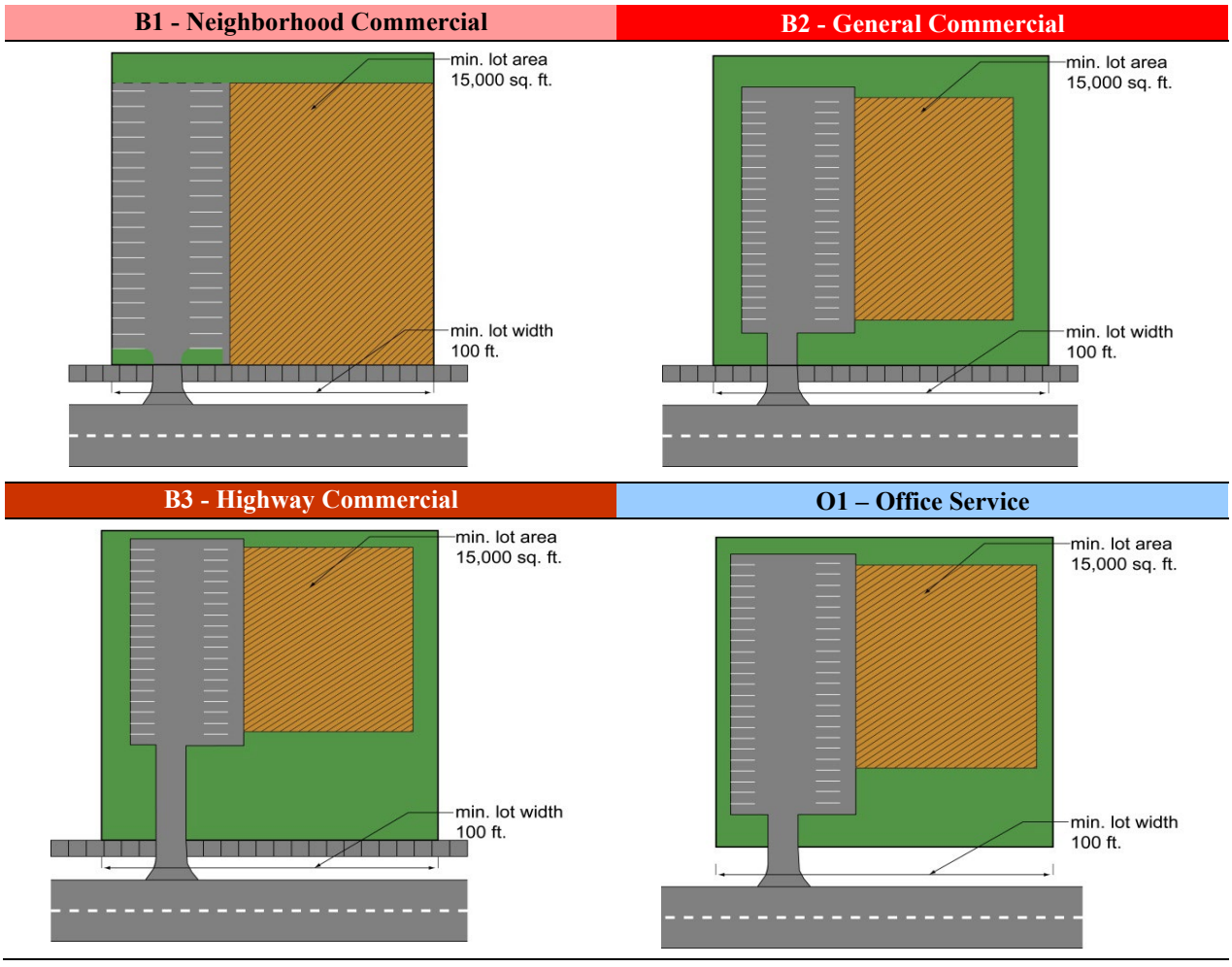
Use	B1	B2	B3	O1	Use Requirements
Health and athletic clubs	P	P	P	P	
Ice skating rinks	-	P	P	-	
Massage establishments	S	S	-	S	
Parks/playgrounds	P	P	P	P	
Racetracks and go-cart tracks	-	-	S	-	14.09(d)
Sexual Oriented Business	-	P	-	-	14.09(d)
Shooting ranges, indoors	-	P	-	-	
Stadiums/arenas	-	S	-	-	
Theaters	-	S	-	-	
Civic, religious, social assistance organizations limited to the following:					
Cemeteries	-	P	-	-	14.10(a)
Churches, chapels, temples, synagogues and similar places of worship	P	P	-	P	14.10(b)
Clubs, lodges, union halls	P	P	-	P	
Community centers	P	P	-	P	
Conference and convention halls	-	P	P	P	
Convents, monasteries and seminaries	P	P	-	P	
Educational services limited to the following:					
Colleges, universities, and accessory uses, including housing for students	P	P	-	P	
Driving schools	-	P	-	-	
Libraries	P	P	-	P	
Schools, commercial and trade	P	P	-	P	
Schools, elementary, middle and high	P	P	-	P	
Training centers, engineering or sales	-	P	-	P	
Public administration limited to the following:					
Government buildings excluding correctional facilities	P	P	P	P	
Museums, civic buildings and landmarks preserved for public inspection	P	P	P	P	
Transportation and warehousing limited to the following:					
Bus and passenger rail terminals	P	P	P	-	
Parking structures as a principal use	P	P	P	P	
Self-storage facilities, indoor	-	S	-	-	14.13(b)
Taxicab dispatching	-	P	-	-	
Utilities limited to the following:					
Public utility buildings	P	P	P	P	
Telephone exchange buildings	P	P	P	P	
Transmission lines for gas, oil and electricity	P	P	P	P	
Utility substations	P	P	P	P	
Single accessory wind energy conversion systems	S	S	S	S	14.15(b)
Wireless communication facility - collocation	P	P	P	P	14.15(c)
Wireless communication facility tower	S	S	S	S	14.15(c)
Wireless communication facility on institutional site	S	S	S	S	14.15(c)
Construction limited to the following:					
Contractors' offices and shops (excluding outdoor storage)	-	P	-	-	
Landscaping services	-	S	-	-	14.16(a)
Mining limited to the following:					
Mineral extraction & general mining operations	-	S	S	-	14.18(a)

Section 07.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a manner that does not comply with the following requirements.

Table 07.03
Lot Area And Width Requirements

	Min. lot size (b)(g)	
District (a)	**Lot area(sq. ft.) (c)**	**Lot width(ft.)(d)(e)(f)**
B1 - Neighborhood Commercial	15,000	100
B2 - General Commercial	15,000	100
B3 - Highway Commercial	15,000	100
O1 – Office Service	15,000	100



(a) **Subdivision of Land.** All divisions to land shall be subject to the requirements set forth in the Subdivision Regulations of La Porte County, city of La Porte, city of Michigan City or Town of Westville, as applicable.

(b) **Lot Size Reduction.** The lot area and lot width may be reduced below the amounts indicated in Table 07.03 where driveway spacing requirements of Section 18.04 can be met and the lot has a recorded

easement for a shared driveway, and cross circulation with parking lots on all adjacent lots zoned or planned for business use, meeting the requirements of Section 18.04.

(c) **Lot Area Calculation.** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake, river or stream.

(d) **Lot Width and Frontage.** Lot width shall be measured as a straight line between the side lot lines at the minimum front yard setback of the district. All lots shall have frontage along a public road or street. The width along the road shall be sufficient to meet the lot width requirement at the minimum front yard setback. This requirement shall not apply to individual lots that have access by a shared service drive system within a shopping center or shared access with adjacent uses.

(e) **Dominant Parcel.** The dominant tract or parcel from which any newly created lot has been divided from must also maintain the required lot width.

(f) **Depth to Width Ratio.** This provision shall not apply to the unincorporated areas of La Porte County.

(g) **Nonconforming Lots.** Lots of record that were in existence prior to the effective date of this ordinance may be used subject to the provisions of the nonconforming lot regulations of Section 29.03.

(h) **Residential in B1.** Multiple family residential or dwelling units in mixed use buildings shall be permitted in the B1 district only where both public sewer and public water are available. The maximum density shall be 14 dwelling units per acre.

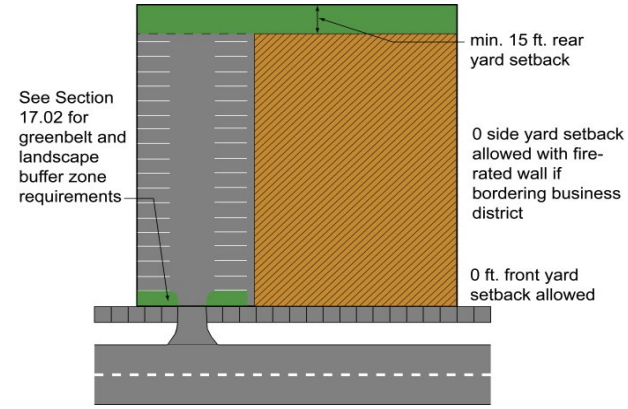
Section 07.04 Building Dimensional Requirements

All structures shall be subject to the dimensional regulations of the following table.

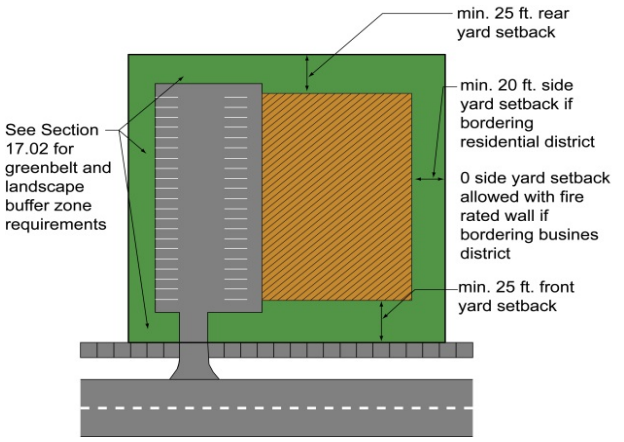
Table 07.04
Building Dimensional Requirements (a)

District	Max. building height (b) Height (ft.)	Height (st.)	Min. setbacks (ft.) (c, d, e, f, g, h, i, j) Front yard	Side yard	Rear yard	Waterway (k, l)	% Lot coverage (m) Building	Imper. surface
B1 - Neighborhood Commercial	30	2	0	0(n)	15	75	75%	85%
B2 - General Commercial	40	3	25	0(n)	25	75	65%	85%
B3 - Highway Commercial	60	5	40	15	10	75	65%	85%
O1 – Office Service	60	5	30	7	25	75	65%	85%

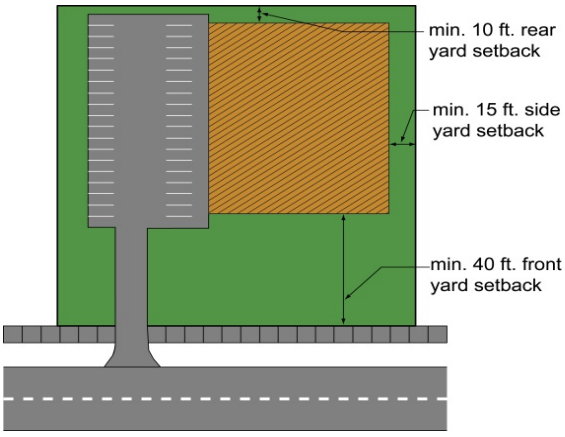
B1 - Neighborhood Commercial



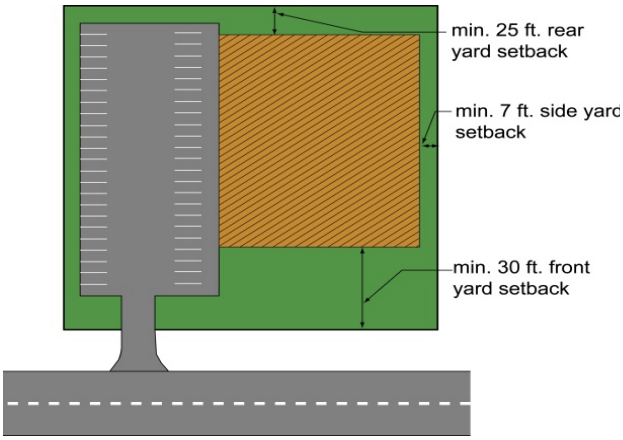
B2 - General Commercial



B3 - Highway Commercial



O1 – Office Service



(a) **Accessory Structures.** Accessory structures shall be regulated under the requirements of Article 16.

(b) **Height Exceptions.** No structure shall exceed the maximum height of the district except for the allowable exceptions to the height limits contained in Section 15.04.

(c) **Projections into Yards.** All required yard spaces shall remain as landscaped open space, except for pavement, accessory structures and architectural features that are allowed to extend or project into required setbacks under Section 15.05.

(d) **Yards Maintained as Landscaped Open Space.** Setback areas shall be provided with landscape greenbelts and buffer zones as required in Section 17.02.

(e) **Outdoor Storage.** Outdoor storage shall be screened in accordance with sections 17.02 and 17.03. Storage areas shall meet the applicable building setback requirements from each lot line.

(f) **Setback from Road.** The front yard setback shall be measured from the road right-of-way or private road easement. Detention/retention ponds shall be allowed at a safe distance from all adjacent property lines and not impact the adjacent property owner's existing natural ground.

(g) **Corner Lots.** Corner lots shall provide the minimum front yard setback from both road frontages.

(h) **Double Frontage Lots.** In all districts, where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way.

(i) **Parking Setback.** All parking, loading, and vehicular circulation aisles shall provide sufficient setback to meet the frontage greenbelt and buffer zones required by section 17.02.

(j) **Loading Areas.** All loading and unloading shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley. Loading and unloading areas located in a side yard shall be fully screened from view from a public street. No overhead doors shall be permitted in the front elevation of the building. All residential districts and uses must be screened from truck loading and unloading activities in accordance with section 17.03.

(k) **Wetlands.** A minimum setback of 50 feet shall be maintained from all wetlands. The setback may be adjusted according to requirements of natural resource preservation guidelines contained article 22.

(l) **Waterway Setback.** The waterway setback shall be measured from the shoreline of the lake, river or stream. In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum waterway setback. The setback may be adjusted according to requirements of Natural Resource Preservation Guidelines.

(m) **Maximum Lot Coverage.** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:

(1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.

(2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading and storage areas, normal pool area of wet detention basins to the net lot area.

(n) **Building Side Yard Setback.** The minimum side yard setback in B1 and B2 shall be zero (0) where the side lot line adjoins another lot that is zoned as a business district and the side wall is a fire rated wall with no windows. Where a lot borders on a residential district, there shall be provided a minimum 20-foot setback on the side bordering the residential district.

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Article 08
Central Business Districts

Section 08.01 Intent

Cities

(a) **CBD1 Downtown District.** The CBD1 Downtown District is to be applied to the central business districts of the cities of La Porte, Michigan City and Town of Westville. This district is intended to maintain and enhance the pedestrian-oriented, mixed-use downtown in which a variety of retail, commercial, office, civic and residential uses are permitted. The requirements of the district are designed to maintain lively social environment and economically viable downtowns through the synergy of a wide variety of uses in a traditional downtown environment. This district is further intended to support healthier and more sustainable communities through community centers that are pedestrian, and transit-friendly, reduce sprawl and provide an alternative to the segregation of land uses that cause increased vehicle travel and traffic congestion. To achieve this intent, the regulations of this district control building height and placement to ensure appropriate scale along streetscapes and frame a well-defined public realm comprised of human- scale streets and public spaces, all of which contribute to creating a safe, comfortable and downtown environment.

(1) Michigan City has forged a collective vision for the redevelopment of the downtown and waterfront and the CBD1 district is intended to facilitate a transformative change to Michigan City's downtown and waterfront area. This district is intended to direct urban growth in the city's North End; to guide future deliberations and decisions which affect the way people build and live; to advocate the building of civil communities through economically and environmentally sustainable development practices; and to build and preserve places that are useful, beautiful and meaningful.

(2) The CBD1 district in the city of La Porte is intended to help preserve the architectural integrity and character of the downtown area; ensure the streetscape is organized and maintained so that it is attractive to visitors and is a pedestrian- friendly area; and to sustain a downtown area that is a desirable place to live, shop, work and enjoy.

County

(b) **CBD2 Hamlet District.** The CBD2 Hamlet District is to be applied to small hamlets or rural village centers in the unincorporated areas of the county. This district is intended to support a small-town character and enhance the traditional, pedestrian-oriented environment of unincorporated village centers. The district provides for a mixture of retail stores, offices, public spaces, residential uses and related activities that are mutually supporting and serve the needs of the surrounding area. This district is further intended to support healthier and more sustainable communities through community centers that are pedestrian, and transit-friendly, reduce sprawl and provide an alternative to the segregation of land uses that cause increased vehicle travel and traffic congestion. To achieve this intent, the regulations of this district control building height and placement to ensure appropriate scale along streetscapes, calm traffic and frame a well- defined, human-scale setting consistent with a small-town environment.

Section 08.02 Uses

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

P: **Permitted Use.** Land and/or buildings in this District may be used for the purposes listed by right, subject to any use limitations set forth in this ordinance.

S: **Special Exception Use.** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Article 24 Special Exception Review Requirements and Procedures are met, subject to any use limitations set forth in this ordinance.

-: **Not Permitted.** The use is not permitted in the district. Uses not listed in the table are also not permitted. Uses that are not listed in any district of the zoning ordinance, as shown in Appendix A, may be allowed based upon a similar use determination in accordance with section 02.06.

Table 08.02
Schedule of Permitted Uses

Use	CBD1	CBD2	Use Requirements
Residential limited to the following:			
Single-family attached/townhouses	P	P	
Multiple-family dwellings	P	-	
Dwellings in mixed-use buildings	P	P	
Dwelling units for watchmen and operating personnel and their families	P	P	
Fraternity, sorority or student cooperatives	S	-	
Home occupations	P	P	14.01(b)
Retail trade limited to the following:			
Retail uses up to 40,000 square feet gross floor area, except where otherwise listed	P	P	
Any retail use between 40,000 and 60,000 square feet gross floor area	S	-	14.03(a)
Any retail use over 60,000 square feet gross floor area	S	-	14.03(a)
Art and school supply stores	P	P	
Auction houses	S	S	
Bait shops	P	P	
Bakeries, retail sales only	P	P	
Business machine sales and service	P	P	
Computer sales	P	P	
Convenience stores	P	P	
Grocery stores/super markets	P	P	
Lawn & garden supply, greenhouse, and retail nurseries without outdoor sales	P	P	
Lawn & garden supply, greenhouse, and retail nurseries with outdoor sales	S	S	
Gift, souvenir handicraft stores	P	P	
Liquor stores	P	P	
Marine accessory shops	P	P	
Newsstands	P	P	
Office supply stores	P	P	
Pet shops, dog grooming and day care (not including overnight boarding)	P	P	
Pharmacies	P	P	
Produce markets	P	P	
Services limited to the following:			
Barber/beauty shops	P	P	
Dry cleaners, pick-up	P	P	

Table 08.02
Schedule of Permitted Uses

Use	CBD1	CBD2	Use Requirements
Interior decorating shops	P	P	
Laundries	S	S	
Locksmith shops	P	P	
Office service centers	P	P	
Photographic studios	P	P	
Shoe repair shops	P	P	
Tailor shops	P	P	
Taxidermists	P	P	
Video rental store	P	P	
Motor vehicle dealers and service limited to the following:			
Automobile rental	S	-	
Parts stores	P	P	
Accommodation and food services limited to the following:			
Banquet halls	P	P	
Bed & breakfasts	P	P	
Cafeterias (as an accessory use)	P	P	
Candy and ice cream shops	P	P	
Catering services	P	P	
Delicatessens	P	P	
Exhibition halls	P	-	
Hotel-miniums	P	P	
Hotels/motels	P	P	
Restaurants, carryout	P	P	
Restaurants, standard not including drive-thru/in	P	P	
Restaurant and taverns with outdoor seating	P	P	
Taverns and bars	P	P	
Finance, insurance, real estate, professional, scientific, and technical limited to the following:			
Banks & financial institutions	P	P	
Blueprinting and photostating establishments	P	P	
Newspaper offices including printing	P	P	
Offices, general and professional with accessory research and testing	P	P	
Printing and publishing establishments	P	P	
Radio, television and recording studios	P	P	
Travel agencies	P	P	
Health care and social assistance limited to the following:			
Day care centers, commercial/preschools	P	P	14.08(a)
Day care homes, residential	P	P	
Funeral homes/mortuaries	S	S	14.08(b)
Hospital-related uses	P	-	
Hospitals	S	-	
Medical and dental clinics	P	P	
Medical laboratories	S	S	
Nursing homes and senior assisted living	P	P	14.08(c)
Optical sales	P	P	
Orthopedic and medical appliance sales	P	P	
Philanthropic and eleemosynary institutions	S	S	

Table 08.02
Schedule of Permitted Uses

Use	CBD1	CBD2	Use Requirements
Entertainment and recreation limited to the following:			
Amusement/arcade establishments	S	S	
Dance schools	P	P	
Health and athletic clubs	P	P	
Ice skating rinks	P	P	
Parks/playgrounds	P	P	
Stadiums/arenas	S	S	
Theaters	S	S	
Civic, religious, social assistance organizations limited to the following:			
Churches, chapels, temples, synagogues and similar places of worship	P	P	14.10(a)
Clubs, lodges, union halls	P	P	
Community centers	P	P	
Conference and convention halls	P	P	
Convents, monasteries and seminaries	P	P	
Educational services limited to the following:			
Colleges, universities, and accessory uses, including housing for students	P	P	
Libraries	P	P	
Schools, commercial and trade	S	S	
Public administration limited to the following:			
Government buildings excluding correctional facilities	P	P	
Museums, civic buildings and landmarks preserved for public inspection	P	P	
Transportation and warehousing limited to the following:			
Bus and passenger rail terminals	P	P	
Parking structures as a principal use	P	P	
Taxicab dispatching	P	P	
Utilities limited to the following:			
Public utility buildings	P	P	
Utility substations	P	P	
Single accessory wind energy conversion systems	S	S	14.15(b)
Wireless communication facility - collocation	P	P	14.15(c)
Wireless communication facility on institutional site	S	S	14.15(c)

Section 08.03 Lot Area and Width Requirements

(a) **Lot Sizes.** There are no minimum lot area or width requirements in the CBD1 and CBD2 districts.

(b) **Community Sewer.** All lots created in the CBD1 district must be served by community sewer. Any lot in the CBD2 District not served by community sewer shall be subject to State and County Health Department regulations regarding accommodation of septic or other onsite wastewater treatment systems, which shall dictate minimum lot area requirements.

(c) **Subdivision of Land.** All divisions to land shall be subject to the requirements set forth in the Subdivision Regulations of La Porte County, city of La Porte, city of Michigan City or Town of Westville, as applicable.

(d) **Depth to Width Ratio.** This provision shall not apply to the unincorporated areas of La Porte County.

(e) **Residential Density.**

(1) **CBD1.** The maximum residential density in the CBD1 district shall be 30 dwelling units per acre. In mixed-use buildings with upper floor apartments above ground floor commercial, there shall be no density limit, provided the minimum floor area per dwelling unit and parking requirements can be met.

(2) **CBD2.** The maximum residential density in the CBD2 district shall be two (2) dwelling units per acre, subject to any limitations imposed by the State and County Health Department. The density may be increased to eight (8) dwelling units per acre with community sewer. Community sewer may include municipal wastewater system or onsite cluster systems.

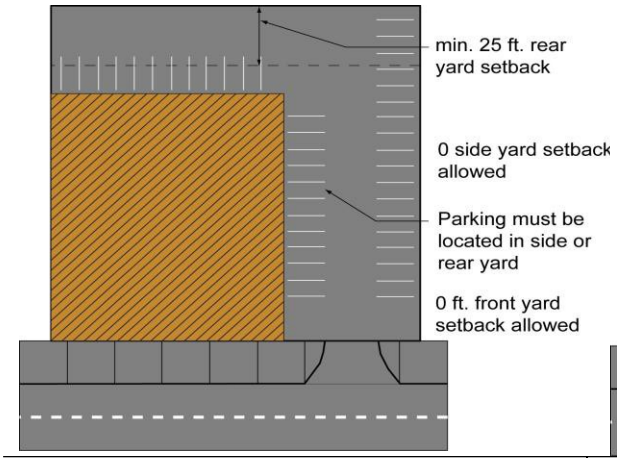
Section 08.04 Building Dimensional Requirements

All structures shall be subject to the dimensional regulations of the following table.

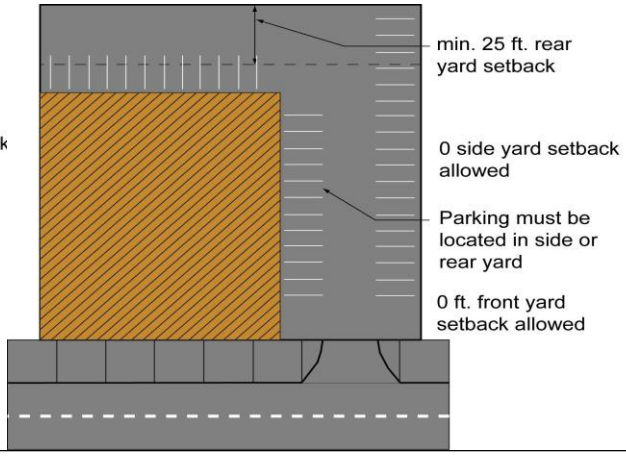
Table 08.04
Building Dimensional Requirements (a)

District	Max. building height (b)		Min. setbacks (ft.) (c, d, e, f)			
	Height (ft.)	Height (st.)	Front yard	Side yard	Rear yard (g)	Waterway (h, i)
CBD1	none	none	0	0	25	75
CBD2	30	2	0	0	25	75

CBD1 Dimensional Requirements



CBD2 Dimensional Requirements



(a) **Accessory Structures.** Accessory structures shall be regulated under the requirements of Article 16.

(b) **Height Exceptions.** In CBD2, no structure shall exceed the maximum height of the district except for the allowable exceptions to the height limits contained in Section 15.04. There shall be no height limit in CBD1.

(c) **Outdoor Storage.** Outdoor storage shall be screened in accordance with sections 17.02 and 17.03. Storage areas shall meet the applicable building setback requirements from each lot line.

(d) **Parking Lots.** Parking lots shall be located in the side or rear yard. Off-street parking lots shall be prohibited in the front yard between the building and the front lot line. Where parking is located in the side yard, a hedge row or three (3) foot tall brick wall shall be provided to screen the parking from the street in accordance with section 17.02(b)(1). On-street parking shall be permitted, subject to approval by the applicable road agency.

(e) **Loading Areas.** All loading and unloading shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley. Loading and unloading areas located in a side yard shall be fully screened from view from a public street. No overhead doors shall be permitted in the front elevation of the building.

(f) **Screening of Parking and Loading Area.** Where a parking lot or loading area borders on a residential district, a screening wall shall be provided from the residential district as required by Section 17.03.

(g) **Rear Yard.** A rear yard setback shall not be required where the rear lot line adjoins an alley.

(h) **Wetlands.** A minimum setback of 50 feet shall be maintained from all wetlands. The setback may be adjusted according to requirements of natural resource preservation guidelines contained article 22.

(i) **Waterway Setback.** The waterway setback shall be measured from the shoreline of the lake, river or stream. In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum waterway setback. The setback may be adjusted according to requirements of Natural Resource Preservation Guidelines.

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Article 09
Industrial Districts

Section 09.01 Intent

Cities | County

(a) **M1 Light Industrial District.** The M1 Light Industrial District is established for light industries, such as light manufacturing or processing of previously refined materials and other industrial uses that have no adverse impact upon neighboring districts. This district also allows certain commercial uses that are industrial in character or are necessary to provide services to persons working within the district. Uses in this district must have less of an impact on surrounding uses and generate less truck traffic than the other industrial developments. Limitations regarding the degree of noise, smoke, glare, odor, and vibration are placed upon such uses to preclude any adverse effects upon nearby commercial or residential districts. It is intended that this district act as a transition between heavier industrial uses and residential or commercial areas.

(b) **M2 Heavy Industrial District.** The M2 Heavy Industrial District is established to permit heavier industrial uses that are primarily of a manufacturing, assembling, and fabricating character, and are large-scale or specialized industrial operations more likely to produce external physical effects impacting to some degree surrounding districts. The M-2 District is further designed to be located in areas where heavy industrial uses can most efficiently utilize major roadways, utilities and other infrastructure while minimizing any incompatible aspects with neighboring districts.

Section 09.02 Uses

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

P: **Permitted Use.** Land and/or buildings in this District may be used for the purposes listed by right, subject to any use limitations set forth in this ordinance.

S: **Special Exception Use.** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Article 24 Special Exception Review Requirements and Procedures are met, subject to any use limitations set forth in this ordinance.

-: **Not Permitted.** The use is not permitted in the district. Uses not listed in the table are also not permitted. Uses that are not listed in any district of the zoning ordinance, as shown in Appendix A, may be allowed based upon a similar use determination in accordance with section 02.06.

Table 09.02
Schedule of Permitted Uses

Use	M1	M2	Use Requirements
Residential limited to the following:			
Dwelling units for watchmen and operating personnel and their families	P	P	
Agriculture and animal-related uses limited to the following:			
Farm implement dealers	P	P	

Table 09.02
Schedule of Permitted Uses

Use	M1	M2	Use Requirements
Grain elevator and storage	P	P	
Kennels	P	P	
Livestock yards	S	S	
Locker plants	P	P	
Plant nursery and commercial greenhouses	P	P	
Produce terminals	P	P	
Slaughterhouse	-	S	14.02(d)
Retail trade limited to the following:			
Auction houses	P	-	
Business machine sales and service	P	-	
Furnace/air conditioner sales/service	P	P	
Glass sales & service	P	P	
Hardware, electrical, plumbing, paint and floor covering sales	P	-	
Machinery and equipment sales	P	P	
Mail order business	P	P	
Mobile homes and trailer sales/rental	P	P	
Petroleum products sales	P	P	
Services limited to the following:			
Cleaning services	P	P	
Dry cleaning plants/commercial laundries	P	P	
Locksmith shops	P	-	
Office service centers	P	P	
Pest control services	P	P	
Tool and equipment rental	P	P	
Repair shops, nonautomotive	P	P	
Motor vehicle dealers and service limited to the following:			
Automobile rental	P	P	
Minor automobile service and repair	P	P	14.05(a)
Major automobile service, body repair and painting	P	P	14.05(a)
Parts stores	P		
Truck rental	P	P	
Truck sales (new/used)	P	P	
Truck stops	S	S	14.05(c)
Vehicle auctions	P	P	
Vehicle salvage yards	-	S	14.07(c)
Vehicle service stations	S		14.05(c)
Accommodation and food services limited to the following:			
Cafeterias (as an accessory use)	P	P	
Restaurants, carryout	S	S	14.06(c)
Restaurants, standard not including drive-thru/in	S	S	14.06(c)
Restaurant and taverns with outdoor seating	S	S	14.06(c)
Taverns and bars	S	S	14.06(c)
Finance, insurance, real estate, professional, scientific, and technical limited to the following:			
Blueprinting and photostating establishments	P	P	
Newspaper offices including printing	P	P	
Offices, general and professional with accessory research and testing	P	P	
Printing and publishing establishments	P	P	
Radio, television and recording studios	P		
Research & development laboratories	P	P	

Table 09.02
Schedule of Permitted Uses

Use	M1	M2	Use Requirements
Health care and social assistance limited to the following:			
Day care centers, commercial/preschools	P	P	14.08(a)
Medical and dental clinics	P	-	
Medical laboratories	P	-	
Entertainment and recreation limited to the following:			
Boat sales, including service	P	P	14.09(b)
Boat storage	P	P	14.09(b)
Forestry/wildlife preserve	P	P	
Ice skating rinks	P	-	
Racetracks and go-cart tracks	S	-	14.09(d)
Shooting ranges, indoors	P	P	
Shooting ranges, outdoors	S	S	
Stadiums/arenas	S	-	
Educational services limited to the following:			
Driving schools	P	-	
Schools, commercial and trade	P	P	
Training centers, engineering or sales	P	P	
Public administration limited to the following:			
Government buildings excluding correctional facilities	P	P	
Correctional facilities	S	S	
Museums, civic buildings and landmarks preserved for public inspection	P	P	
Transportation and warehousing limited to the following:			
Airports and heliports	S	S	
Bottled gas storage and distribution	S	S	
Bus and passenger rail terminals	P	P	
Cartage, express, and parcel delivery establishments	S	P	
Freight and intermodal terminals	S	P	14.13(b)
Moving companies	P	P	
Parking structures as a principal use	P	P	
Self-storage facilities, indoor	P	P	14.13(c)
Self-storage facilities, outside	P	P	14.13(c)
Taxicab dispatching	P	P	
Warehouses	P	P	
Wholesale business	P	P	
Manufacturing limited to the following:			
Manufacturing uses. Any establishment the principal use of which is manufacturing, fabricating, processing, assembling, disassembling, repairing, cleaning, servicing, testing, and storing of materials, products, and goods provided operations conform with the performance standards applicable to the district in which it is located.	P	P	
Beverage bottling plants	P	P	
Paper product manufacturing	-	S	
Building material manufacturing including milling, planing and joining	P	P	
Chemical manufacturing and storage	S	S	
Explosive manufacturing and storage	S	S	
Food processing	P	P	
Foundries	-	S	
Heavy industry	-	P	
Machine, sheet metal and welding shops	P	P	
Petroleum tank farms	S	P	14.14(a)

Table 09.02
Schedule of Permitted Uses

Use	M1	M2	Use Requirements
Sawmills	P	P	
Truck Terminal or yard	S	P	
Utilities limited to the following:			
Power generation plants	S	S	14.15(a)
Public utility buildings	P	P	
Sewage treatment plants	S	S	
Telephone exchange buildings	P	P	
Transmission lines for gas, oil and electricity	P	P	
Utility substations	P	P	
Single accessory wind energy conversion systems	S	S	14.15(b)
Commercial wind energy conversion systems	S	S	14.15(b)
Wireless communication facility - collocation	P	P	14.15(c)
Wireless communication facility tower	S	S	14.15(c)
Wireless communication facility on institutional site	S	S	14.15(c)
Construction limited to the following:			
Building materials storage yard without retail sales	S	S	14.16(a)
Concrete and gravel crushing	-	S	14.16(a)
Contractors' offices and shops (excluding outdoor storage)	P	P	
Contractors' outdoor storage	S	P	14.16(a)
Landscaping services	P	P	14.16(a)
Waste processing and disposal limited to the following:			
Processing, storage, transfer stations, disposal or incineration of solid waste, hazardous waste or medical waste	S	S	14.17(a)
Recycling facility, non-hazardous	P	P	14.17(b)
Salvage yards	-	S	14.17(c)
Sanitary landfills	S	S	14.17(d)
Mining limited to the following:			
Mineral extraction & general mining operations	S	S	14.18(a)

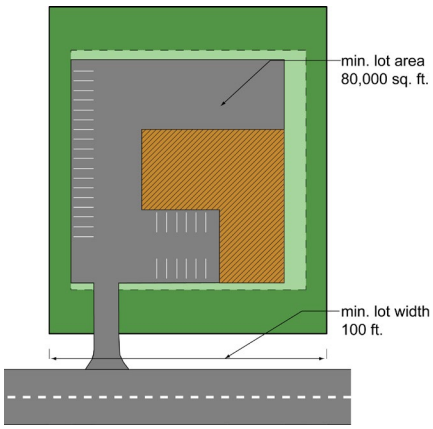
Section 09.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a manner that does not comply with the following requirements.

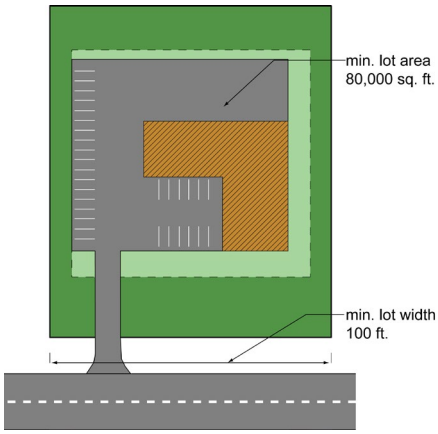
Table 09.03
Lot Area And Width Requirements

	Min. lot size (b)(g)	
District (a)	**Lot area(sq. ft.) (c)**	**Lot width(ft.)(d)(e)(f)**
M1 Light Industrial District	80,000	100
M2 Heavy Industrial District	80,000	100

M1 Light Industrial District



M2 Heavy Industrial District



(a) **Subdivision of Land.** All divisions to land shall be subject to the requirements set forth in the Subdivision Regulations of La Porte County, city of La Porte, city of Michigan City or Town of Westville, as applicable.

(b) **Lot Area Calculation.** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake, river or stream.

(c) **Lot Width and Frontage.** Lot width shall be measured as a straight line between the side lot lines at the minimum front yard setback of the district. All lots shall have frontage along a public road or street. The width along the road shall be sufficient to meet the lot width requirement at the minimum front yard setback.

(d) **Dominant Parcel.** The dominant tract or parcel from which any newly created lot has been divided from must also maintain the required lot width.

(e) **Depth to Width Ratio.** This provision shall not apply to the unincorporated areas of La Porte County.

(f) **Nonconforming Lots.** Lots of record that were in existence prior to the effective date of this ordinance may be used subject to the provisions of the nonconforming lot regulations of Section 29.03.

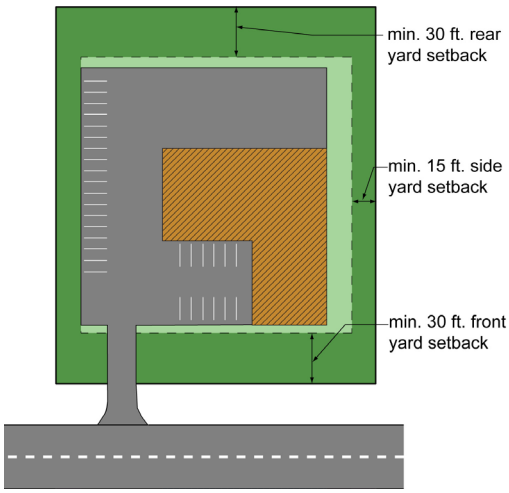
Section 09.04 Building Dimensional Requirements

All structures shall be subject to the dimensional regulations of the following table.

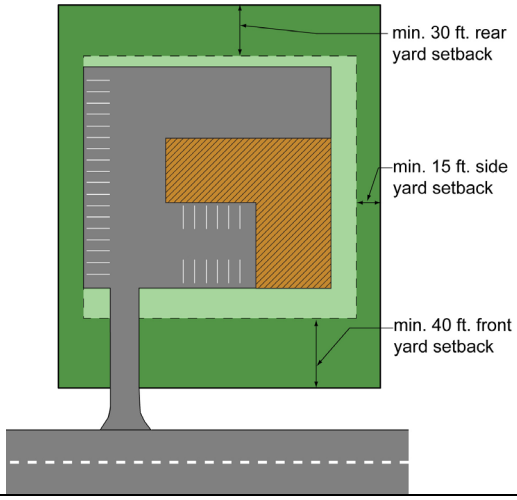
Table 09.04
Building Dimensional Requirements (a)

District	Max. building height (b) Height (ft.)	Height (st.)	Min. setbacks (ft.) (c, d, e, f, g, h, i, j) Front yard	Side yard	Rear yard	Waterway (k, l)	% Lot coverage (m) Building	Imper. surface
M1 Light Industrial District	**45**	**- -**	**30**	**15**	**30**	**75**	**65%**	**85%**
M2 Heavy Industrial District	60	- -	40	15	30	75	65%	85%

M1 Light Industrial District



M2 Heavy Industrial District



(a) **Accessory Structures.** Accessory structures shall be regulated under the requirements of Article 16.

(b) **Height Exceptions.** No structure shall exceed the maximum height of the district except for the allowable exceptions to the height limits contained in Section 15.04.

(c) **Projections into Yards.** All required yard spaces shall remain as landscaped open space, except for pavement, accessory structures and architectural features that are allowed to extend or project into required setbacks under Section 15.05.

(d) **Yards Maintained as Landscaped Open Space.** All buildings shall meet the setback requirement. Setback areas shall be provided with landscape greenbelts and buffer zones as required in Section 17.02.

(e) **Outdoor Storage.** Outdoor storage shall be screened in accordance with sections 17.02 and 17.03. Storage areas shall meet the applicable building setback requirements from each lot line.

(f) **Setback from Road.** The front yard setback shall be measured from the road right-of-way or private road easement. Detention/retention ponds shall be allowed at a safe distance from all adjacent property lines and not impact the adjacent property owners existing natural ground.

(g) **Parking Setback.** Parking lots shall be required to meet the front yard setback. Parking shall be permitted in the side or rear yard setback, provided it does not encroach into any required landscape greenbelts or buffer zones required by section 17.02. Where a parking lot or loading area borders on

a residential district, there shall be provided a buffer and screening from the residential district, as required by sections 17.02 and 17.03.

(h) **Corner Lots.** Corner lots shall provide the minimum front yard setback from both road frontages.

(i) **Double Frontage Lots.** In all districts, where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way.

(j) **Loading Areas.** All loading and unloading shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley. Loading and unloading areas located in a side yard shall be fully screened from view from a public street. No overhead doors shall be permitted in the front elevation of the building. All residential districts and uses must be screened from truck loading and unloading activities in accordance with section 17.03.

(k) **Wetlands.** A minimum setback of 50 feet shall be maintained from all wetlands. The setback may be adjusted according to requirements of natural resource preservation guidelines contained article 22.

(l) **Waterway Setback.** The waterway setback shall be measured from the shoreline of the lake, river or stream. In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum waterway setback. The setback may be adjusted according to requirements of Natural Resource Preservation Guidelines.

(m) **Maximum Lot Coverage.** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:

(1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.

(2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading and storage areas, normal pool area of wet detention basins to the net lot area.

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Article 10
Marina District

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Article 11
Airport District

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Article 12
Overlay Districts

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Article 13
Michigan City North End Form-Based Districts

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Article 14
Use Regulations

Section 14.01 Residential

The following requirements shall be complied with for the specified use:

(a) **Residential Dwellings**

(1) **All Types of Residential Dwellings.** All site-built dwellings and manufactured dwellings not located in a manufactured home park shall meet the following requirements:

a. **Minimum Floor Area.** The dwelling shall meet the minimum square footage requirements for the zoning district in which it is to be located and must be 23 feet in width by 41 feet in length. The width or length of the dwelling may be reduced where the building will be two (2) stories in height and meet the minimum floor area requirement of the zoning district.

b. **Exterior Materials.** The home shall be covered with an exterior material customarily used on site-built residential dwellings. The primary materials shall be one (1) or more of the following:

1. Residential horizontal aluminum, vinyl, or fiber cement lap siding;
2. Cedar or other wood siding;
3. Stucco;
4. Brick;
5. Stone (including native stone, cultured stone cast stone or other masonry material with the appearance of stone); or
6. Other similar quality material to the above, as determined by the enforcement official.

c. **Roof.** The home shall have a roof with a minimum rise of 3:12, composed of a material customarily used on site-built residential dwellings, such as fiberglass, shake, asphalt, slate, metal or tile, which shall be installed onto a surface appropriately pitched for the materials used.

(2) **Manufactured Homes Located Outside of An Approved Manufactured Home Park.** Manufactured homes shall be permitted as a permanent residences in any zoning district that permits single family dwelling units, subject to requirements and limitations applying generally to residential use in the district, the requirements of subsection (1) above, and the following requirements.

a. **Manufactured Housing Construction and Safety Standards.** Manufactured homes shall be installed as a permanent residence, bear a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 U.S.C. 5401 et seq.) and have been constructed after January 1, 1981.

b. **Foundation.** The dwelling shall be attached and anchored to a permanent foundation of concrete or masonry construction in conformance with the regulations in the state One- and Two-Family Dwelling Code and with manufacturer's installation specifications. Any wheels, axles and towing chassis shall be removed.

c. **Number.** There may be one (1) manufactured home per lot.

d. **Additional Restrictions.** Additional manufactured home restrictions:

1. Manufactured homes shall be used for residential purposes only.
2. Manufactured homes may not be used as storage units on residential parcels as well as any vans, truck boxes, semi trailers or railroad cars.

e. **Permanent Perimeter Enclosure.** Those manufactured homes designated as requiring a permanent perimeter enclosure must be set onto an excavated area, with foundations, footings, and crawl space or basement walls constructed in accordance with the terms of the One- and Two-Family Dwelling Code. The space between the floor joists of the home and the excavated under floor grade shall be completely enclosed with the permanent perimeter enclosure, except for required openings.

f. **Foundation Siding and Skirting (for Temporary Structures).**

1. All manufactured or manufactured homes without a permanent perimeter enclosure shall have an approved foundation siding or skirting enclosing the entire perimeter of the home.
   i. Foundation siding or skirting and back-up framing shall be weather-resistant, non-combustible, or self-extinguishing materials, which blend with the exterior siding of the home. Below grade level for a minimum distance of six inches above finish grade, the materials shall be unaffected by decay or oxidation.
   ii. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.
2. The siding shall be ventilated by openings, which shall have a net area of not less than one and one-half square feet for each 25 linear feet of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not larger than one- half inch in any dimension.
3. The under floor area shall be provided with an 18 inch by 24 inch minimum size access crawl hole, which shall not be blocked by pipes, ducts, or other construction interfering with the accessibility of the under floor space or other approved access mechanism.

g. **Structural alteration.** No alteration may be made to, or to enclose, the manufactured home for purposes of increasing the usable living area or providing additional storage area, with the exception of manufacturer approved and constructed add-a-room or expanded unit.

(3) **Temporary Use; Permits**.

a. **Circumstances for Permit Issuance.** Subject to conditions, fees, and standards otherwise required by this title, a temporary use permit may be issued:

1. To an applicant to use a manufactured or manufactured home as a construction office at a job site;
2. To an applicant whose own health or health of another necessitates care, and emergency situations where the facts show that an unnecessary hardship would occur if not permitted to locate a manufactured or manufactured home adjacent to the residence of one who is able to provide care or in need of care; or
3. If a home is burned, a manufactured home could be placed on the property by order of the Building Commissioner prior to the granting of the variance. No more than one (1) manufactured home should be allowed on a parcel of land.

b. **Length of Permit.** A temporary use permit may be issued, at the discretion of the plan commission's designated administrator, for a period not to exceed six (6) months.

c. **Permit Expiration.** At the time the temporary permit expires, the manufactured or manufactured home and all appurtenances shall be removed from the property unless a variance has been granted by the BZA.

d. **Utility Requirements.** Manufactured or manufactured homes used for temporary uses shall have an approved water supply, sewage disposal system, and utility connections, where appropriate, and at the discretion of the enforcement official.

(b) **Home occupations**

(1) The regulations of this section apply to home occupations that are accessory to a residential use. These regulations do not apply to farms.

(2) The home occupation shall be incidental and secondary to the use of the dwelling for dwelling purposes and does not occupy more than one-fourth of the floor area of a story, cellar, or accessory structure.

(3) There shall be no signs, display, or activity that will indicate from the exterior that the building is being used, in part, for any purpose other than that of a dwelling, except one sign, not to exceed 3' x 5'.

(4) There shall be no services rendered that require receipt and delivery of merchandise, goods, or equipment by other than a passenger motor vehicle or by licensed commercial delivery.

(5) All activity, including storage, shall be conducted completely within the dwelling unit, attached garage, or detached garage.

(6) There shall be no perceptible noise, odor, smoke, electrical interference, or vibration emanating from the structure between the hours of 11:00 p.m. and 7:00 a.m. local time.

(c) **Accessory Dwelling Units**

(1) One (1) accessory dwelling unit may be created on a lot containing an existing single family dwelling through the following methods:

a. Converting existing living area, attic, basement or garage;

b. Adding floor area to the principal building; or

c. Constructing a detached accessory dwelling unit on a site with an existing dwelling.

(2) The size of the accessory dwelling unit may be no more than 33% of the living area of the principal dwelling or 800 square feet, whichever is more.

(3) The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the principal dwelling.

(4) The roof pitch must be the same as the predominant roof pitch of the principal dwelling. The eaves must project from the building walls the same distance as the eaves on the principal dwelling;

(5) Trim must be the same in type, size, and location as the trim used on the principal dwelling.

(6) Windows must match those in the principal dwelling in proportion (relationship of width to height) and orientation (horizontal or vertical).

(7) All health department requirements for water and sanitary sewage disposal shall be met.

(8) When an accessory dwelling is located within the principal dwelling, only one (1) entrance may be located on the facade of the building facing the street, unless the building contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.

(9) Detached accessory dwelling units must be setback at least 50 feet from the front lot line or 10 feet behind the main house and must meet the side and rear yard setbacks of the district.

Section 14.02 Agriculture and Animal-Related Uses

The following requirements shall be complied with for the specified use:

(a) **Confined Animal Feeding Operations**

(1) Confined animal feeding operations (CAFO) shall be required to comply with all requirements of the Concentrated Animal Feeding Operation Ordinance contained in Chapter 97 of the La Porte County Code of Ordinances.

(2) CAFOs shall be required to obtain a permit from the Indiana Department of Environmental Management.

(b) **Boarding Stables**

(1) The minimum parcel size shall be 10 acres.

(2) All areas for stockpiling manure shall be screened from view and shall not be located closer than 250 feet to any property line, creek, or stream and shall not be allowed to become a nuisance.

(c) **Keeping of Horses and Livestock**

(1) The keeping of animals, other than domesticated pets, is only permitted as follows:

Zoning District	Lot area	Animals allowed
A Agricultural Zoning Districts	Less than 3 acres	Special exception approval subject to subsection (2)
	3 acres or more	Permitted – no limit on number of animals
R1A, R1B, R1C, R1D Single Family Residential Districts	Less than 3 acres	Not permitted
	3 acres or more	Permitted subject to subsection (2)

(2) On lot less than (3) acres in the A agricultural zoning districts and lots three (3) acres or more in the R1A, R1B, R1C, R1D single family residential districts, there shall be the following acreage for each animal or combinations of animals:

Animal	Minimum Acres for each Animal
Chickens, turkeys or rabbits	0.02
Sheep, goats llamas or alpaca	0.1
Swine	0.2
Horses, ponies, mules or burros	1
Cattle, bison, ostrich or elk	1

(3) All grazing areas shall be fenced. Grazing areas shall not be located over sanitary drain fields.

(4) An accessory structure shall be provided to house such animals. Any barn, or stable structure and any outdoor feed (non-grazing) area training or exercising corrals shall be setback at least 100 feet from any lot line of an adjacent residentially zoned lot. All stables shall be enclosed by a suitable fence and shall be maintained so that odor, dust, noise or water drainage shall not constitute a nuisance or hazard to adjoining premises.

(d) **Roadside Stands**

(1) The stand shall be located at a safe distance from the traveled way.

(e) **Slaughterhouses**

(1) All front, side and rear yard setbacks shall be a minimum of 300 feet.

(2) A minimum buffer/setback of 300 feet shall be provided between any building or animal enclosures and an adjacent residential district. The buffer/setback shall be landscaped with a buffer zone A in accordance with section 17.02(c).

Section 14.03 Retail Trade

The following requirements shall be complied with for the specified use:

(a) Retail Uses With More Than 40,000 Square Feet Of Floor Area

(1) The design of the center shall ensure that vehicular circulation patterns will minimize conflicts between vehicles and pedestrians on-site.

(2) Internal drives defined by the ends of aisles shall have raised curbed landscape islands at appropriate locations to define circulation paths and control movements through the parking lot.

(3) Any outlots shall have shared access and circulation with the main shopping center.

(4) A minimum buffer/setback of 25 feet shall be provided between the parking lot or loading area and any adjacent residential district landscaped in accordance with section 17.02(c).

(5) Loading facilities which serve the commercial establishment in the principal building shall be screened from public view.

(6) Any outlots shall have access, circulation and parking designed to complement the entire site.

(b) Drive-Through Accessory to a Retail Use

(1) The drive-through facility must be attached to the structure.

(2) The drive-through facility shall be located on the side or rear elevation of the building to minimize visibility from the roadway. The site shall be oriented so that drive-through lanes and pickup windows are not a prominent feature of the building.

(3) The drive-through service shall be screened from adjacent residential land uses by a solid screening wall in accordance with section 17.03, such that it will not impact the use and enjoyment of the residential land use.

(4) Clear identification and delineation between the drive-through facility and the parking lot shall be provided.

(5) There shall be a minimum of three (3) stacking spaces.

(6) Each drive-through facility shall provide an escape lane to allow other vehicles to pass those waiting to be served. The enforcement official may waive the requirement for an escape lane where it can be demonstrated that such a waiver will not result in an adverse effect on public safety or the convenience of patrons of the facility.

(c) Planned Neighborhood Shopping Center in R1C, R1D, R2B, R3A and R3B Residential Zoning Districts

(1) A special exception shall be required for a planned neighborhood shopping center in the R1C, R1D, R2B, R3A and R3B residential zoning districts to provide day-to-day convenience shopping to adjoining residential neighborhoods.

(2) The site shall have frontage and access to major thoroughfare.

(3) The total commercial floor area shall be no more than 20,000 square feet.

(4) Uses shall be limited to those permitted in the B1 district.

(5) Architectural and sign treatment shall be compatible with the character of the surrounding residential area in terms of building materials and scale.

Section 14.04 Services

(a) **Pawnshops**

(1) The site shall not be within 1000 feet of an adult regulated use or another pawnshop.

(b) **Tattoo Establishment**

(1) The site shall not be within 100 feet of a residential district.

(2) The site shall not be within 1,000 feet of an adult regulated use

(3) The use shall not operate after 10:00 PM.

Section 14.05 Motor Vehicle Dealers and Service

The following requirements shall be complied with for the specified use:

(a) **Vehicle Service and Repair, Major and Minor**

(1) All repair work shall be conducted completely within an enclosed building.

(2) Storage of wrecked, partially dismantled, or other derelict vehicles is prohibited, unless such storage is required under police or court order. Vehicles awaiting repair shall not be stored outdoors for more than seven (7) days and shall be screened with an eight (8) foot high screen wall in accordance with section 17.03.

(3) There shall be no outdoor storage or display of vehicle components and parts, supplies, or equipment or other merchandise, except within an area defined on the site plan which extends no more than 10 feet beyond the building.

(b) **Automobile Wash**

(1) The site shall have sufficient road frontage to be able to meet all of the driveway access spacing requirements of section 18.04.

(2) All washing facilities shall be within a completely enclosed building.

(3) Where adjoining a residential district, a solid screening wall shall be erected along any common lot line in accordance with section 17.03.

(4) Vacuuming and drying may be located outside the building, but shall not be in the required front yard and shall be set back at least 50 feet from any residential district.

(5) All cars required to wait for access to the facilities shall be provided stacking spaces fully off the street right-of-way which does not conflict with vehicle maneuvering areas to access gasoline pumps or vacuums.

(c) **Vehicle Service Stations and Truck Stops**

(1) The site shall have sufficient road frontage to be able to meet all of the driveway access spacing requirements of section 18.04.

(2) Pump islands shall be a minimum of 20 feet from any public right of way or lot line, and at least 50 feet from any residential lot line.

(3) Where adjoining residentially zoned or used property, a solid screening wall shall be erected along any common lot line in accordance with section 17.03.

(4) Access driveways shall meet the standards of Article 18; turning movements may be restricted in consideration of traffic conditions. Only one (1) driveway shall be permitted from each street.

(5) All vehicle service and repair shall comply with Section 14.05(a) above.

(6) The design and materials of the canopy shall be compatible with the principal building. The proposed clearance of any canopy shall be noted on the site plan. Canopy lighting shall be recessed such that the light source cannot be seen from off site.

Section 14.06 Accommodation and Food services

The following requirements shall be complied with for the specified use:

(a) **Bed & Breakfast Inns**

(1) The regulations of this section only apply to bed & breakfast inns located in agricultural and residential districts. When located in nonresidential districts, the requirements applicable to hotels shall apply.

(2) The bed and breakfast inn shall be a private residence, owned by the innkeeper and the residence in which the innkeeper resides while renting the rooms to transient guests.

(3) A bed and breakfast inn located in a residential zoning district shall not be permitted to operate a restaurant that is open to the general public and may only offer breakfast to the guests.

(4) The bed and breakfast inn shall be operated in its entirety within the principal dwelling and not within any accessory building, except for incidental storage in use of a residential type garage.

(5) There shall be no exterior evidence, other than a permitted sign, to indicate that the residence is being utilized for any purpose other than that of a dwelling.

(6) There shall be no alteration or construction not customarily found in residential dwellings; except modifications as recommended by the fire department such as fire protection and fire suppression equipment.

(7) The bed and breakfast inn shall be inspected by the fire department and the county board of health for compliance with fire code and heath code requirements prior to operation.

(8) Guests are not allowed to stay longer than 14 consecutive days or 30 days in any one calendar year at any tourist home/bed and breakfast location.

(9) Sufficient off street parking shall be required as for commercial lodging establishments. Existing buildings and structures that contribute towards the residential character of the site shall be retained and incorporated into the site design to the maximum extent practical. All required parking for any bed and breakfast inn shall be screened from adjacent residential uses.

(b) **Restaurants with Drive-Through Service**

(1) The drive-through facility shall be located on the side or rear elevation of the building to minimize visibility from the public or private roadway. The site shall be oriented so that drive-through lanes and pickup windows are not a prominent feature of the building.

(2) The drive-through service shall be screened from adjacent residential land uses by a solid screening wall in accordance with section 17.03, such that it will not impact the use and enjoyment of the residential land use.

(3) Clear identification and delineation between the drive-through facility and the parking lot shall be provided.

(4) There shall be a minimum of 10 stacking spaces.

(5) Each drive-through facility shall provide an escape lane to allow other vehicles to pass those waiting to be served.

(6) Only one (1) access shall be provided onto any street.

(7) Where the restaurant is constructed adjacent to other commercial uses, a direct vehicular access connection shall be established with the adjoining property if possible.

(c) **Restaurants in Industrial Districts**

(1) The restaurant shall be located within an office structure or industrial building or shall be located in a freestanding building as part of an overall industrial or office park.

(2) The restaurant shall be planned as a part of an overall plan for development and shall be part of a service establishment complex for such development.

(3) The restaurant shall comprise not more than 20% of the land area of an overall development.

(4) There shall be no more than one (1) restaurant in a freestanding building per business park.

(5) Drive-in or drive-through restaurants shall be prohibited.

Section 14.07 Finance, Insurance, Real Estate, Professional, Scientific, and Technical Services

The following requirements shall be complied with for the specified use:

(a) Banks with Drive-Through Tellers

(1) The drive-through facility shall be located on the side or rear elevation of the building to minimize visibility from the public or private roadway.

(2) The drive-through service for teller stations and automated teller machines (ATM), including any associated lighting, shall be screened from adjacent residential land uses by a solid screening wall in accordance with section 17.03, such that it will not impact the use and enjoyment of the residential land use.

(3) Clear identification and delineation between the drive-through facility and the parking lot shall be provided.

(4) There shall be a minimum of four (4) stacking spaces for the first drive-through lane and three (3) stacking spaces for each additional lane.

(5) The drive-through facility shall provide an escape lane to allow other vehicles to pass those waiting to be served. The enforcement official may waive the requirement for an escape lane where it can be demonstrated that such a waiver will not result in an adverse effect on public safety or the convenience of patrons of the facility.

Section 14.08 Health Care and Social Assistance

The following requirements shall be complied with for the specified use:

(a) **Day Care Centers, Commercial/Preschools**

(1) There shall be a minimum of 110 square feet of outdoor play area per child on site at any given time.

(2) The minimum side and rear yard setback shall be 20 feet.

(3) A minimum 20 foot buffer/setback shall be provided between the parking lot and any adjacent residential use landscaped in accordance with section 17.02(c).

(4) The day care center or preschool shall be inspected by the fire department and the county board of health for compliance with fire code and heath code requirements prior to operation.

(b) **Funeral Homes/Mortuaries**

(1) An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

(2) If a crematory is included as part of a funeral home/mortuary, it shall meet the following requirements:

a. Crematories shall be setback 200 feet from any lot line adjoining a residentially zoned or used lot.

b. All required state permits, licenses and certifications shall be obtained.

c. Crematories shall not emit any noticeable odor or particulates.

d. Crematories shall have emission stacks covered or shrouded with materials safe for such uses and that are compatible in design and architecture with the existing funeral home and the building housing the crematory. The crematory facility and emission stack shall be compatible with surrounding properties.

(c) **Nursing Homes and Senior Assisted Living**

(1) Independent senior housing and senior apartments may be developed in a multiple-family or cluster housing form with full facilities for self-sufficiency in each individual unit. A community center for this overall development may be provided.

(2) Senior assisted living housing shall be developed in a multiple-family housing form with central dining facilities provided as a basic service to each unit. A community center for the overall development shall be provided to support recreational and social activities.

(3) Personal service uses such as a dry cleaning pickup station, beauty shop, barber shop or similar use for the exclusive service to residents of a complex may be allowed within a housing development. In no instance shall such service use be provided with direct access to a street for the use of the public in general, it being the purpose of this provision to allow such use to only be provided as a convenience to occupants of the complex in which such service is located. No signs of any nature shall be visible from outside the building in which the use is located.

(4) The nursing home or senior assisted living facility shall be inspected by the fire department and the county board of health for compliance with fire code and heath code requirements prior to occupancy.

Section 14.09 Entertainment and Recreation

The following requirements shall be complied with for the specified use of a Sexually Oriented Business:

(a) **Sexually Oriented Businesses**

(1) *Purpose.* It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses

within the county. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the purpose nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the purpose nor effect of this section to condone or legitimize the distribution of obscene material.

(2) *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of County Commissioners, and on findings, interpretations, and narrowing constructions incorporated in numerous cases, including, but not limited to, City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); Pap's A.M. v. City of Erie, 529 U.S. 277 (2000); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, Inc., 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); California v. LaRue, 409 U.S. 109 (1972); as well as in the cases of Artistic Entertainment, Inc. v. City of Warner Robins, 223 F.3d 1306 (11th Cir. 2000); Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County, 337 f.3d 1251 (11th Cir. 2003); Peek-A-Boo Lounge of Brandenton, Inc. v. Manatee County, 630 F.3d 1346 (11th Cir. 2011); Gary v. City of Warner Robins, 311 F.3d 1334 (11th Cir. 2002); Ben's Bar, Inc. v. Village of Somerset, 316F.3d 702 (7th Cir. 2003); Wise enters. V. Unified Gov't of Athens- Clarke County, 217 F.3d 1360 (11th Cir. 2000); BZAPs, Inc. v. City of Mankato, 268 F.3d 603 (8th Cir. 2001); World Wide Video of Washington, Inc. v. City of Spokane, 368 U.S. 1186 (9th Cir. 2004); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Ward v. County of Orange, 217 F.3d 1350 (11th Cir. 200); Boss Capital, Inc. v. City of Casselberry, 187 F.3d 1251 (11th Cir. 1999); David Vincent, Inc. v. Broward County, 200 F.3d 1325 (11th Cir. 2000); Sammy's of Mobile, Ltd. V. City of Mobile, 140 F.3d993 (11th Cir. 1998); Lady J. Lingerie, Inc. v. City of Jacksonville, 176 F.3d 1358 (11th Cir. 1999); Landy J. Lingerie, Inc. v. City of Jacksonville, 973 F.Supp. 1428 (M.D. Fla. 1997); Grand Faloon Tavern, Inc. v. Wicker, 670 F.2d 943 (11th Cir. 1982); Board of County Commissioners v. Dexterhouse, 348 So.2d 916 (Ct. App. Fla. 1977); International Food & amp; Beverage Systems v. Ft. Lauderdale, 794 F.2d 1520 (11th Cir. 1986); and other cases; and on reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Planning Department of Phoenix, Arizona (1979) "Adult Business Study"; "Report of the Attorney General's Working group on the Regulation of Sexually Oriented Businesses" State of Minnesota (1989); Houston City Council (1997) "Sexually Oriented Business Ordinance Revision Committee Legislative Report"; Department of Metropolitan Development of Indianapolis, Indiana (1984) "Adult Entertainment Businessess in Indianapolis"; Planning Department, City of Amarillo, Texas (1977) "A Report of Zoning and Other Methods of Regulating Adult Entertainment in Amarillo"; Garden Grove, California (1991) "Negative Secondary Effects of Sexually Oriented Businesses: Summaries of Key Reports"; Department of City Planning, Los Angeles, California (1977) "Study of the Effects of the Concentration of Adult Entertainment Establishments"; Staff Report, Whittier, California (1978) "Amendment to Zoning Regulations"; City Council of Austin, Texas (1986) "Report on Adult Oriented businesses in Austin"; Community Development Department, Oklahoma City, Oklahoma (1986) "Adult Entertainment Businesses in Oklahoma City"; Peter Malin, Dallas, Texas (1997) "An Analysis of the Effects of SOBs on Surrounding Neighborhoods"; Insight Associates; New York times Square Study (1994) "Report on the Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area"; Phoenix, Arizona (1995-98) "Adult Cabarets Factual Record"; Reichard McCleary, Ph.D., Greensboro, North Carolina (2003) "A Methodological Critique of the Linz-Yao Report: Report to the Greensboro City Attorney"; and, based upon reports concerning secondary effects occurring in and around Sexually

oriented businesses in and around LaPorte County: A Study of Sexually Oriented Businesses, Final Report, LaPorte County, Indiana, by Duncan Associates, dated August, 2012.

(3) The LaPorte County Board of Commissioners now finds:

a. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, public safety risks, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, illicit drug use and drug trafficking, negative impacts on surrounding properties, litter, and sexual assault and exploitation.

b. Each of the foregoing negative secondary effects constitutes a harm which the county has a substantial government interest in preventing and/or abating in the future. This substantial government interest in preventing secondary effects, which is the Count's rationale for this section, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the county's interest in regulating sexually oriented businesses extends to the future secondary effects that could occur in the County related to current sexually oriented businesses as well as sexually oriented businesses that may locate in the County in the future. The County finds that the cases and secondary effects documentation relied on in this section are reasonably believed to be relevant to said secondary effects.

(4) Definitions:

a. *"Adult Bookstore or Adult Video Store"* means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

(i) At least 35% of the establishment's displayed merchandise consists of said items; or,

(ii) At least 35% of the wholesale value of the establishment's displayed merchandise consists of said items; or

(iii) At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items; or,

(iv) At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items; or,

(v) The establishment maintains at least 35% of its floor space for the display, sale and/or rentals of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(vi) The establishment maintains at least five hundred square feet (500 sq. ft.) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or,

(vii) The establishment regularly offers for sale or rental at least two thousand (2000) of said items; or,

(viii) The establishment regularly features said times and regularly advertises itself or holds itself out by using "adult," "adults-only," "XXX," "sex," "erotic," "novelties," or substantially similar language, as an establishment that caters to adult sexual interests; or,

(ix) The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

b. *"Adult Cabaret"* means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

c. *"Adult Motion Picture Theater"* means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five people for any form of consideration.

d. *"Semi-Nude Model Studio"* means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

(i) By a college, junior college, or university supported entirely or partly by taxation;
(ii) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or,
(iii) In a structure:
(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
(2) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

e. *"Sexual Device Shop"* means a commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not limit access to its premises or a portion of its premises to adults only.

f. *"Sexual Oriented Bath House"* means an enterprise where a portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.

g. *"Sexually Oriented Body Painting Studio"* means an establishment where a portion of its business is the application of paint or other substance to or on the human body by any means of application, technique, or process when the subject's body displays for the patron's view specified anatomical areas.

h. *"Sexually Oriented Business"* means an "adult bookstore or adult video store," an "adult cabaret," an "adults motion picture theater," a "semi-nude model studio," or a "sexual device shop," a "sexually oriented bath house," "sexually oriented body painting studio," or a "sexually oriented encounter center."

i. *"Sexually Oriented Encounter Center"* means a business or enterprise that offers physical contact between two or more persons when one or more of the persons are in a state of nudity or semi-nudity, for the purpose of engaging in specified sexual activity or touching specified anatomical areas, but not including a sexually oriented cabaret or nightclub.

(5) *Locational Requirements for Sexually Oriented Businesses*

a. No Sexually Oriented businesses shall be located within five hundred (500) feet of any unincorporated area in LaPorte County Residential District

b. No sexually oriented business may be located within One Thousand (1,000) feet form the following:

1. Public, private or parochial school;
2. Library;
3. Park, playground or other recreation facility which admits minors;
4. Day care center or nursery schools;
5. Church, temple or other similar place of worship;
6. Any establishment having a liquor license;
7. Dance clubs catering primarily to teenagers, ice or roller skating rinks, movie theaters and other similar uses which typically cater to children and teenagers.

c. *Locational Restrictions in Relation to Other Sexually Oriented Businesses.* It shall be unlawful to located any sexually oriented business within one thousand (1,000) feet of any other sexually oriented business.

d. *Method of Measuring Distances.* Distances shall be measured from property line to property line along the shortest distance between property lines, without regard to the route of normal travel

(6) *Nonconforming Sexually Oriented Businesses.* Sexually oriented businesses which have been established at their existing locations as of the effective date of this Amendment, which have become nonconforming as a result of the adoption of this Amendment may be continued or maintained only in the conformance with Article 29 of this Ordinance regarding nonconformities.

(7) *Prohibited Uses:*

The Following sexually oriented businesses are prohibited:

a. Massage studio business not operated by or under the supervisions of a medical professional, or by a person licensed to practice massage therapy in the State of Indiana;

b. Sexually oriented bathhouse;

c. Sexually oriented encounter center;

d. Any other sexually oriented business not included under the permitted sexually oriented uses, except for in this Chapter.

(8) *Permitted Sexually Oriented Uses:*

The following sexually oriented businesses are permitted uses, subject to the provisions of this Article, and the Joint Zoning Ordinance of LaPorte County.

a. Adult bookstore;

b. Adult video store

c. Adult cabaret;

d. Adult motion picture theater;

e. Sexual device shop;

f. Sexually oriented body painting studio;

g. Semi-nude model studio

(9) *Effect on Other Ordinances*.

Nothing in this Article shall be construed to supersede any other Ordinance which affects sexually oriented business under the LaPorte County Ordinances. In the event of a conflict with any other LaPorte County Ordinance, the more stringent interpretation shall apply.

(b) **Boat Clubs, Marinas and Boat Storage**

(1) All areas used for dry-dock boat storage shall be screened from any adjacent residential district or public road with a landscape buffer zone A in accordance with section 17.02(c).

(c) **Casinos**

(1) The casino must be licensed by the State in accordance with IC 4-33-2.

(2) The casino must be developed in conjunction with a hotel that provides at least 250 hotel rooms, an indoor public space used for exhibit space, meeting rooms, banquet rooms, restaurants, show theaters and retail shops.

(3) A minimum buffer/setback of 50 feet shall be provided between any adjacent residential district and the building, parking lot, and loading area landscaped in accordance with section 17.02(c).

(d) **Commercial Outdoor Recreation Facilities Such as Batting Cages, Driving Ranges and Putt-Putt Golf**

(1) The minimum front, side and rear yard building setbacks shall be 40 feet, which shall apply to all buildings, recreation activity areas, spectator seating and any other structural appurtenances.

(2) The use and parking area shall be screened from adjacent major thoroughfares with a landscape greenbelt in accordance with section 17.02(b)(4).

(3) Devices for the transmission of broadcasting of voices or music shall be so directed as to prevent sound from being audible beyond the lot lines of the site.

(4) Whenever any such use abuts a residential district or use, a transitional buffer area shall be provided between all operations, buildings and structures, including fences, and the residential property. Landscaping, walls and/or fences shall be required as part of this buffer as determined by the

enforcement official based upon the nature of the use and the noise impact that the use may have on surrounding uses.

(5) Storage buildings; restroom facilities; facilities for the sale and consumption of food, beverages and refreshments; and other similar accessory uses shall comply with all standards of the county or city.

Section 14.10 Civic, Religious, Social Assistance Organizations

The following requirements shall be complied with for the specified use:

(a) **Cemetery**

(1) Before granting or selling any burial right in any part of a cemetery developed and platted after March 6, 1953, the owner of the cemetery shall record an accurate survey and plat of that part of the property in which the owner proposes to grant or sell burial rights in the County Recorder's Office, in accordance with the Subdivision Ordinance.

(2) The minimum lot area shall be 10 acres.

(3) Grave sites shall be setback a minimum of 25 feet from any lot line adjoining a residentially zoned or used lot. Existing vegetation shall be preserved within the required side and rear yard setback.

(4) Off-street parking spaces and circulation aisles shall be setback 25 feet from all lot lines.

(5) Mausoleum, columbarium, chapel or other similar structures shall be setback a minimum of 50 feet from all lot lines.

(6) If a crematory is included as part of a cemetery, it shall meet the following requirements:

a. Crematories shall be setback 200 feet from any lot line adjoining a residentially zoned or used lot and 50 feet from any nonresidential lot line.

b. All required state permits, licenses and certifications shall be obtained.

c. Crematories shall not emit any noticeable odor or particulates.

d. Crematories shall have emission stacks covered or shrouded with materials safe for such uses and that are compatible in design and architecture with the building housing the crematory. The crematory facility and emission stack shall be compatible with other buildings in the cemetery.

(7) Perpetual care and maintenance shall be provided for in accordance with IC 23-14-48.

(b) **Churches, Chapels, Temples, Synagogues and Similar Places of Worship**

(1) The regulations of this section only apply to churches, chapels, temples, synagogues and similar places of worship located in agricultural and residential districts. When located in nonresidential districts, the requirements applicable to other similar institutional uses shall apply.

(2) The minimum front, side and rear yard building setbacks shall be 25 feet.

(3) Off-street parking spaces and circulation aisles shall not be located within 25 feet of the front lot line.

(4) Accessory child day care shall be permitted subject to the requirements of Section 14.08(a).

Section 14.11 Educational Services

Reserved for future use.

Section 14.12 Public Administration

Reserved for future use.

Section 14.13 Transportation and Warehousing

The following requirements shall be complied with for the specified use:

(a) **Airstrips**

(1) The area of the "runway protection zone or clear zone" shall be within the land area under airstrip ownership. This requirement shall apply to privately owned airstrips and does not apply to public airports in the Airport District.

(b) **Freight and Intermodal Terminals**

(1) The site shall be designed so all vehicles are able to enter and leave the site without having to back-out onto the street. Driveways shall be curbed for their full length in the front yard.

(2) The plan commission shall determine that traffic will be no more hazardous nor the volume of traffic any greater than is normal for the road involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and adequacy of interchanges. All access to the site shall be from paved class A roads.

(3) A traffic impact study shall be required. The standards used in preparing and approving the traffic impact study shall comply with the "Applicant's Guide to Traffic Impact Studies," published by the Indiana Department of Transportation.

(4) There shall be a five (5) foot tall landscape berm along the road frontage and any side of the site that adjoins a non-industrial district. A minimum of two (2) evergreen trees and one (1) canopy tree shall be planted on the berm for every 40 feet of berm length. The plan commission may modify the screening requirement to permit an eight (8) foot tall wall along interior lot lines instead of a landscape berm.

(5) All truck or trailer storage or staging areas shall be setback 40 feet from the front lot line.

(6) A minimum buffer/setback of 100 feet for buildings, parking and storage areas shall be provided from any adjacent residential district. The buffer/setback shall be landscaped with a buffer zone A in accordance with section 17.02(c).

(c) **Self-Storage Facilities**

(1) Minimum building and parking setback shall be 40 feet from any public street right-of-way line or any adjacent residential zoning district.

(2) Where self storage warehouses are being developed through a condominium or subdivision for sale of individual storage buildings or units, building shall be spaced a minimum of 10 feet from all other buildings and shall be setback a minimum of 10 feet from the internal circulation road.

(3) The front yard and any side yards adjacent to residential districts shall include wrought iron or similar decorative fencing and evergreen plantings spaced a maximum of 10 feet on-center.

(4) All storage shall be within completely enclosed buildings or structures, unless a separate special exception approval is granted for commercial outdoor storage on the premises.

(5) The use shall be limited to storage only. The premises shall not be used for operating any other business or repairing of any vehicles, except truck rental may be approved as an accessory use.

(6) No storage of combustible or flammable liquids, combustible fibers, or explosive materials as defined in the fire prevention code, or toxic materials, shall be permitted within the self-storage buildings or upon the premises.

Section 14.14 Manufacturing

The following requirements shall be complied with for the specified use:

(a) **Petroleum Tank Farm**

(1) All front, side and rear yard setbacks for buildings and storage tanks shall be a minimum of 300 feet.

Section 14.15 Utilities

The following requirements shall be complied with for the specified use:

(a) **Power Generation Plants**

(1) The development and operation of the power plant shall meet all state, and federal requirements. All required permits shall be kept up-to-date.

(2) All surface or sub-surface water intake and discharge must meet county, state and federal agency requirements.

(3) Air emissions must meet all state and federal agency requirements. Odor, smoke, fumes and dust shall be controlled so as not to cause a public nuisance or hazard. The effects of air pollution, noise, and vibrations shall be minimized on adjacent properties.

(4) Chimneys, cooling towers or stacks may exceed the height limits of the district; provided they are setback from any non-industrially zoned property a distance at least equal to their height and meet all requirements of Federal Aviation Administration and meet requirements of the Airport Overlay District if within the district.

(5) On-site storage of all materials shall be indicated on the site plan and shall meet all setback requirements of the district. Outdoor storage areas shall be screened by a minimum six (6) foot tall solid screening wall in accordance with section 17.03. Any stockpiles of materials shall be contained to prevent dust erosion or other type of off-site discharge.

(b) **Wind Energy Conversion Systems (WECS)**

(1) **Single Accessory WECS.** A WECS to service the energy needs of the property where the structure is located may be allowed with special exception approval in all districts, subject to the following requirements:

a. Only one (1) WECS shall be permitted per parcel or lot.

b. The tower shall not be higher than 45 feet. The height of the overall WECS with the blade in the vertical position shall not exceed 50 feet above ground level. The allowable height may be further limited in order to meet setbacks in paragraph c below.

c. All towers shall be set back a distance at least equal to one and a half (1 ½) times the WECS height from all property lines. The height shall be measured to the top of the blade at its highest point.

d. The blade diameter (tip to tip) shall not exceed 15 feet.

e. The minimum blade or rotor clearance from the ground shall be 20 feet for a horizontal-axis WECS and 10 feet for a vertical-axis WECS. The minimum blade or rotor clearance from a building or utility line shall be 20 feet.

f. All WECS shall be equipped with both a manual brake and automatic braking systems, or governing device capable of keeping the WECS operation in high winds within 80% of its survival wind speed. All WECS shall be adequately anchored to prevent their being knocked down by high winds.

g. A WECS shall be constructed with a tubular tower. Lattice towers and guy wires shall be prohibited.

h. Towers shall not have permanent attached tower climbing devices.

i. A WECS shall be painted a non-obtrusive (light color such as white, beige or light gray) color that is non-reflective. No striping or color shall be visible on the blades or tower.

j. All distribution lines from the WECS to the building and the electrical grid connection shall be underground. The generator and all other electrical equipment, and controls shall be enclosed within the nacelle, pole or within a building.

k. Excess power may be sold back to the local electric utility provider. In the case of WECS to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed interconnection and the utility's response. The resident shall comply with all requirements of the servicing utility if the WECS is interfaced with the utility grid. The utility will install appropriate electric metering (for sellback and non-sellback) and the customer will be required to install a disconnecting device adjacent to the electric meter(s).

l. Noise emissions from the operation of a WECS shall not exceed 50 decibels on the DBA scale, as measured at the nearest property line or road. Manufacturer's specifications indicating the operating noise levels of the WECS at full RPM shall be provided with the application. The enforcement official may require the owner to pay for a sound evaluation by a qualified professional following installation to determine compliance with the requirements of this section.

(2) **Commercial WECS.** WECS larger than those allowed in (1) above, wind farms and WECS Testing Facilities associated with the commercial application of a WECS may be allowed as a special exception within the Agriculture and M1 and M2, Industrial Districts, subject to the following requirements:

a. All applications for special exception approval shall be accompanied by the following information, in addition to the site plan required by Section 23.03:

1. Location and height of all proposed buildings, structures, electrical lines, towers, security fencing, and other above ground structures associated with the WECS.

2. Locations and height of all adjacent buildings, structures, and above ground utilities located within 300 feet of the exterior boundaries of the lot or parcel where the proposed WECS will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided.

3. The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown.

4. Existing and proposed setbacks for the WECS from all structures located on the property where the WECS will be located.

5. The site plan submittal shall contain a written description of the procedures to be used to maintain the WECS. The description shall include maintenance schedules, types of maintenance to be performed, and removal procedures and schedules in the event the WECS becomes obsolete or is abandoned.
6. A copy of the manufacturer's installation instructions and blueprints shall be provided to the county or city.
7. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Indiana.
8. A noise modeling and analysis report showing noise levels at property lines at full RPM.
9. A shadow flicker analysis shall be prepared if there is any residential buildings, livestock areas or public roadways within 1,000 feet of the proposed system.

b. The permitted maximum total height of a WECS shall be 200 feet (with the blade in the vertical position).
   1. A WECS shall be designed at a height that will not require aviation hazard lighting by the FAA. A determination of no hazard letter issued by the FAA shall demonstrate that lighting is not required prior to approval of the special exception. If construction of the WECS requires FAA or Indiana Department of Aviation approval or review, then a final decision must be provided before the Board of Zoning Appeals may conduct any public hearing on a request for special exception.
   2. The La Porte Airport Authority Board and the Michigan City Board of Aviation Commissioners shall be given written notice at least 60 days prior to the hearing that a permit has been filed requesting the approval of a special exception for a WECS.
   3. Any new WECS within the Airport Overlay District shall comply with the height limits of the overlay district, measured relative to the airport elevation.

c. A WECS shall be constructed with a tubular tower, not a lattice tower.

d. The setback for placement of a WECS shall be equal to one and a half (1 ½) times the height of the WECS from each property line and any public road right-of-way. This may be reduced from an adjacent property that also contains a WECS, provided the spacing requirement of paragraph f below is met.

e. A commercial WECS shall be setback a minimum of 1,000 feet from any residential subdivision or school.

f. The minimum distance between two (2) WECS shall be equal to the combined height of both WECS.

g. Blade arcs created by a WECS shall have a minimum of 75 feet of clearance over and from any structure, adjoining property or tree. The minimum blade or rotor clearance above ground level shall be at least 20 feet.

h. Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the rotor.

i. To prevent unauthorized climbing, WECS must provide an anti-climb device.

j. Each WECS shall have one (1) sign, not to exceed two (2) square feet in area, posted at the base of the tower. The sign shall contain high voltage warning, emergency numbers and emergency shutdown procedures. If the facility is fenced, signs shall be placed on the fence.

k. A lighting plan for each WECS shall be approved by the county or city. The lighting plan must describe all lighting that will be utilized, including any lighting that may be required by the FAA. The plan shall include, but is not limited to, the number and location of lights, light color and whether any lights will be flashing. Strobe lights are discouraged and must be shielded from the ground if allowed. All efforts shall be made not to affect any resident with any strobe effect.

l. A WECS shall be painted a non-obtrusive color (light environmental color such as white, beige or gray) that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No striping of color or advertisement shall be visible on the blades or tower.

m. All distribution lines from the WECS to the electrical grid connection shall be installed underground.

n. WECS shall be designed, constructed and operated so as not to cause radio and television interference. In the event that electromagnetic interference is experienced, the applicant must provide alternate service to each individual resident or property owner affected.

o. Noise emissions from the operation of a WECS shall not exceed 50 decibels on the dBA scale, as measured at the nearest property line or road. Equipment shall be placed so that the WECS will not exceed the maximum permitted sound pressure levels. After installation of the WECS, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to enforcement official within 60 days of the commercial operation of the project.

p. A shadow flicker analysis shall be prepared if there is any residential building, livestock area or public roadway within 1,000 feet of the proposed system. Shadow flicker caused by wind turbines is defined as alternating changes in light intensity due to the moving blade shadows cast on the ground and objects. The analysis shall identify the locations of shadow flicker that may be caused by the WECS blade rotation and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify problem areas where shadow flicker may affect residents, livestock and traffic. The analysis shall also show measures that shall be taken to eliminate or mitigate the problems.

q. WECS must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious action to correct the situation. The applicant shall keep a maintenance log on each WECS, which the county or city can review on a monthly basis.

r. Any WECS not used for six (6) successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property. All above and below ground materials must be removed. The ground must be restored to its original condition within 60 days of removal.

s. Any public roads that will be used for transporting WECS equipment shall be identified with the application. The county highway engineer and county sheriff shall approve the proposed routes on any county road and the city engineer and city police chief shall approve the proposed routes on any city street. Any road damage caused by the transportation of WECS equipment shall be repaired to the satisfaction of the county highway engineer or city engineer. A performance guarantee for road repair shall be required in accordance with the provisions of Section 26.03.

t. If a special exception is approved pursuant to this section, a performance guarantee shall be required in accordance with the provisions of Section 26.03, which will be furnished by the applicant to the county or city in order to ensure full compliance with this subsection and any conditions of approval. At a minimum, the performance guarantee shall be in an amount determined by the county or city to be sufficient to have the WECS fully removed and the land returned to its original state should the structure or structures become abandoned, dangerous or obsolete, or not in compliance with this Ordinance or the special exception approval. The performance guarantee shall be kept in full force and effect during the entire time while a WECS exists.

(c) **Wireless Communication Facilities and Services**

(1) **Purpose and Intent.** The regulations of this Section are intended to conform to federal laws and administrative rules governing facilities needed to operate wireless communication systems and to set forth procedures and standards for review and approval for the location of such facilities within the county or city.

a. It is the intent to reasonably regulate the location and design of such facilities to retain the integrity of neighborhoods and the character, property values and aesthetic quality of the county or city.

b. Given the increase in the number of wireless communication facilities requested as a result of the new technology and the Federal Telecommunications Act of 1996, it is the policy that all users should collocate attached wireless communication facilities and wireless communication towers, where practicable. Collocation is proposed in order to assure the most economic use of land and to prevent the proliferation of duplicative structures.

c. In recognition of the concern that technological advances may render certain wireless communication facilities obsolete or unnecessary in the future, requirements are set forth for the removal of unused or unnecessary facilities in a timely manner and provide security for removal.

(2) **Zoning Districts and Approval Process for Wireless Communication Facilities.** Wireless Communication Facilities may be located, as follows:

Table 9.15
Wireless Communication Facilities

Type/Location of Wireless Communication Facility	Districts Permitted	Approval Procedure
Attached Wireless Communication Facilities on Existing Structures		
Attached to an existing building or structure that will not be materially altered or changed in appearance	All districts, except on lots occupied by a single family residential use	Approval by the enforcement official
Attached to an existing utility structure that will not be modified or materially alter the pole or impair sight lines or compromise safety	All districts	Approval by the enforcement official
Collocation upon an existing wireless communication facility	All districts	Approval by the enforcement official
New Wireless Communication Tower		
Monopole up to 150 feet in height	A district or on civic, educational, public, and religious sites in all districts, except AP	Special exception and site plan by the board of zoning appeals
Monopole up to 199 feet in height	B1, B2, B3, O1, MD, M1 and M2	Special exception and site plan by the board of zoning appeals

Lattice tower up to 199 feet in height where it can be demonstrated that a monopole is not feasible	M1 and M2 districts	Special exception and site plan by the board of zoning appeals

(3) **Application Requirements - Collocation.** The following information shall be provided with the application, in addition to other site plan submittal requirements for an attached wireless communication facility collocated on an existing structure:

a. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

b. The owner and/or operator of the existing tower or structure.

c. Legal description of the parent tract and leased parcel (if applicable).

d. Elevation drawings and construction details of all existing and proposed wireless communication facilities, including accessory structures and equipment shelters.

e. The reason or purpose for the wireless communication facility with specific reference to the provider's coverage, capacity and/or quality needs, goals and objectives.

f. Identification of the entities providing the backhaul network for the tower described in the application and other cellular sites owned or operated by the applicant in the county or city.

g. The structural capacity and whether it can accommodate the facility, as proposed or modified.

h. Limits and type of fencing, the method of screening and location and type of illumination.

i. A description of compliance with this section and all applicable federal, state or local laws.

j. A description of performance guarantee to be posted upon issuance of a building permit to ensure removal of the facility if it is abandoned or is no longer needed.

(4) **Application Requirements for New Wireless Communication Tower.** The following information shall be provided with the application to construct any new wireless communication tower, in addition to the submittal requirements in subsection (3) above:

a. A description of performance guarantee to be posted at the time of receiving a permit for the facility to ensure removal of the facility when it is abandoned or is no longer needed. The applicant shall demonstrate that funds will be available to the county or city for removal of any structure used for wireless communication in an amount which reasonably reflects the cost of removal of the facility and restoration of the property or structure upon which the facility is located or placed. Adequate funds shall also be provided to cover the county or city's administrative costs in the event that the applicant or its successor does not remove the Wireless Communication Facility in a timely manner.

b. Inventory all existing towers, antennas, or sites approved for towers that are within three (3) miles of the proposed site, including specific information about the location, height, and design of each tower.

c. In recognition of the policy to promote collocation, a written agreement, transferable to all successors and assigns, that the operator shall make space available on the facility for collocation.

d. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

e. Prior to issuing an improvement location permit, a signed certification by a professional structural engineer licensed by the State of Indiana shall be provided to the county or city that describes the manner in which the proposed structure will fall in the event of damage, accident or injury (i.e. "fall zone"), and that the designated setback area shall accommodate the structure in the event it falls or breaks and will provide a reasonable buffer in the event the structure fails.

f. The La Porte Airport Authority Board and the Michigan City Board of Aviation Commissioners shall be given written notice at least 60 days prior to the hearing that a permit has been filed requesting the approval of a new wireless communication tower.

g. A determination of no hazard letter issued by the FAA shall demonstrate that lighting is not required prior to approval of the special exception. If construction, and or use of the telecommunications requires FAA or Indiana Department of Aviation approval or review, then a final decision must be provided before the Board of Zoning Appeals may conduct any public hearing on a request for special exception.

(5) **Design Standards Applicable to All Facilities.** All wireless communication facilities shall be constructed and maintained in accordance with the following standards:

a. Facilities shall be located and designed to be harmonious with the surrounding areas.

b. Minimum six (6) foot tall fencing shall be provided for protection of the tower and associated equipment and for security from children and other persons who may otherwise access the facilities. A brick wall may be substituted for the required fencing.

c. Landscaping shall be provided to screen the structure base, accessory buildings and enclosure from adjacent uses and public rights-of-way.

d. Accessory buildings shall be a maximum of 14 feet high and shall be set back in accordance with the requirements for principal buildings in the respective zoning district.

e. All attached wireless communication facilities proposed on the roof of a building shall be designed, constructed and maintained to be architecturally compatible with the principal building. The height of the wireless communication facilities shall not exceed the maximum height of the district plus the allowable exceptions to the height limits contained in Section 15.02. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform to all district requirements for principal buildings, including yard setbacks.

f. The requirements of the Federal Aviation Administration, local airport and Federal Communication Commission shall be noted.

g. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(6) **Design Standards Applicable to New Towers.** In addition to the design standards in subsection (5) above, all wireless communication towers shall be constructed and maintained in accordance with the following standards:

a. **Feasible Collocation**. Siting or placement of new wireless communications facilities or towers shall be in accordance with the following hierarchy. The order of ranking shall be: (1) co-location first, (2) existing structure or building utilization, (3) new wireless communications facility tower location last. If a new tower is proposed, the applicant must have substantial evidence that a higher ranked alternative is not feasible or available. A permit for the

construction and use of a new wireless communication facility shall not be granted until the applicant demonstrates a feasible collocation is not available for the coverage area and capacity needs.

b. **Tower in County.** Any tower located in the unincorporated areas of the county outside of cities and towns shall be separated a minimum of two (2) miles from any existing tower. This separation requirement shall not apply to a tower that is proposed to be located in an M-1 or M-2 industrial district.

c. **Collocation Agreement**. All new and modified wireless communication facilities shall be designed and constructed to accommodate collocation, with a written agreement in a format approved by the county or city attorney. Any tower that is 150 feet or taller shall be capable of co-location of at least four (4) additional users. Any tower that is less than 150 feet shall be capable of co-location of at least two (2) additional users. The tower owner shall make space available for collocation of emergency communication equipment if requested by the county or city.

d. **Height.**

1. The maximum height for a new wireless communication tower shall be 199 feet.
2. A new wireless communication tower shall be designed at a height that will not require aviation hazard lighting by the FAA.
3. Any new tower within the Airport Overlay District shall comply with the height limits of the overlay district, measured relative to the airport elevation.
4. The applicant shall demonstrate that the requested height of the new or modified tower and antenna shall be the minimum height necessary for reasonable communication, including additional height to accommodate future collocation where appropriate.

e. **Tower Setbacks**. The wireless communication tower shall be setback from all non-residential property lines a distance at least equal to one-half (½) the height of the tower, from all residential property lines a distance at least equal to the height of the tower and from all street right-of-way lines a distance at least equal to the height of the tower.

f. **Guy Wires.** All towers shall be self-supporting and guy wires shall be prohibited.

g. **Accessory Structure Setback.** Accessory structures must satisfy the minimum zoning district building setback requirements.

h. **Access.** There shall be unobstructed access to the tower, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.

i. **Soils Report.** The tower shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Indiana. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use.

j. **Color**. Towers shall be painted a neutral color so as to reduce visual obtrusiveness or be constructed of galvanized steel.

k. **Lighting**. Towers shall not be artificially lighted and shall not exceed a height that requires aviation hazard lighting.

(7) **Collocation**

a. **Statement of Policy.** It is the policy to minimize the overall number of newly established locations for wireless communication facilities and towers throughout the county by encouraging the use of existing structures. If a provider fails or refuses to permit collocation on a facility owned or controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be required, in contradiction with policy. Collocation shall be required unless an applicant demonstrates that collocation is not feasible.

b. **Antennas on Existing Towers**. An antenna which is attached to an existing tower may be approved by the enforcement official and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collation is accomplished in a manner consistent with the following:

1. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the enforcement official allows reconstruction as a monopole.

2. An existing tower may be modified or rebuilt to a taller height, not to exceed 15 feet over the tower's existing height, to accommodate the collocation of an additional antenna with approval by the enforcement official. A height increase of more than 15 feet shall require approval by the Board of Zoning Appeals.

c. **Antennas Mounted on Structures or Rooftops**. Wireless communication antennas placed on the roofs of buildings may be approved by the enforcement official, if the principal use is a conforming use and the building is a conforming structure. The antenna shall not exceed the height of its supporting structure by more than 12 feet.

d. **Antennas Mounted on Utility Structures**. Wireless communication antennas attached to utility structures such as water towers or electrical transmission line towers may be approved by the enforcement official. The equipment cabinet or structure used in association with antennas shall be located in accordance with the Ordinance requirements for accessory structures.

(8) **Variances.** The Board of Zoning Appeals may consider a variance from the standards of this Section, based upon a finding that one or more of the following factors exist, as appropriate for the type of variance requested:

a. **Location**. The applicant must demonstrate that a location within a district or location in accordance with the standards of this Section cannot reasonably meet the coverage or capacity needs of the applicant.

b. **Tower Setback**. The applicant has provided engineering information documenting that the tower is self-collapsing and that the setback designated area would accommodate the structure should it fall or break and would provide a reasonable buffer in the event the structure fails.

c. **Height**. The height requested is due to signal interference due to topography, tall buildings, masses of trees, or other obstructions, or would reduce the number of towers to the benefit of the cities and county. The granting of the variance would not have a negative impact on any public use airport.

d. **Mitigation**. The applicant has proposed means to mitigate any negative impacts through provision for future collocation, if found to be appropriate by the county or city and special design of the facility and site.

e. **Design**. The wireless communication and accessory facilities shall be designed to be compatible with the existing character of the proposed site, neighborhood and general area such as a steeple, bell tower, or similar form.

(9) **Removal.** Wireless communication facilities shall be removed by the owner if the facility is no longer in use. The facilities must be removed within a year of the end of use. A performance guarantee shall be provided to the county or city at the time of receiving an improvement location permit for the facility to ensure removal of the facility when it is abandoned or is no longer needed. The applicant shall demonstrate that funds will be available to the county or city for removal of any structure used for wireless communication in an amount which reasonably reflects the cost of removal of the facility and restoration of the property or structure upon which the facility is located or placed. Adequate funds shall also be provided to cover the county or city's administrative costs in the event that the applicant or its successor does not remove the Wireless Communication Facility in a timely manner.

Section 14.16 Construction

The following requirements shall be complied with for the specified use:

(a) **Contractors' Place of Business Outdoor Storage**

(1) Outdoor storage shall be located in the side or rear yard of the lot and setback a minimum of 40 feet from any adjacent residential district. Outdoor storage areas shall be screened by a minimum six (6) foot tall solid screening wall in accordance with section 17.03.

(2) Any stockpiles of soil, fertilizer or similar loosely packaged materials shall be sufficiently covered or contained to prevent dust or blowing of materials.

(3) The height of all material and equipment stored within 20 feet of the screening wall or fence shall not exceed the height of the screening wall or fence.

(4) All loading and truck maneuvering shall be accommodated on-site.

Section 14.17 Waste Processing and Disposal

The following requirements shall be complied with for the specified use:

(a) **Processing, Storage, Transfer Stations or Incineration of Solid Waste, Hazardous Waste or Medical Waste**

(1) All processing, storage or transfer of wastes shall be within an enclosed building. There shall not be any outdoor storage of wastes.

(2) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area.

(3) No portion of any structure, facility, access drive, parking area or storage area shall be located within 300 feet of a residential district.

(4) All roads on the premises shall be paved with concrete or a bituminous hard surface.

(5) Storing or disposing of any kind shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered. The surface water detained on the site shall be

purified of contaminants before leaving the site or must be disposed of in accordance with the requirements of the health department. All storage, processing and disposal areas shall be a minimum of 100 feet from any wetland, drain stream or body of water. This setback may be increased according to requirements of Natural Resource Preservation Guidelines.

(6) Emission of smoke, dirt, dust and fly ash shall be controlled through the use of electrostatic precipitator or other equipment of equal or better efficiency, which shall meet all applicable Federal, State and local air pollution control regulations.

(7) All sides of the site shall be landscaped with a buffer zone A in accordance with section 17.02(c).

(8) The site shall not be located within five (5) miles of any airport.

(9) The county or city may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, excessive traffic patterns, obnoxious and unhealthy odors, and any detrimental effects from the general operation of the use.

(b) Recycling Facility, Non-Hazardous

(1) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area.

(2) The location, size, intensity, site layout and periods of operation must be designated to eliminate any possible nuisance that might be noxious to the occupants of any other nearby permitted uses, whether by reason of odor, dust, noise, fumes, vibration, smoke or lights.

(3) Stacking area for a minimum of five (5) vehicles must be provided on site. Any area used for parking or unloading materials must be screened with a minimum six (6) foot tall wall or solid fence to prevent materials from leaving the unloading area.

(4) Storing or disposing of any kind shall not pollute a water supply or contaminate surrounding land to the extent that public or environmental health is endangered. The surface water detained on the site shall be purified of contaminants before leaving the site or must be disposed of in accordance with the requirements of the health department. All storage, processing and disposal areas shall be a minimum of 100 feet from any wetland, drain stream or body of water. This setback may be increased according to requirements of Natural Resource Preservation Guidelines.

(5) Depositing, storing or disposing of garbage or wastes shall not attract vermin, insects or other pests or allow the wastes to become a breeding place for mosquitoes, flies or other disease-carrying insects. Offensive odors shall not interfere with the enjoyment of adjacent properties.

(6) All sides of the site shall be landscaped with a buffer zone A in accordance with section 17.02(c).

(7) The site shall not be located within five (5) miles of any airport.

(8) The county or city may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, excessive traffic patterns, obnoxious and unhealthy odors, and any detrimental effects from the general operation of the use.

(c) **Salvage Yards**

(1) The minimum lot area shall be 10 acres.

(2) A minimum setback of 1,320 feet shall be provided from any adjacent residential district.

(3) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area.

(4) The location, size, intensity, site layout and periods of operation must be designated to eliminate any possible nuisance that might be noxious to the occupants of any other nearby permitted uses, whether by reason of odor, dust, noise, fumes, vibration, smoke or lights.

(5) The entire site must be screened with a minimum eight (8) foot tall wall or solid fence, in addition to the greenbelt and buffer zones A required by section 17.02. Material shall not be stacked higher than the screening enclosure. All material shall be screened so as to not be visible from any public road.

(6) Any area used for parking or unloading materials must be located within the site. Parking of trucks and loading or unloading of materials in the public road right-of-way shall be prohibited.

(7) Storage or disposal of any kind shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered. The surface water detained on the site shall be purified of contaminants before leaving the site or must be disposed of in accordance with the requirements of the health department. All storage, processing and disposal areas shall be a minimum of 100 feet from any wetland, drain stream or body of water.

(8) The site shall not be located within five (5) miles of any airport.

(9) The county or city may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, excessive traffic patterns, obnoxious and unhealthy odors, and any detrimental effects from the general operation of the use.

(d) **Sanitary Landfills**

(1) The minimum lot area shall be 300 acres.

(2) A minimum setback of 300 feet shall be provided from any adjacent residential district.

(3) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area. All truck access to and from the site shall be upon a major thoroughfare.

(4) In order to fully assess all implications and effects of the project, an in-depth environmental impact assessment shall be prepared by the petitioner and submitted for review at the public hearing and approval by the county or city.

(5) The facility shall be equipped with an approved waste water recycling system to avoid contaminated water or liquids from being discharged to ground water, surface water or storm sewers. This shall include a wash-out, wash- down, and secondary containment system to recover and recycle impurities and other by-products processed from trucks, machinery products, supplies or waste.

(6) All driveways, surface roads and storage areas on the premises shall be paved with concrete or deep strength asphalt.

(7) The site shall not be located within five (5) miles of any airport.

Section 14.18 Mining

The following requirements shall be complied with for the specified use:

(a) **Mineral and Non-Mineral Extraction & General Mining Operations**

(1) **Application.** The following additional information shall be included with the special exception and site plan applications:

a. Report by a qualified soil scientist, soils engineer or geologist regarding the effect the proposed operation will have upon the watershed of the area, with particular attention being devoted to the water table, and, if water bodies are to be created, the anticipated permanence of such.

b. A soil erosion control plan prepared in accordance with Article 22.

c. A detailed description of the method of operation including an operations and restoration plan for the extraction of the natural resources deposits. The operations and restoration plan shall include the following:

1. A progressive cell unit mining plan that divides the mining area into sections and delineates the progressive mining proposal on the extractive resources available.

2. Description of how wetlands, surface and ground waters will be protected during mining operations in accordance with La Porte, Indiana Code of Ordinances Article VI – Protection of Wetlands and Lakes. A transportation plan showing access to the site, proposed truck traffic and planned on-site roads. The applicant shall submit these proposed routings for review relative to the physical and design capabilities of these routes to accommodate the potential traffic.

3. An overburden and stockpiling plan which shows how top soil will be stripped and stored on the site as well as the stockpiling of extracted sand or gravel.

4. A re-vegetation plan which shows the staging of restoration through the grading process as well as replacing the top soil and the planting of appropriate native grasses, trees and shrubs.

5. End use plan which shows the ultimate use of the property once restored to assure the county or city the site is being restored in accordance with the county land development plan.

6. A detailed explanation of how the applicant intends to comply with the operating requirements of this section.

(2) **Operations.** The removal of sand, gravel, limestone, peat or similar materials by excavation, stripping, mining or otherwise taking, and including on-site operations appurtenant to the taking, including washing, grading, sorting, (excluding grinding operations) shall be carried on within the limits of an area approved for such activities. All extractions from new pits begun subsequent to the effective date of this Ordinance shall be washed, graded, and further processed and/or stored within the limits of the area approved, and no natural resource extracted outside the limits of this area shall be brought in for washing, grading, or further processing. Resource related industries including, but not limited to: gravel grinding operations, concrete mixing plants and asphalt batching plants shall not be permitted as a part of the operation unless the activity is located in a Zoning District which would permit such a use.

(3) **Setbacks.** Excavation, washing and stockpiling of extracted material shall not be conducted closer than 150 feet to the outer boundary of the area approved for extractive operation. The setback area shall not be used for any activity in conjunction with the extractive operation, except access roads, public notice signs and signs identifying the operation. Greenbelt plantings and landscaping shall be provided in the setback area as required by the Board of Zoning Appeals. To reduce the effects of airborne dust, dirt, and noise, all equipment for loading, weighing, and other operations structures shall not be built closer than 300 feet from any public street right-of-way or from any adjoining residentially zoned district.

(4) **Access.** All means of access to the property shall be from major thoroughfares. No access shall be allowed from residential streets. All private access roads shall be treated so as to create a dust-free

surface for a distance of 300 feet from any public access road. Arrangements shall also be made to minimize dust on public access routes traveled in the county or city.

(5) **Fencing.** Any excavation operation that results in standing water for a period of at least one (1) month during the year or slopes as described below shall be subject to the following safety requirements:

a. Where slopes steeper than 30 degrees exist for a period of one (1) month or more, access to such slopes shall be barred by a cyclone fence or similarly effective barrier at least six (6) feet high, at least 50 feet outside the edge of the excavation, with suitable gates controlling access to the excavation area.

b. Where collections of water are one (1) foot or more in depth for any period of at least one (1) month, and occupying an area of 200 square feet or more, access to such collections shall be fenced, as required in subparagraph a above.

c. In those instances where the extractive area is situated in marginal land areas consisting of swamp land, or is bounded by natural bodies of water, the fence shall be required only on those sides accessible to public rights-of-way or as the Board of Zoning Appeals may determine as requiring fencing so as to secure safety. The Board of Zoning Appeals may require the posting of signs "KEEP OUT – DANGER," as needed.

(6) **Slopes.** Finished slopes of the excavation site shall not exceed a minimum of five (5) feet to one (1) foot (five feet horizontal to one foot vertical) and where ponded water results from the operations, this slope must be maintained and extended into the water to a depth of five (5) feet. These slopes shall be established as the work in any one section of the excavation is completed and proceeds to the next section. Sufficient top soil shall be stockpiled on the site so the entire area may be covered with a minimum of six (6) inches of top soil when excavating operations are completed. The replacement of top soil shall be made immediately following termination of excavating operations. In order to prevent erosion of slopes, all replaced top soil shall immediately be planted with native grasses or other native plant material acceptable to the enforcement official.

(7) **Hours of Operation.** Extraction and material processing activities permitted in the plant area shall be limited to the hours of 7:00 A.M. to 7:00 P.M., except in the following situations:

a. Where required by public authorities;

b. Where work requires a continuous flow of materials;

c. Where necessary due to public emergencies;

d. Where any necessary and reasonable repairs to equipment are required.

Article 15
General Provisions

Section 15.01 Uses per Lot

(a) Except as otherwise specifically provided in this Ordinance, no lot may contain more than one (1) principal building, structure, or use. This provision shall not apply to agricultural uses.

(b) Shopping centers, groups of multiple-family buildings, condominiums, retail business buildings, multi-tenant offices, leased industrial space, or other groups of buildings contained within a single integrated complex are deemed to be a principal use collectively. To be considered as an integrated complex, the site shall share parking, signs, access, or other similar features, which together form a unified function and appearance.

(c) Wireless communication facilities may be located on a lot that contains another use, except one-family and two-family dwellings.

(d) There shall be no more than one (1) dwelling per lot, except for two family dwellings, attached single family dwellings, multiple family dwellings, farm worker housing or accessory dwellings approved under the requirements of this ordinance.

Section 15.02 Lot Area Allocation

(a) No portion of a lot shall be used more than once for determining compliance with the provisions for lot area and yard dimensions for construction or alteration of buildings.

(b) No lot, adjacent lots in common ownership, required yard, parking area, or other required open space shall be created, divided, or reduced in dimension or area below the minimum requirements of this Ordinance. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot, adjacent lots in common ownership, required yard, parking area, or other open space shall not be divided or reduced in dimension or area so as to increase its noncompliance with the minimum requirements of this Ordinance.

Section 15.03 Voting Place

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal, school, or other public election.

Section 15.04 Height Limit

(a) The following structures may exceed the building height restrictions of the zoning district in which they are located:

(1) Belfries,

(2) Chimneys,

(3) Church spires and steeples,

(4) Cooling towers,

(5) Cornices,

(6) Cupolas,

(7) Electric and telephone service poles,

(8) Elevator bulkheads,

(9) Fire towers,

(10) Flagpoles,

(11) Grain elevators,

(12) Parapet walls,

(13) Public monuments,

(14) Radio and television aerials,

(15) Roof structures housing necessary mechanical appurtenances,

(16) Silos,

(17) Stacks,

(18) Water tanks, or

(19) Similar non-habitable structures.

(b) The structures listed in (a) above may exceed the height limits of the district in which they are located as follows:

(1) On single family detached, single family attached and two family dwellings, the structures may exceed the height limits of the district by no more than five (5) feet. Section 12.03 contains additional height restrictions that apply to residential lots in the Waterfront View Protection overlay zoning district.

(2) On multiple family residential (apartment buildings), mixed-use and non-residential buildings, the structures may exceed the height limits of the district by no more than 25 feet.

(c) The exceptions to height shall only apply to non-habitable architectural features, mechanical and utility structures. The exceptions shall not permit any habitable building space of a building to exceed the height limits of the district.

Section 15.05 Projections into Required Yards

Certain structures and architectural features may project into the required yard setbacks as follows:

Table 15.05
Permitted Building Projections Into Required Yards

Projection	Front Yard	Waterfront Yard	Rear Yard	Interior Side Yard	Corner Side Yard
Awnings and canopies	3 ft.	5 ft.	5 ft.	3 ft.	3 ft.
Chimneys	2 ft.	2 ft.	2 ft.	2 ft.	2 ft.
Cornices and similar architectural features	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.
Balconies	5 ft.	5 ft.	5 ft.	3 ft.	5 ft.
Barrier-free ramps and other facilities	16 ft.	16 ft.	16 ft.	3 ft.	16 ft.
Bay windows	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.
Eaves, overhanging	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.
Fire escapes, open or enclosed	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.
Gutters	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.
Decks, unroofed porches and stoops	10 ft.	10 ft.	10 ft.	--	10 ft.
Window air conditioning units	--	2 ft	2 ft.	2 ft.	--
Window wells	4 ft.	4 ft.	4 ft.	4 ft.	4 ft.

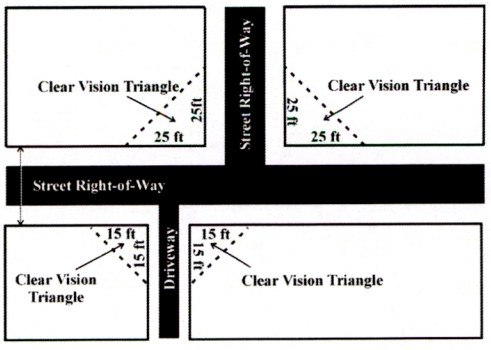
Section 15.06 Corner Clearance

(a) No fence, wall, structure, or planting shall be erected, established, or maintained on any lot if the structure or planting will obstruct the view of drivers in vehicles approaching the intersection adjacent to a corner lot or a driveway on any lot.

(b) Fences, walls, structures, or plantings located in the clear vision triangle, as depicted, shall not be permitted to exceed a height of three (3) feet above the street curb, or pavement edge if no curb. The unobstructed triangular area is described as follows:

(1) The area formed at the corner intersection of two (2) street rights-of-way or easement lines, the two (2) sides of the clear vision triangle being 25 feet in length measured along abutting public right-of-way lines, and third side being a line connecting these two (2) sides, or

(2) The area formed at the corner intersection of a street right-of-way, easement, or alley and a driveway, the two (2) sides of the triangular area being 15 feet in length measured along the right-of-way line and edge of the driveway, and the third side being a line connecting these two (2) sides.



(3) In the event the corners of radius, the area formed at the corner intersection of two (2) street right-of-way or easement lines, there shall be 25 feet in length measured along the radius of the public right-of- way lines.

Section 15.07 Basement Construction

If excavation of a basement indicates an historical or existing seasonal high water table a site conditions acknowledgement form must be signed. The signed form will state that the prospective homeowner

understands any basement construction would not be recommended below the seasonal high water level and if built has a higher probability of flooding.

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Article 16
Accessory Buildings, Structures and Uses

Section 16.01 Accessory Structures

(a) The following accessory uses are permitted in any yard and any district:

(1) Arbors or trellises,

(2) Air conditioning equipment shelters,

(3) Boardwalks,

(4) Driveways,

(5) Fences and hedges,

(6) Flagpoles,

(7) Growing of farm and garden crops in the open,

(8) Lampposts,

(9) Landscaping,

(10) Lawn furniture, such as benches, sundials, birdbaths, and similar architectural features,

(11) Mailboxes,

(12) Ornamental light standards,

(13) Play equipment playhouses and open-sided summer houses,

(14) Public utility installations for local service (such as poles, lines, hydrants, pump enclosures, and telephone booths),

(15) Retaining walls,

(16) Sidewalks,

(17) Signs and nameplates as herein regulated,

(18) Steps,

(19) Streets,

(20) Terraces, patios, and outdoor fireplaces,

(21) Tennis courts, private, and

(22) Trees, shrubs and flowers.

(b) Other accessory buildings, structures, and uses shall be permitted based upon the regulations of this article.

Section 16.02 Residential Accessory Buildings

The following regulations shall apply to buildings accessory to residential use, such as garages, storage sheds, pole barns, gazebos, pavilions and other roofed buildings. These regulations do not apply to agricultural, commercial, office, institutional or industrial accessory buildings (See 16.11.).

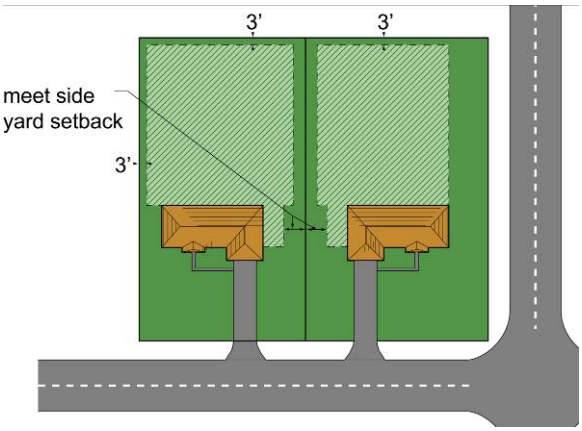
(a) **Relation to Principal Building.** Detached garages, storage buildings, gazebos or other accessory structures shall not be constructed on a lot unless a residence already exists on the lot. An accessory building may be located on an adjacent lot that is under the same ownership and contiguous with the lot containing the residence. An accessory building may be located on a lot that is across the street within 100 feet of the lot containing the residence.

(b) **Number of Buildings.** There shall be no more than one (1) detached accessory building per lot, including adjacent lots or lots across the street. One (1) gazebo and one (1) shed less than 144 square feet may be permitted in addition to the accessory building.

(c) **Locations for Detached Accessory Buildings.** Detached accessory buildings, storage sheds and gazebos shall only be located as follows:

Table 16.02
Accessory Building Locations and Setbacks (1, 2)

Locations Permitted	Minimum Setback from Lot Line
Front Yard	Not permitted (3)
Side Yard	District setback
Rear Yard	3 feet from rear lot line 3 feet from side lot line (4)
Waterfront Yard	Meeting average shoreline setback (3)
Corner lot side-street yard	Front yard setback of zoning district



(1) Accessory buildings shall not be located within a dedicated easement or right-of-way.

(2) Detached accessory buildings shall be setback a minimum of 10 feet from the principal residential building.

(3) On lakefront lots, an accessory building may be located in the street-front yard, provided it meets the front and side yard setbacks of the district applicable to principal buildings. Accessory buildings in the waterfront yard shall meet the shoreline setback applicable to principal buildings.

(4) In the A1, A2, R1A and R1B districts, accessory buildings in the rear yard shall be setback a minimum of 10 feet from the side and rear lot lines.

(d) **Height Limitations.** The maximum height of detached accessory buildings shall be one (1) story and 18 feet. Attic storage shall be permitted, provided the space shall only be utilized for storage. For residential lots located in the A1 and A2 agriculture districts, the maximum height of accessory buildings shall be the same as permitted for principal buildings.

(e) **Use.** Accessory buildings shall not be occupied for dwelling purposes. Accessory buildings shall not have plumbing for sewer or water. This restriction shall not apply where a special exception has been granted for an accessory dwelling under section 14.01(c).

(f) **Attached Garages.** Garages that are structurally attached to a principal building by connection of walls or a roof shall be subject to, and must conform to, all regulations of this Ordinance applicable to the principal building, including setbacks and lot coverage. Attached garages shall not exceed the height of the living portion of the dwelling.

Section 16.03 Porches, Decks and Patios

(a) **Front Yard.** An open, unenclosed porch, patio or terrace may project into a required front yard setback for a distance not exceeding 10 feet, including side streets on corner lots. The porch may have a roof and railing; however, a porch that is enclosed by walls or windows shall be subject to the front yard setback applicable to the principal building, as set out in the applicable zoning district.

(b) **Side Yard.** Decks and porches must not be closer to an interior side lot line than the minimum required side yard setbacks that apply to the principal structure on the property, as set out in the applicable zoning district.

(c) **Rear Yard.** Decks, open, unenclosed and uncovered porches, patios and terraces may project into a required rear yard setback for a distance not exceeding 10 feet.

(d) **Waterfront Yard.** Decks, open, unenclosed and uncovered porches, patios and terraces may project into a required waterfront yard setback for a distance not exceeding 10 feet.

(e) **Second-Story Decks.** Second story decks, including any walkway connecting the second story deck to a first story deck, a ground-level deck, or a deck located above a walk-out basement, may extend into the rear yard setback, provided it does not extend more than 10 feet from the rear of the dwelling.

(f) **Privacy Fences and Screens**. Any privacy fence or privacy screen attached to a deck or porch shall be permitted in the side or rear yard, not exceeding six (6) feet in height, measured from the ground.

Section 16.04 Pools and Hot Tubs

(a) **Location.** Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard. Swimming pools, spas, hot tubs and similar devices shall be setback at least 10 feet from the rear lot line and meet the waterfront and side yard setback of the district.

(b) **Security Fencing.** All outdoor swimming pools, as defined by the Indiana Swimming Pool Code (675 IAC 20), shall be enclosed by a fence as follows:

(1) Swimming pools below the surface of the surrounding land shall be completely enclosed by a fence that meets the Indiana Swimming Pool Code (675 IAC 20). The fence shall be equipped with a gate at all points of entry unless entry is directly from the main or accessory structure. All gates and doors shall be equipped with self-closing and self-latching devices.

(2) Swimming pools above the surface of the surrounding land, if not surrounded by a fence, as provided in subsection (1) above, shall be built where access to the pool may be had only by a ladder that can be removed or raised and locked in place or steps equipped with a gate at the top with a self-closing and self-latching device. The wall of the pool and any fence surrounding the platform around the pool must together be at least four (4) feet in height.

Section 16.05 Fences and Walls

(a) **All Districts**

(1) Fences located in the front yard shall not be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways or at intersections in accordance with Section 15.06.

(2) All exposed posts of a fence shall be located on the inside of the property they are intended to fence with the finished side of the fence facing out.

(3) Fences and walls shall not be erected within any public right-of-way.

(b) **Fences in Residential Districts**

(1) No fences shall be permitted in the front yard.

(2) Fences and walls located within the side or rear yard shall not exceed a height of six and a half (6½) feet.

(3) Fences and walls shall be constructed of materials such as wood, metal (ornamental or chin link), brick, stone or vinyl having the appearance of wood. The finished side of the fence shall face outward towards the street or neighboring property.

(4) Fences shall not contain barbed wire, electric current or charge of electricity.

(5) This subsection (b) shall not apply to security fences surrounding utility, institutional or public uses.

(c) **Non-Residential Districts**

(1) Fences and walls shall be permitted in the front, side and rear yard in any agricultural and nonresidential district.

(2) Fences and walls in the nonresidential district shall not exceed eight (8) feet in height; provided in the M1, M2 and AP districts, fences may be up to 10 feet in height.

(3) Fences and walls up to eight (8) feet in height shall be permitted along all property lines on farms in all districts.

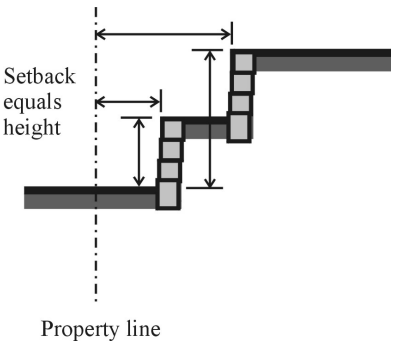
(4) Fences and walls shall be constructed of materials such as wood, metal, brick, stone or vinyl having the appearance of wood. Poured concrete, concrete block or other similar materials may only be used for walls not facing a street or residential district. The finished side of the fence shall face outward towards the street or neighboring property.

(d) **Retaining Walls**

(1) Retaining walls shall not be located closer than two (2) feet to any property line. Grades at the property line shall not be changed.

(2) The maximum height of any retaining wall shall be four (4) feet. Where taller walls are required, the retaining wall shall be stepped or tiered.

(3) Retaining walls shall be setback from all lot lines and shorelines a distance equal to their height. For stepped or tiered retaining walls, each tier shall be setback so that the cumulative total height of all tiers equals the setback of the top tier.



(4) The board of zoning appeals may approve taller retaining walls than allowed in paragraph (2) above and reduce the setbacks from that which is required in paragraph (1) or (3) above. The board of zoning appeals may grant approval for such retaining wall, following a public hearing under section 28.07, based upon the following criteria:

a. Steep topography on the site prevents development of the lot within the limits set for the retaining wall height and setback. The decrease in setback or increase in height shall be the minimum possible to provide for a reasonable building site on the lot.

b. Views from adjacent property shall not be obstructed as a result of the increased retaining wall height or decreased setback, above and beyond the obstruction that would be caused by alternative construction methods.

c. The impact to topography and woodlands shall be no more than the impact from development of the site with a greater number of lower, tiered retaining walls or other alternative construction methods.

d. Stormwater drainage and soil erosion will be properly managed in accordance with article 20 and there will not be an increase in stormwater runoff to adjacent property.

e. Adequate emergency access is provided around the building site.

(5) Retaining walls shall be constructed of stone, brick, interlocking decorative concrete block, wood or other similar quality material approved by the enforcement official. The use of broken concrete for retaining walls shall not be permitted.

Section 16.06 Restrictions along Lakes & Streams

No structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios will be permitted within the waterfront setback of the district or areas designated as buffer zones or setbacks in the Natural Resource Preservation Guidelines.

Section 16.07 Reception Antennas

Television and radio antennas including satellite dish antennas and transmission or reception antennas, may be permitted as an accessory structure in any district. All antennas shall meet the setback requirements for principal buildings in the zoning district. The height shall be limit as set forth in section 15.04.

Section 16.08 Recreational Vehicles and Equipment

(a) On a residential lot, a resident may store recreational vehicles and equipment, such as motor homes, trailers, snowmobiles and watercraft, in garages or other accessory structures. Recreational vehicles or equipment may be stored outdoors in the side or rear yard; provided the recreational vehicle or equipment is owned by the resident of the dwelling on that lot and the vehicle or equipment is located a minimum of five (5) feet from the side or rear lot line.

(b) Temporary parking and use of a recreational vehicle or equipment shall be permitted in the front driveway, provided it is not parked in the front driveway more than two (2) days in any consecutive 30-day period.

(c) In a residential district, recreational vehicles and equipment may only be stored outdoors on the same lot as the owner's principal dwelling. Recreational equipment may not be stored outdoors on an adjacent lot under the same ownership that contains an accessory building.

(d) Recreational vehicles and equipment may not be stored in a waterfront yard, except for watercraft.

(e) Recreational vehicles and equipment shall not be parked or stored on a public right-of-way.

(f) Recreational vehicles and equipment shall not be permanently affixed to the ground as a principal or accessory structure on a lot in any district. All recreational equipment parked or stored shall not be connected to sanitary facilities. Mobile homes, travel trailers, or camping trailers shall not be occupied for dwelling purposes, except in a lawfully established mobile home park or tourist camp.

(g) Tents shall not be erected, used, or maintained on any lot, except small tents that are customarily used for recreation purposes and are located on the same lot as a dwelling. Temporary use of tents for religious, amusement and recreation, business, or manufacturing purposes shall be permitted when a

permit has been issued by the enforcement official in accordance with provisions set forth in article 26.

(h) Boats may be parked or stored in the open when customary in the operations of a lawfully established principal use, and one boat may be stored or parked on a lot containing a dwelling provided that it shall be located in side, rear or waterfront yard setback a minimum of five (5) feet from all lot lines. There shall be no major repair, disassembly, or rebuilding operations conducted on the lot.

Section 16.09 Parking of Semi-Trucks, Shipping Containers and Construction Equipment

(a) The storage or parking of semi tractor trucks and/or semi trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery in an agricultural or residential district is prohibited with the exception of the following:

(1) Parking and storage of larger vehicles for farming operations is permitted, provided such vehicles are used for an agricultural use.

(2) Parking of one (1) semi-tractor without a trailer is permitted on a residential lot with an area of at least three (3) acres where the operator of the semi-truck resides within the principal dwelling on that lot. The semi-tractor may only be parked in the side or rear yard a minimum of five (5) feet from the side or rear lot line and shall be parked in a location that will not have an adverse impact on the aesthetic character of the surrounding area. Semi-trucks shall not be running in idle for more than 15 minutes. Semi-trailers, shipping containers and other types of storage units may not be parked or stored in a residential zoning district, except when a resident is moving into or out of a dwelling.

(3) Construction vehicles may be parked while in use for approved construction on the property only while a current building permit is in effect or during other site landscaping or utility work not subject to a building permit. Such vehicles shall only be parked on the property while in use for a construction project that is being diligently carried on toward completion.

(b) In all nonresidential districts, semi-trailers may not remain on any property longer than 30 days while being parked, stored, repaired, or sold. Only one (1) such semi-trailer may be parked, stored, repaired, or sold in any 12 month period. Only properly approved semi-trailer dealers operating in properly zoned districts are exempt from this requirement. Storage of semi-trailers, shipping containers and other types of storage units shall only be permitted in the industrial districts as an accessory use to an approved industrial use.

Section 16.10 Entranceways

In all zoning districts, entranceway structures, including but not limited to walls, columns and gates marking entrances to one-family subdivisions, multiple-family housing projects, business centers and industrial and office parks may be permitted and may be located in a required yard.

Section 16.11 Non-Residential Accessory Buildings

Storage buildings and other buildings that are accessory to a non-residential use shall be permitted subject to the same restrictions as the principal use and building. Accessory buildings for commercial, office, institutional or industrial uses shall be subject to the same district dimensional requirements (setbacks and height) as the principal building.

Section 16.12 Agricultural and horticultural fairs

Agricultural and horticultural fairs shall be permitted as an accessory use on an agricultural parcel located in the A1 and A2 Agricultural Districts.

Article 17
Site Development Provisions

Section 17.01 Building Design Requirements

(a) **Purpose.** The purpose of this section is to establish exterior building wall material standards to support the goals of the Land Development Plan, retain property values, protect the investment of adjacent landowners and enhance the visual environment of the community. Through the consistent administration and enforcement of exterior building wall design standards, the community's sense of place can be enhanced by encouraging consistent quality buildings.

(b) **Applicability**

(1) This section shall apply to all new multiple family residential, office, commercial, industrial and institutional buildings. Agricultural, single-family detached and two-family residential structures and their associated accessory buildings shall be exempt from this section.

(2) Additions to existing buildings must complement the current building design with regard to height, proportions, scale, materials, and rhythm of openings.

(3) Architecture shall be reviewed by the enforcement official as a part of site plan review under the requirements of this section.

(c) **Exterior Building Design**

(1) Buildings shall possess architectural variety, but enhance the overall cohesive community character. All buildings shall contain architectural features, details, and ornaments such as archways, colonnades, cornices, recesses, projections, wall insets, arcades, window display areas, peaked roof lines, or towers.

(2) For commercial uses, windows and doors shall make up at least 30% or more of the front façade exterior wall area facing a street.

(3) Building walls and roofs over 20 feet in length shall be broken up with divisions or breaks in materials, varying building lines, windows, multiple entrances, entry treatments, variations in roof lines, gables, porticoes and/or architectural accents such as pilasters, columns, dormers, and awnings.

(4) In multi-story buildings, the ground floor shall be distinguished from the floors above through an intermediate cornice line, a difference in building materials or detailing, an awning, trellis or arcade, special window lintels, or brick corbels or quoins.

(5) A portion of the on-site landscaping shall be located along all blank walls so that the vegetation, combined with the architectural features, significantly reduces the visual impact of the building mass as viewed from the street.

(6) Overhead doors shall not face a public street. The enforcement official may modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be moderated through use of building materials, architectural features and landscaping.

(d) **Building Materials**

(1) Durable building materials which provide an attractive, quality appearance must be utilized. The predominant building materials should be quality materials that are characteristic of Indiana.

(2) The predominant building materials on any façade facing a street shall be as follows:

a. For multiple family residential buildings, a minimum of 50% of any façade facing a street shall be constructed of earth-toned brick, siding (wood, vinyl, or fiber cement), stone, stucco or glass as the predominant building material.

b. For commercial, office, institutional and industrial buildings a minimum of 50% of any façade facing a street shall be constructed of brick, brick tilt-up panels, siding (wood, vinyl or fiber cement), stone (natural, cultured or cast stone), textured concrete masonry units (such as split face block), stucco or glass as the predominant building material.

(3) Other materials such as smooth-faced concrete block, undecorated tilt-up concrete or EIFS panels, or pre-fabricated steel panels shall only be used as accents or trim and cover less than 50% of the front façade. Other synthetic materials such as gypsum reinforced fiber concrete or molded polyurethane may also be used for trim.

(4) All building materials shall be durable, weather-resistant, rustproof, and shall be maintained by the property owner or tenant at all times.

(5) The Board of Zoning Appeals may allow other building materials when a particular building design and the materials or combinations of materials proposed to be used are found by the Board of Zoning Appeals to be in keeping with the intent and purpose of this Section and compatible with the character of surrounding uses.

(e) **Roof Design**

(1) Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest, and be appropriate to the architectural style of the building.

(2) Architectural methods shall be used to conceal flat roof tops and mechanical equipment.

(f) **Customer Entrances**. Clearly defined, highly visible customer entrances shall be incorporated into the design. Features such as canopies, porticos, arcades, arches, wing walls or integral planters shall be used to identify entrances. New buildings shall have at least one (1) principal building entrance oriented parallel to and facing the front lot line.

(g) **CBD1 Design Standards.** In addition to the requirements of this section above, non-residential buildings or mixed-use buildings (residential above commercial) in the CBD1 district shall be required to comply with the following:

(1) **Purpose.** The following building design standards ensure that new construction in the CBD1 district reflect a high level of building quality that will endure over time and will incorporate timeless design details. The requirements also ensure that all new construction is consistent because the character of the CBD is not reflected in just one structure, but in all the buildings combined. The regulations herein are intended to ensure proper building form, relationship to the street and compatibility with other buildings. The regulations are not intended to dictate a particular style of architecture. All new buildings or modifications to existing buildings in the CBD1 district shall comply with the requirements of this section. For structures located within an historic district, these requirements apply in addition to the requirements of the city of LaPorte or Michigan City historical preservation ordinances.

(2) **Building Placement.** Buildings should strengthen the continuity of the streetscape at a pedestrian scale and help reinforce the sense of enclosure along the street by following the established building line along the block. Off-street parking lots shall be located to the side or rear of the building.

(3) **Storefronts.**

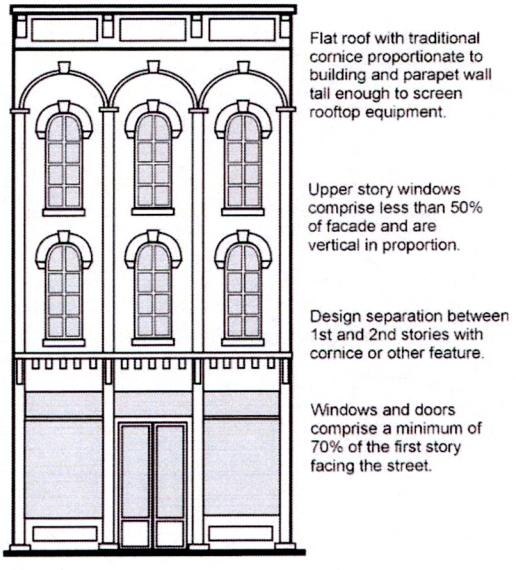
a. **Main Entrance.** All buildings shall have a main entrance that is located on at least one (1) streetfront. Main entrances shall have design details that enhance the appearance and prominence of the entrance so that it is recognizable from the street. The front entranceway may be inserted from the front building wall; provided the entire storefront is not recessed.

b. **Secondary Entrance.** Secondary entrances are permitted to access areas to the rear of the building, such as parking. Awnings, signage, lighting, building materials and colors for entrances shall be coordinated with the overall design of the building.

(4) **Windows.**

a. **Storefront/Ground Floor.** No less than 70% of the storefront/ground floor façade shall be clear glass panels and doorway. Required window areas shall be windows that allow views into retail space, working areas or lobbies, pedestrian entrances, or display windows set into the wall. Windows may not be covered or blocked with the back of shelving units. The bottom of the window must be no more than four (4) feet above the adjacent exterior grade.

b. **Upper story.** Openings above the first story shall be vertical in proportion and a maximum of 50% of the total façade area. The number, shape, size, and spacing of the windows shall be compatible with the established rhythm of adjoining or nearby buildings in the downtown.



(5) **Awnings.** Awnings in CBD1 may project over the public sidewalk; provided they shall:

a. Provide a minimum eight (8) foot clearance from the sidewalk.

b. Be constructed of a durable, weather-proof material such as canvas or steel.

c. Are not internally lit.

d. Conform with article 19, with respect to signage.

(6) **Materials.** Exterior materials shall have characteristics of high quality and permanence such as brick or stone. The following exterior finish materials are required on the front façade and any façade facing a street or parking area. Calculation of the following wall material requirements shall not include the portion of the façade devoted to windows and doors.

a. All walls exposed to public view from the street or parking area shall be constructed of not less than 75% brick or stone.

b. A maximum of 25% of the façade may include trim material such as wood or similar siding, metal and exterior finish insulation systems (EFIS). EFIS may only be used for architectural detailing above the first floor.

c. Buildings that have upper stories shall be designed to create a distinct and separated ground floor area through the use of accent such as a cornice above the storefront, change in material or textures, or an awning or canopy between the first and second stories.

(7) **Roofs.** Roofs shall be required to meet the following:

a. Buildings with a flat roof shall have a decorative cornice at the top of the front facade that is designed proportionate to the size of the building and length of the wall. Flat roofs shall be enclosed by parapets.

b. Buildings with a pitched or mansard roof shall be permitted.

c. All rooftop mounted equipment shall be screened from view on all sides of the building. Parapets and other screening treatment shall use high quality building materials and shall blend with the design of the building in terms of color, materials, scale and height.

(8) **Service Areas.** Loading, unloading, waste receptacle and other service areas shall be located in the rear or side of the building that will receive the least visibility to the public street and shall be screened from public view in accordance with sections 17.03 and 17.05.

(9) **Parking Lots.** Where a parking lot is located within 20 feet of a front lot line, a brick wall or wrought iron fence shall be provided between the parking lot and the street right-of-way in accordance with section 17.02(d)(2)b.

(10) **Converted Dwellings.** Where buildings that were originally constructed for residential purposes have been converted to other uses, the building design requirements of this subsection may be modified where consistent with the historic character of the building. Such modifications may include allowing the use of siding in lieu of masonry materials and residential fenestration (windows) in lieu of the requirement for storefront windows on the first floor.

(11) **Existing Buildings.** Renovations or expansions proposed to existing buildings that do not comply with the design standards of this section may be allowed; provided the exterior changes to the building bring the building closer to compliance or do not reduce compliance with the requirements of this section. Additions to existing buildings shall not change the original architectural character of the building or destroy important architectural features. Changes to buildings in historic districts shall be subject to subsection (12) below.

(12) **Historic Preservation.** The erection, construction, enlargement, alteration, repair, demolition, color change, moving or maintenance of any building, structure or appurtenance within an historic district in either the city of La Porte or Michigan City shall be subject to the following:

a. In the city of Michigan City CBD1 district, all of the requirements of the historical district ordinance must be met. A certificate of appropriateness must be issued by the historic review board before a permit is issued or work is begun on any structure within an historic district.

b. In the city of La Porte CBD1 district, all of the requirements of the historical preservation ordinance must be met. A certificate of appropriateness must be issued by the historic preservation commission before a permit is issued for or work is begun on any structure within an historic district.

c. Where an historic structure contains an original architectural feature that does not comply with the design standards of this section, restoration and preservation of the building's historic form shall take precedence over any conflicting regulation of this section.

(h) **City of La Porte Downtown Design Standards.** All new buildings or renovations to existing buildings located in the CBD1 district in the city of La Porte shall be subject to the review of the design review committee and recommendation to the enforcement official based upon the city of La Porte Downtown Design Standards.

(1) The CBD1 district is hereby declared to be a district subject to "development requirements" meaning that any development within this zoning district will require a development plan as provided for in I.C. 36-7-4-1400 et seq.

(2) The design standards that all developer must comply within the CBD1 district in the city of La Porte are set forth in city of La Porte Downtown Design Standards, which is incorporated herein by reference.

(3) A Design Review Committee consisting of the following members is created to assist the director of the department of engineering in his or her review of any development proposal in the city of La Porte CBD1 district:

a. The city planner;

b. A member of the plan commission;

c. A member of the redevelopment commission;

d. A member of the historic preservation commission; and

e. A member of the common council,

(i) **Michigan City Design Review.** All new buildings or renovations to existing buildings located in Michigan City shall be subject to the review of the design review committee and recommendation to the enforcement official based upon the requirements of this article.

(1) The city planning director;

(2) A member of the plan commission;

(3) The enforcement official;

(4) The city engineer; and

(5) The city building official.

(j) **Modifications.** The Board of Zoning Appeals may approve modifications to the building design standards of this section in order to achieve the objectives of this subsection through the use of creativity and flexibility in development and design. A front elevation drawing of the proposed building shall be provided to evaluate the proposed building design based upon all of the following criteria:

(1) Innovations in architectural design may be permitted, provided the building design shall be in keeping with the desired character of the district and the proposed building fits within the context of adjacent buildings along the block.

(2) The building shall be oriented towards the front sidewalk and maintain or enhance the continuity of the pedestrian oriented environment.

(3) The roof design shall not be out of character with other buildings along the block and shall be within the minimum and maximum height requirements of the district.

(4) The exterior finish materials shall be of equal or better quality and durability as those permitted above, with the intent to allow for new technologies in building material while maintaining the desired character of the district.

(5) Ground floor windows shall be provided along the front sidewalk to maintain the pedestrian orientation of the streetscape.

(6) For a structure located within an historic district, the building will meet the applicable requirements of the historical preservation ordinance of the respective city.

(k) **Development District Modifications.** For a structure located within the La Porte NewPorte Landing, South Overlay Zoning District or, the La Port CBD1 District or the Michigan City North End Form-Based Overlay District, modifications shall require approval by the Plan Commission instead of the

Board of Zoning Appeals based upon the criteria in (j) above and consistency with the applicable Development Standards of the district.

Section 17.02 Landscaping Requirements

(a) **Purpose.** This section is intended to establish minimum standards for the design, installation and maintenance of landscaping, greenbelts and buffer zones. These features are necessary for the continued protection and enhancement of all land uses. Landscaping and greenbelts enhance the visual image of the community; preserve natural features; improve property values; and alleviate or reduce stormwater runoff, noise, traffic, and visual distraction. Buffer zones protect less intense uses from the noise, light, traffic, litter and other impacts of more intense uses. Landscaped areas can also serve to capture runoff and promote infiltration of stormwater.

(b) **Required Greenbelt along Street Frontage**

(1) New residential subdivisions shall provide a frontage greenbelt as required by the subdivision ordinance.

(2) All multiple family residential developments shall provide a 20-foot wide greenbelt along major thoroughfare frontages that form the exterior boundary of the development. The greenbelt shall be landscaped with a minimum of one (1) deciduous tree, one (1) evergreen tree, one (1) ornamental tree, and six (6) shrubs for every 40 linear feet of frontage. In cities where multiple family residential buildings face onto a major thoroughfare with pedestrian entrances that connect to the sidewalk on the street and all parking, and garages are on the rear side of the building, one (1) deciduous tree shall be provided for every 40 linear feet of frontage, planted within the front yard area along the street.

(3) All industrial uses shall provide a greenbelt along the front yard with a minimum of two (2) deciduous or evergreen trees and six (6) shrubs for every 40 linear feet of frontage.

(4) Commercial, office, institutional or recreational sites shall be required to provide a minimum of one (1) deciduous tree for every 40 feet of street frontage. The required trees shall be planted within the front yard area, or where there is no front yard, planted as street trees along the frontage.

(5) Manufactured home parks shall provide a 25-foot wide greenbelt along all public road frontages. The greenbelt shall be landscaped with a minimum of one (1) deciduous tree, one (1) evergreen tree, one (1) ornamental tree, and six (6) shrubs for every 40 linear feet of frontage.

(c) **Required Buffer Zones.** The following buffer zones shall be required where a proposed use shares a common lot line with an adjacent use. The type of buffer zone required is indicated in table 17.02(c)(1) and the required landscaping/screening is described in table17.02(c)(2).

Table 17.02.(c)(1)
Buffer Zone Type

Proposed Use:	District that Proposed Use is Adjacent to: A, R1A, R1B, R1C, R1D, R1E	R2A, R2B, R3A, R3B or R4	B1, B2, B3, O1, CBD1, CBD2 or MD
One/two-family residential	None	None	None
Multi-family residential	C	None	None
Manufactured home park	C	None	None
Institutional and recreation	B	B	None
Office	B	B	None
Commercial	B	B	None
Industrial	A	A	B
Planned Unit Development	Determined during PUD plan approval using above as a guide		

Table 17.02.(c)(2)
Buffer Zone Landscaping/Screening Requirements

Requirements for Buffer Zones Located in the Unincorporated areas of the County Outside of the cities of La Porte and Michigan City			
Buffer Type	**Min. Depth**	**Wall or Berm**	**Minimum Plant Materials per each 40 linear feet along the property line**
A	50 feet	4 foot tall berm or 8 foot tall wall	1 canopy tree, 3 evergreen trees and 4 shrubs
B	20 feet	3 foot tall berm or 6 foot tall wall	1 canopy tree, 2 evergreen trees and 4 shrubs
C	10 feet	None	2 canopy or evergreen trees and 4 shrubs
Requirements for Buffer Zones Located in the cities of La Porte or Michigan City			
Buffer Type	**Min. Depth**	**Wall or Berm**	**Minimum Plant Materials per each 40 linear feet along the property line**
A	50 feet	8 foot tall wall or 4 foot tall berm	1 canopy tree and 3 evergreen trees
B	10 feet	6 foot tall wall	2 canopy or evergreen trees
C	10 feet	None	2 canopy or evergreen trees

(1) The enforcement official may waive or modify buffer zone requirements between adjacent compatible uses where the district allows a lesser or zero side yard setback or a reduction in parking lot setbacks where shared access and circulation are provided between uses.

(2) Uses in the CBD1 and CBD2 districts shall not be required to provide a buffer zone, but shall be required to meet screening wall requirements outlined in section 17.03.

(3) The above buffer zone landscaping requirements shall be in addition to any parking lot landscaping requirements outlined in (d) below or screening wall requirements outlined in section 17.03.

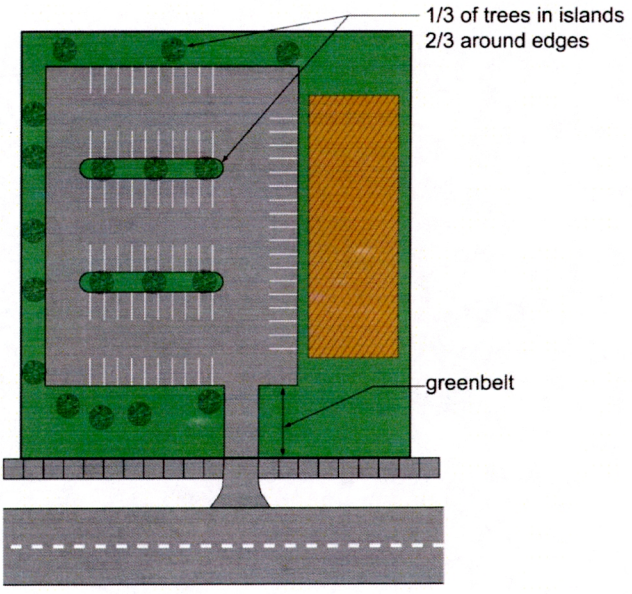
(d) **Parking Lot Landscaping**

(1) Off-street parking areas containing 15 or more parking spaces shall provide landscaping at the rate of one (1) canopy tree and 100 square feet of landscaped area per 15 parking spaces.

a. A minimum of one-third (1/3) of the trees shall be placed on the interior of the parking area and the remaining may be placed surrounding the parking lot.

b. The landscaped areas shall be located in a manner that breaks up the expanse of paving throughout the parking lot and are designed to capture stormwater runoff.

c. Parking lots that are located in the rear yard behind the building shall be exempt from these landscaping requirements, except for landscaping features required for capture of stormwater runoff.



(2) Where there is an off-street parking lot located in a front yard or a side yard visible from the street, the following greenbelt shall be provided:

a. For the unincorporated areas of the county outside of cities, a 20-foot wide greenbelt shall be provided between the parking lot and the road right-of-way. The greenbelt in front of the parking lot shall be landscaped with a hedge row planted with two (2) foot tall evergreen shrubs or alternative approved planting material spaced two and a half (2½) feet apart, or a three (3) foot tall berm, in addition to the trees required above.

b. For parking lots located within cities, a five (5)-foot deep greenbelt shall be provided between the parking lot and the road right-of-way. The greenbelt in front of the parking lot shall be landscaped with a hedge row planted with two (2) foot tall evergreen shrubs spaced two and a half (2½) feet apart. As an alternative to the five (5)-foot greenbelt and hedge row, a three (3) foot tall brick wall may be provided between the parking lot and the road right-of-way. In the CBD1 district a three (3) foot tall brick wall or wrought iron fence shall be provided between the parking lot and the street right-of-way and a (5)-foot deep greenbelt is not required.

(3) Where an off-street parking lot is located adjacent a lower intensity use or district, it shall be setback a sufficient distance to provide the applicable buffer zone required in subsection (c) above.

(e) **Residential Street Trees.** For all new detached single family dwellings, including all new residential subdivisions and new homes being constructed on existing lots, one (1) deciduous canopy tree shall be provided for each dwelling unit. The tree shall be planted within the front yard setback outside of any corner clearance area required by 15.06.

(f) **Plant Material Size**

(1) Deciduous canopy trees shall not be less than two and a half (2½) inches in caliper. Examples of deciduous canopy trees include Oak, Maple, Birch, Beech, Linden and Hickory trees.

(2) Deciduous ornamental trees shall not be less than one and a half (1½) inches in caliper. Examples of deciduous ornamental trees include Dogwood, Hawthorn, Flowering Crabapple, Flowering Plum, and Flowering Pear trees.

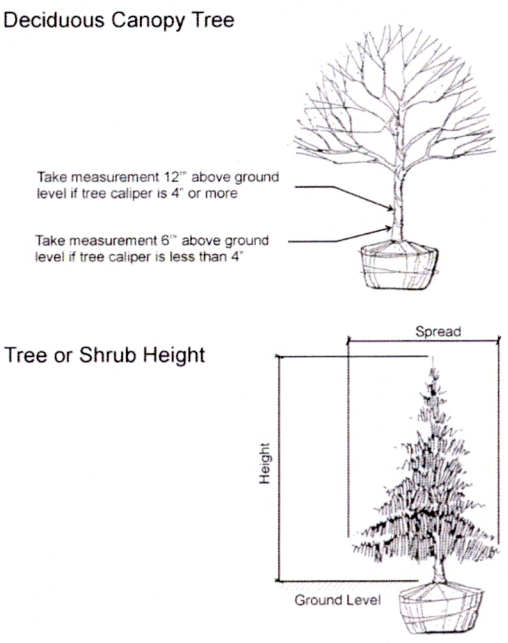
(3) Evergreen trees shall not be less than six (6) feet in height. Examples of deciduous evergreen trees include Fir, Hemlock, Spruce and Pine trees.

(4) Narrow evergreen trees shall not be less than four (4) feet in height. Examples of narrow evergreen trees include Arborvitae and Junipers.

(5) Shrubs shall not be less than thirty (30) inches in height. Examples of shrubs include Boxwood, Dogwood shrubs, Forsythia, Holly, Sumac, Lilac, Viburnum, Juniper and Yews.

(6) Spreading shrubs shall not be less than thirty (30) inches in spread. Examples of spreading shrubs include Cotoneaster, Cypress and Juniper.

Plant Material Measurements



(g) **Installation and Maintenance Provisions**

(1) All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be removed and replaced within six (6) months.

(2) Landscaped areas shall be covered by grasses, such as Bluegrass, Fescue, Ryegrass or native tallgrass, Xeriscape plant material, living ground cover or mulch.

(3) Trees required on the site plan must be maintained to remain in compliance with the site plan. Unhealthy vegetation must be replaced. Required landscaping shall not be removed unless approved as a site plan amendment.

(4) Landscaping shall be installed such that, when mature, it does not obscure traffic signs, fire hydrants, lighting, drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.

(h) **Waiver from Landscaping and Screening Requirements.** The enforcement official during site plan review may determine that existing landscaping or screening intended to be preserved would provide adequate landscaping and screening. The enforcement official may also determine dimensional conditions unique to the parcel would prevent development of off-street parking area landscaping, greenbelts or buffer zones. If such determination is made, the enforcement official may waive, in whole or in part, the landscaping provisions of this section. Criteria which shall be used when considering a waiver shall include, but shall not be limited to:

(1) Existing natural vegetation

(2) Topography

(3) Existing and proposed building placement

(4) Building heights

(5) Adjacent land uses

(6) Distance between land uses

(7) Dimensional conditions unique to the parcel

(8) Traffic sight distances

Section 17.03 Screening Walls

(a) **Requirement.** Screening walls shall be required where any parking lot, loading area or outside storage area is adjacent to a residential zoning district or existing residential use.

(b) **Specifications.** Where required, screening walls shall meet the following requirements:

(1) Wall height shall be a minimum of six (6) feet tall and a maximum of eight (8) feet tall, measured from the average grade along the property line. Within the front yard, walls shall be a maximum of three and a half (3½) feet tall except where a taller wall is approved by the enforcement official for the purposes of screening outdoor storage. In the industrial districts, a greater height may be allowed by the enforcement official to screen large equipment, vehicles, outdoor storage or activities that could otherwise impact adjacent uses.

(2) Walls shall be constructed of brick or other ornamental masonry material compatible with the principal structure. Building materials must be reviewed and approved by the enforcement official during site plan review. The enforcement official may approve the use of a privacy fence where it is determined to be more compatible with adjacent residential uses.

(3) Walls must be constructed on the lot line; however, this location may be modified by the enforcement official due to special circumstances, such as conflicts with underground utilities and better screening provided at alternative locations.

(4) Walls shall be continuous except for openings for pedestrian connections.

(5) A berm of equal of greater height may be substituted for the screening wall requirement.

Section 17.04 Lighting Regulations

(a) **Applicability.** The regulations of this section shall apply to all uses, except residential and agricultural uses. Where any change is made to a site requiring an improvement location permit or existing light fixtures are replaced, site lighting shall be upgraded to comply with the regulations of subsection (c) below.

(b) **Lighting Intensity.** Outdoor lighting for all non-residential uses shall be fully shielded to reduce glare and shall be arranged to reflect light away from all adjacent residential districts or uses. Light levels on a site that is subject to an improvement location permit under this ordinance shall comply with the limits specified in Table 17.05.

Table 17.05
Required Site Illumination

	Maximum illumination (footcandles)	Minimum illumination in Cities (footcandles)(4)(5)
Parking lots, loading areas, sidewalks, crosswalks, stairs and building entrances	10 fc (1)	3 fc (6)
Under canopies such as gas stations, drive-thru banks and porte-cocheres	20 fc	3 fc
Along front lot line adjacent to the street frontage	3 fc (2)	0.5 fc
Along a property line adjoining a non-residential use or district	3 fc (3)	0.5 fc
Along a property line adjoining a residential use or district	0.1 fc	0 fc

(1) For automobile dealerships and other types of outdoor sales areas, the maximum illumination may be increased to 15 footcandles, provided the limits at the property line are not exceeded.

(2) Shall not apply to ornamental street lighting, public street lights or driveway/intersection lighting necessary for pedestrian and traffic safety.

(3) The light level along a non-residential property line may be increased to up to five (5) footcandles where there is shared access/vehicular connections with the adjacent use or the adjacent use is a similar use (e.g. commercial adjacent to commercial).

(4) Lighting levels may be reduced to half (0.5) footcandle with a uniformity ratio of not more than ten to one (10:1) after 12:00 PM, or after established hours of operation.

(5) The required minimum illumination shall only be required for sites located within the incorporated areas of the cities of La Porte and Michigan City and shall only apply to the developed portion of the site containing buildings, drives and parking lots.

(6) The minimum illumination levels shall not apply to portions of the site that are fenced to restrict public access, such as storage yards.

(c) **Light Fixtures.**

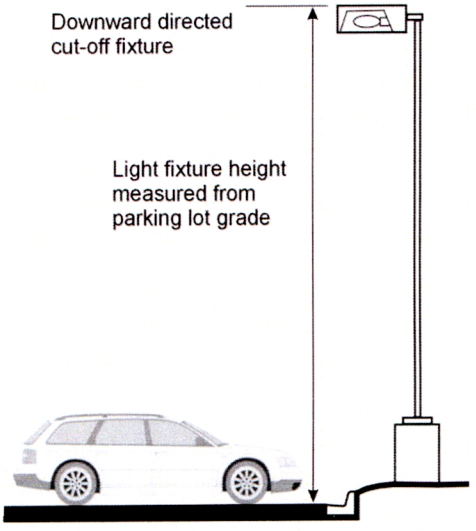
(1) All fixtures shall be metal halide, light-emitting diode (LED) or better quality light.

(2) Outdoor lighting in all zoning districts shall be directed toward and confined to the ground areas of lawns or parking lots except as noted elsewhere in this section.

(3) Lighting shall utilize cutoff fixtures that are recessed sufficiently such that the light source is not visible from off site.

(4) The requirement for cutoff fixtures shall not apply to historic or traditional style ornamental lights and street lighting.

(5) Floodlight type fixtures shall not be permitted except for building accent and sign lighting.



(d) **Fixture Height.** Light fixtures shall have a maximum height of 40 feet where not adjacent to residential. Where located within 300 feet of a residential district, the maximum height of a light fixture shall not exceed 18 feet.

(e) **Signs.** Illumination of signs shall be directed or shielded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property. Signage lighting shall be subject to the lighting intensity limits specified in Table 17.05.

(f) **Constant Light.** Illumination shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. Sign illumination shall only be allowed as provided for in article 19.

(g) **Luminous Tube (Neon) and Exposed Bulb Lighting.** Luminous tube (neon) and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings (e.g. along the roofline and eaves, around windows, etc.). Internally illuminated architectural bands or features shall be allowed where the light source is not directly visible. Neon lighting is permitted as part of a sign meeting the requirements of article 19.

(h) **Photometric Plan.** Any site plan application for new or revised lighting shall include a photometric plan overlaid on the site plan illustrating the proposed layout and footcandles of site lighting. The following are required for review:

(1) Lighting plan showing light pole and fixture locations and type designations;

(2) Photometric plan showing horizontal luminance levels in a point by point format with contour lines. Canopy lighting will also be included in luminance levels;

(3) Lighting manufacturers equipment specifications and data sheets; and

(4) Any other presentations required to convey the intent of the design.

Section 17.05 Waste Receptacles

(a) **Applicability.** The regulations of this section shall apply to all uses except residential uses with curb-side trash collection service. The enforcement official may modify the requirements of this section for a use that has alternative means of waste disposal and will have no outdoor storage of waste receptacles.

(b) **Location**

(1) Waste receptacles including dumpsters with enclosures, shall be located in the rear yard or non-required side yard, unless otherwise approved by the enforcement official.

(2) For non-residential uses adjoining a residential district, the waste receptacle enclosure shall be as far as practical, and in no case less than 20 feet, from any adjacent residential district.

(3) Waste receptacles shall be easily accessed by refuse vehicles without potentially damaging automobiles parked in designated parking spaces or interfering with the normal movement of vehicles on or off the site.

(4) The waste receptacle must be oriented to not directly face a street or driveway, unless approved by the enforcement official.

(c) **Enclosure Materials and Screening Required**

(1) All waste receptacles, including dumpsters and compactors, must be enclosed on three (3) sides with a six (6) foot high masonry enclosure constructed of the primary building materials of the principal building on the site.

(2) The enclosure shall also include a gate, made of wood or other high quality material, as determined by the enforcement official, on the fourth side. If the waste receptacle is a dumpster, it must have an enclosing lid or cover.

(3) All waste receptacles, associated enclosures and receptacle contents must be screened from public view.

(4) Supplemental landscaping to screen the waste receptacle enclosure shall be provided.

(d) **General**

(1) The waste receptacle base shall be at least nine (9) feet by six (6) feet in area, constructed of six (6) inches of reinforced concrete pavement.

(2) The base shall extend six (6) feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.

(3) Posts, bollards or bumpers shall also be provided to protect the enclosure from damage.

(4) The shared use of receptacles shall be allowed by adjoining businesses where sharing will not create a health or safety concern and where it does not result in the accumulation of visibly excessive quantities of waste.

Section 17.06 Mechanical Equipment

(a) **Applicability.** Any mechanical equipment or utilities and similar equipment including water and gas meters, elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar equipment, shall comply with the requirements of this section.

(b) **Roof-Mounted Equipment Screening.** All roof-mounted equipment shall be screened by a solid wall or architectural feature that is compatible in appearance with the principal building; or the equipment shall be setback away from the edge of the building a distance sufficient to ensure that it is not visible from the public road or adjacent property. This requirement shall not apply to industrial buildings in an industrial district.

(c) **Ground-Mounted Equipment.** All ground-mounted equipment shall be screened by a solid wall, fence or landscaping. Landscaping must create a continuous screen with the starting size of the plant material equal to or greater than the height of the equipment at the time of planting.

Section 17.07 Overlay Districts

The overlay districts contained in article 12 contain design standards that apply in addition to the requirements of this article. The overlay districts may also include additional design guidelines that have been adopted for the specific areas.

Article 18
Parking and Transportation Provisions

Section 18.01 Off-Street Parking Requirements

(a) **Applicability of Parking Requirements.** For all buildings and uses established after the effective date of this ordinance, off-street parking shall be provided as required by this Article.

(1) Whenever use of a building or lot is changed to another classification of use, off-street parking facilities shall be provided as required by this Article.

(2) If the intensity of use of any building or lot is increased, through the addition of floor area, increase in seating capacity or other means, additional off-street parking shall be provided for such increase in intensity of use.

(3) Off-street parking facilities in existence on the effective date of this ordinance shall not be reduced below the requirements of this Article.

(4) An area required for off-street parking shall not be changed to another use, unless equal facilities are provided elsewhere in accordance with the provisions of this Article.

(b) **Required Off-Street Parking Spaces.** The minimum number of required off-street parking spaces shall be provided on premise, in accordance with Table 18.01(b), or as otherwise allowed by this Article.

(1) **Fractional Spaces.** When units or measurements determining the number of required parking spaces result in a fraction over one-half (½) a full parking space shall be required.

(2) **Uses not Listed.** For uses not specifically listed in Table 18.01(b), the required parking shall be in accordance with that of a similar use as determined by the county or city, based on documentation provided by the applicant regarding the specific parking needs of the use.

(3) **Bench Seating.** In calculating bench seating for places of assembly, each 24 inches of bench, pew or similar seating facilities shall be counted as one (1) seat; except, if specifications and plans filed with the county or city denote a certain seating capacity that may be used as the basis for required parking space.

(4) **Employees.** Where the number of spaces required is based on the number of employees, calculations shall be based upon the maximum number of employees likely to be on the premises during the peak shift.

(5) **Floor Area.** Unless otherwise indicated, floor area shall be gross floor area (GFA) as defined in Article 31.

(6) **Occupancy.** Where parking requirements are based upon maximum seating or occupancy capacity, the capacity shall be as determined by the building code and the fire code.

Table 18.01(b)
Required Off-Street Parking Spaces

Residential	
Single-family detached dwellings, two-family dwellings, single-family attached/townhouses	2 spaces per dwelling
Multiple-family dwellings	2 spaces per dwelling in county 1.5 spaces per dwelling in cities
Dwelling units for watchmen and operating personnel and their families	1.5 spaces per dwelling
Fraternity, sorority or student cooperatives	1 space per room
Mobile home parks and subdivisions	2 spaces per dwelling
Agriculture and animal-related uses	
Agricultural uses	1 space per employee
Roadside farm produce stand	6 spaces
Veterinary hospital	1 space per 300 sq. ft. gross floor area
Retail trade	
Retail uses, except as provided below	1 space per 250 sq. ft. gross floor area
Multi-tenant shopping centers	1 space per 250 sq. ft. gross floor area for the first 60,000 sq. ft. and 1 space per 225 sq. ft. gross floor area above 60,000 sq. ft. Where restaurants occupy more than 20% of the total floor area, their parking requirements shall be calculated separately.
Retail with drive-through service	3 stacking spaces at each drive-through lane in addition to parking required for retail building
Convenience stores, grocery stores/super markets, liquor stores	1 space per 200 sq. ft. gross floor area
Furniture store	1 space per 400 sq. ft. gross floor area
Home improvement, building material sales, and lumber yard with open storage	1 space per 225 sq. ft. gross floor area
Services	
Service uses, except as provided below	1 space per 250 sq. ft. gross floor area
Barber/beauty shops	2 spaces for each beauty or barber chair plus 1 space for each employee
Dry cleaners	1 space per 500 sq. ft. gross floor area
Interior decorating shops	1 space per 400 sq. ft. gross floor area
Laundries	1 space for each 2 washing machines
Video rental store	1 space per 300 sq. ft. gross floor area
Motor vehicle dealers and service	
Automobile rental	1 space per employee plus 1 customer space for each 5 rental car spaces
Automobile sales (new/used)	1 space per 400 sq. ft. gross floor area of sales room and 1 space for each auto service stall in the service area
Automobile washes	1 space per employee. Stacking spaces equal in number to 3 times the maximum capacity of the auto wash entering the wash plus 2 drying spaces.
Gasoline service stations	1 space for each employee plus 1 space for each 100 square feet of floor area used for cashier and retail sales in addition to space provided at each fuel pump dispenser
Minor automobile service and repair	2 spaces per service stall plus 1 space per employee
Motorcycle, snowmobile and ATV sales/service	1 space per 400 sq. ft. gross floor area of sales room and 1 space for each service stall in the service area
Parts stores	1 space per 250 sq. ft. gross floor area

Truck rental	1 space per employee plus one space for each rental truck
Truck sales (new/used)	1 space per 400 sq. ft. gross floor area of sales room and 1 space for each service stall in the service area
Truck stops	1 space for each employee plus 1 space for each 100 square feet of floor area used for cashier and retail sales in addition to space provided at each fuel pump dispenser
Vehicle salvage yards	1 space per employee
Vehicle auctions	1 space per 400 sq. ft. gross floor area
Accommodation and food services	
Banquet halls	1 space per 250 sq. ft. gross floor area
Bed/breakfasts	1 space per guest room plus 2 spaces for the primary dwelling unit
Candy, and ice cream shops and delicatessens	1 space per 200 sq. ft. gross floor area
Catering services	1 space per 250 sq. ft. gross floor area
Exhibition halls	1 space per 250 sq. ft. gross floor area
Hotel-miniums	1 space per 1 guest room
Hotels/motels	1 space per 2 guest rooms plus parking equal to 30% of the capacity of affiliated uses such as dining or meeting rooms
Restaurants, carryout	6 spaces per service or counter station, plus 1 space for each employee
Restaurants, not including drive-in	1 space per 70 sq. ft. gross floor area
Restaurant, drive-in	1 space for each employee in addition to customer stations
Restaurant, drive-thru	1 space for each employee plus 1 space for each 75 square feet of dining area and 8 stacking spaces for each drive-through window
Restaurant and taverns with outdoor seating	1 space per table outdoors in addition to interior parking requirements
Taverns and bars	1 space per 70 sq. ft. gross floor area
Finance, insurance, real estate, professional, scientific, and technical	
Banks & financial institutions	1 space per 200 sq. ft. gross floor area. Drive-up windows shall be provided 4 stacking spaces for the first window, plus 3 spaces for each additional window.
Offices, general and professional with accessory research and testing, blueprinting and photostating establishments, newspaper offices including printing, printing and publishing establishments, radio, television and recording studios, research & development laboratories, travel agencies	1 space per 300 sq. ft. gross floor area
Health care and social assistance	
Day care centers, commercial/preschools	1 space per employee plus 2 drop off spaces
Day care homes, residential	2 spaces
Foster care homes	2 spaces
Funeral homes/mortuaries	1 space per 50 sq. ft. gross floor area
Group homes	2 spaces
Hospitals	2 spaces per patient bed
Medical and dental clinics	1 space per 200 sq. ft. gross floor area
Medical laboratories	1 space per 250 sq. ft. gross floor area
Nursing homes and senior assisted living	1 for each employee plus 1 for each 6 persons in residence
Optical, orthopedic and medical appliance sales	1 space per 250 sq. ft. gross floor area

Philanthropic and eleemosynary institutions	1 space per 250 sq. ft. gross floor area
Entertainment and recreation	
Adult entertainment business	1 space per 70 sq. ft. gross floor area for adult entertainment 1 space per 250 sq. ft. gross floor area for adult retail
Amusement/arcade establishments	1 space for each amusement device
Amusement parks	20 spaces per ride
Boat clubs, boat harbors and marinas	1 space per boat well
Boat sales, including service	1 space per 800 sq. ft. sales floor area
Boat storage	1 space per 10 boats stores
Bowling alleys	5 spaces per lane plus spaces required for accessory uses such as a bar or restaurant
Commercial outdoor recreation facilities such as batting cages, driving ranges and put-put golf	2 spaces per batting cage, archery range or similar activity
Campgrounds	1 space per camp site
Casinos	1 space per 50 sq. ft. gaming floor area plus spaces required for restaurants, bars and hotel
Dance schools	1 space per 200 sq. ft. gross floor area
Golf course and country clubs	6 spaces per golf hole and 1 space for each one employee, plus spaces required for each accessory use such as a restaurant or bar
Health and athletic clubs	1 space per 200 sq. ft. gross floor area
Ice skating rinks	25 spaces per rink
Racetracks and go-cart tracks	2 spaces per go-cart or race vehicle
Shooting ranges, indoors	2 spaces per shooting range station
Stadiums/arenas	1 space per 4 seats or 8 feet of benches
Theaters	1 space per 2 seats
Civic, religious, social assistance organizations	
Cemeteries	10 spaces for each interment based on the maximum number per hour
Churches, chapels, temples, synagogues and similar places of worship	1 space for each 3 seats or 6 feet of pews in the main unit of worship
Clubs, lodges, union halls, community centers, conference and convention halls	1 space per 200 sq. ft. gross floor area
Convents, monasteries and seminaries	1 space per 3 beds
Educational services	
Colleges, universities	1 space per classroom plus 1 space per 3 students based on the maximum number of students attending classes at any one time
Driving schools	1 space per classroom plus 1 space per 3 students based on the maximum number of students attending classes at any one time
Libraries	1 space per 300 sq. ft. gross floor area
Schools, commercial and trade	1 space per classroom plus 1 space per 2 students based on the maximum number of students attending classes at any one time
Schools, elementary, middle	1 space for each one teacher, employee or administrator
Schools, high	1 space for each one teacher, employee, or administrator and 1 for each 10 students, in addition to the requirements of the auditorium or stadium, whichever seats more
Training centers, engineering or sales	1 space per classroom plus 1 space per 2 students based on the maximum number of students attending classes at any one time

Public administration	
Government buildings excluding correctional facilities	1 space per 250 sq. ft. gross floor area
Correctional facilities	1 space per employee
Museums, civic buildings and landmarks preserved for public inspection	1 space per 300 sq. ft. gross floor area
Transportation and warehousing	
Airports and heliports	As determined by airport
Bottled gas storage and distribution	1 space per employee
Bus and passenger rail terminals	10 spaces per bus or train departure per day
Warehouses, cartage, express, and parcel delivery establishments, freight terminals, moving companies	1 space per 1500 sq. ft. gross floor area
Self-storage facilities	1 space for each 20 storage units plus 2 spaces for manager's residence
Taxicab dispatching	1 space per employee, plus paces for taxicabs
Wholesale business	1 space per 500 sq. ft. gross floor area
Manufacturing	
Manufacturing uses	1 space per 500 sq. ft. gross floor area
Utilities	
Public utility buildings, sewage treatment plants, telephone exchange buildings, transmission lines for gas, oil and electricity	1 space per employee
Utility substations	1 space
Construction	
Construction and contractors establishments	1 space per 250 sq. ft. gross floor area or 1 space per employee
Waste processing and disposal	
Waste processing and disposal, recycling facility, salvage yards and landfills	1 space per employee
Mining	
Mineral extraction & general mining operations	1 space per employee

(7) **Maximum Allowed Parking.** While it is the intent of this ordinance to ensure that adequate off-street parking is available in conjunction with all uses, it is also recognized that excessive paved areas reduce aesthetics, create excess heat and glare and contribute to high rates of storm water runoff. Therefore, the maximum parking permitted for any nonresidential use shall not exceed the minimum parking space requirements by more than 20%, unless additional parking is granted by approval of the board of zoning appeals. In granting such additional space, the board of zoning appeals shall determine that added parking will be required, based on documented evidence, to accommodate the use on a typical day. The board of zoning appeals may require that additional spaces be constructed with alternative paving materials, such as permeable/grass pavers or pervious concrete.

(c) **CBD1 Downtown District Parking.**

(1) Within the CBD1 Downtown District, re-use of existing buildings that were in existence prior to the effective date of this ordinance shall be exempt from the parking requirements of this section and such buildings may be renovated or reoccupied without the need to provide additional parking. Any expansion to an existing building shall be required to provide additional parking for the expanded floor area, subject to paragraph (2) below.

(2) Any new non-residential building less than 5,000 square feet in gross floor area in the CBD1 Downtown District shall not be required to provide off-street parking. A new non-residential building larger than 5,000 square feet shall be required to provide parking calculated for the gross floor area in excess of the first 5,000 square feet. If the city has established a special assessment district or similar funding mechanism to provide public parking in the downtown, the parking

requirements of this article may be satisfied through a payment in lieu of on-site parking to the special assessment district or fund.

(3) Any new residential building in the CBD1 Downtown District shall be required to provide off-street parking in accordance with this section.

(d) **Collective or Shared Parking.** Two (2) or more buildings or uses may use a common parking facility. The total number of parking spaces provided shall be equal to the required number of spaces for all of the uses computed separately. Cumulative parking requirements for mixed-use developments or shared facilities may be reduced by the enforcement official where it can be determined that one or more of the factors listed in subsection (e) below apply. Where uses are on separately-owned lots, a legal agreement for shared parking shall be recorded and a copy provided to the county or city before a certificate of occupancy is issued.

(e) **Reduction of Parking Requirements.** The board of zoning appeals may reduce the parking requirements based upon a finding that there will be a lower demand for parking due to one (1) or more of the following:

(1) A high proportion of multi-purpose visits are expected or uses have significantly different peak parking demands during the day or days of the week (such as offices and restaurants or churches and retailers). Pedestrian connections shall be maintained between the uses. For separate lots, they shall have pedestrian and vehicular connections between the lots. Shared parking agreements shall be filed with the county or city after approval and before a certificate of occupancy is issued.

(2) Convenient municipal off-street parking or on-street spaces located along the site's frontage are available.

(3) Expectation of walk-in business due to sidewalk connections to adjacent residential neighborhoods or employment centers.

(4) Availability of other forms of travel, such as transit or non-motorized transportation, that can reasonably be expected to reduce parking demand. The enforcement official may require pedestrian connections be provided to nearby transit stops or similar facilities.

(5) Where the applicant has provided a parking study that demonstrates that another standard would be more appropriate based on actual number of employees, expected level of customer traffic or actual counts at a similar establishment.

(f) **Banked Parking**

(1) Where a reduction in the number of parking spaces is not warranted, based on the criteria in subsection (e), but an applicant demonstrates that the required parking requirements for a proposed use is not immediately necessary, the enforcement official may defer some of the parking. The site plan shall designate portions of the site for future construction of the required parking spaces, indicating the location, layout, and number of deferred spaces. The designated area for future parking shall be maintained in a landscaped appearance and shall not be located within required greenbelts or parking lot setback areas or be used for any other purpose.

(2) The banked parking shall meet ordinance requirements, if constructed. Construction of the deferred parking to add parking spaces may be initiated by the owner or required by the county or city, based on parking needs or observation, and shall require administrative approval of an amended site plan. The county or city may request a performance guarantee to cover the cost of developing the deferred parking lot.

(g) **Use Limitations**

(1) Off-street parking areas are intended only for temporary vehicle parking for public safety by keeping parked cars off the streets. Except when land is authorized to be used as storage space in

connection with the business of a repair or service garage, parking areas or open land shall not be used for storage or parking of wrecked or junked vehicles.

(2) It shall be unlawful to use a parking lot or open area for the storage of merchandise, materials, trucks, trailers, construction trailers, recreational vehicles and equipment, except for uses approved for this purpose. This provision shall not apply to areas designated for fleet and company vehicles, provided they are located in the side and rear yards.

(3) The parking of any vehicle for the purpose of displaying the vehicle for sale shall only be allowed at an approved vehicle sales dealership.

(4) The parking or storage of inoperable or unlicensed vehicles shall be prohibited, except under the following circumstances:

a. Within an enclosed building; or

b. In a screened yard of an approved motor vehicle use that is properly zoned, and approved for the storage of vehicles under this ordinance.

(h) **Location of Parked Vehicles.**

(1) Vehicles may only be parked in a driveway, garage or parking lot meeting the requirements of 18.02. Vehicles may not be parked in any lawn or yard area, except on a parking lot or driveway. Vehicles shall not be parked in landscape greenbelts or other landscaped areas required by this ordinance.

(2) On-street parking and parking in the public right-of-way shall be subject to the applicable parking and traffic control regulations of the city or county.

(3) Vehicles shall not be parked in locations that obstruct sidewalks or nonmotorized pathways.

(i) **Barrier Free Parking**

(1) Within each parking lot, signed and marked barrier free spaces shall be provided at a convenient location, in accordance with Table 18.01(i) or in accordance with the building code, whichever is more restrictive.

Table 18.01(i)
Barrier Free Parking Space Requirements

Number of Spaces in Parking Lot	Required Number of Barrier Free Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 & Over	20 plus 1 for each 100 over 1,000

(2) Barrier free parking spaces shall meet the standards for parking facilities for persons with physical disabilities IC 5-16-9.

(3) Barrier free spaces shall be located as close as possible to building entrances and walkways.

(4) Where a curb exists between a parking lot surface and a sidewalk entrance, an inclined approach or curb ramp with a running slope not exceeding 1:12, a cross slope not exceeding 1:48, width of four (4) feet minimum, with detectable warning devices, shall be provided to accommodate handicapped accessibility in accordance with current State of Indiana Code or ADA requirements.

Section 18.02 Off-Street Parking Facility Design

Whenever the off-street parking requirements in this Article require the building of an off-street parking facility, the off-street parking lots shall be laid out, constructed and maintained in accordance with the following regulations.

(a) **Setbacks.** Off street parking lots shall be setback from lot lines where necessary to meet the greenbelt and buffer zone requirements of section 17.02.

(b) **Location.** Off-street parking facilities shall be located on the lot or within 300)feet of the building(s) they are intended to serve, as measured along lines of public access from the nearest point of the parking facility to the building(s) served. In the CBD1 Downtown District, parking facilities shall be located within 600 feet of the building to be served.

(c) **Access**

(1) Adequate ingress and egress, meeting the requirements of Section 18.04 Driveway Access Management, shall be provided to the parking lot for all vehicles by means of clearly limited and defined drives.

(2) All spaces shall be provided adequate access by means of maneuvering lanes with exception of single and two-family residential dwellings.

(3) Parking lots shall be designed to prevent vehicles from backing into the street or requiring use of the street for maneuvering between parking rows.

(4) Where a parking lot is located in any district that does not permit single family dwellings, ingress or egress shall not be permitted to cross land zoned for single family residential use. However, in instances where access is provided by means of an alley that forms the boundary between a residential and non-residential district such access shall be permitted.

(5) Emergency vehicle access shall be provided to all parking lots and storage areas.

(d) **Parking Dimensional Requirements.** All parking lots shall be striped and maintained showing individual parking bays, in accordance with Table 18.02.

Table 18.02
Minimum Off-Street Parking Dimensional Requirements

Parking Pattern	Parking Space		Maneuvering Lane Width	
	Width	Length	One Way	Two Way
0 (Parallel)	8 ft.	24 ft.	12 ft.	24 ft.
30° to 53°	8.5 ft.	18 ft.	12 ft.	24 ft.
54° to 74°	9 ft.	18 ft.	15 ft.	24 ft.
75° to 90°	9 ft.	18 ft.	22 ft.	24 ft.

(1) Angled parking between these ranges shall be to the nearest degree.

(2) Space length may be reduced by up to two (2) feet if an unobstructed overhang of not less than two (2) feet is provided, such as a landscaped area or sidewalk. A sidewalk shall have a minimum width of seven (7) feet where abutting a parking space.

(3) Stacking spaces for drive through uses shall be at least 20 feet long and 10 feet wide. Required stacking spaces shall not block required off-street parking spaces.

(4) Space-efficient parking lot designs are encouraged for a given parking area. Use of angled parking patterns with one-way drive aisles is encouraged when practical, to reducing the required area of impervious surface.

(5) In commercial parking lots and parking lots for employee parking, up to 20% of parking spaces may be designed for compact cars with a minimum width of eight (8) feet and a minimum length of 14 feet. Signage shall be provided limiting the spaces to compact vehicles.

(e) **Construction and Maintenance.** The construction of any parking lot shall require approval of a site plan, in accordance with section 23.03.

(1) All parking lots and vehicle and equipment storage areas shall be paved with asphalt or concrete meeting the county or city engineering standards, as applicable. Alternative paving materials, such as permeable/grass pavers may be approved by the enforcement official, and may be preferred for areas receiving lower traffic volume, such as overflow parking. For storage areas, the enforcement official may approve a substitute for hard-surfaced pavement upon a determination that there are no adverse effects on adjoining properties.

(2) Parking aisles may be graded towards sunken, vegetated buffer strips that are a minimum of eight (8) feet wide and planted with trees, and native herbaceous vegetation. An underdrain and soil amendment may be provided in the buffers if on-site soils are poorly-drained. Surface water from parking areas shall be detained on site in accordance with the applicable county or city engineering standards.

(3) Off-street parking areas shall be landscaped in accordance with the requirements of section 17.02.

(4) Off-street parking areas shall be screened from adjacent residential uses and residential zoning districts in accordance with the requirements of section 17.03.

(5) Off-street parking areas shall be illuminated in accordance with the requirements of section 17.04.

(6) Fire lanes shall be designated on the site and posted with signage prior to occupancy. Vehicle circulation shall meet turning radius requirements set by the fire department.

(7) All parking lots shall be maintained free of trash and debris. Surface, curbing, light fixtures and signage shall be maintained in good condition.

Section 18.03 Off-Street Loading Requirements

(a) **Uses Requiring Loading Area.** On the same premises with every building erected and occupied for manufacturing, storage, warehouse, retail sales, consumer services or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services. The enforcement official may permit central loading areas to be shared by multiple uses, such as in a retail shopping center or office park.

(b) **Not Included with Parking.** Required loading areas shall not be included in calculations for off-street parking space requirements.

(c) **Location.** Loading/unloading areas and docks shall not be provided in the front yard. Where possible, loading areas shall be integrated into the design of the building to minimize visibility.

(d) **Orientation of Overhead Doors.** Overhead doors for truck loading areas shall not face a public street or an adjacent residential district. This provision shall not apply to industrial uses located in M2 Districts where the building is setback at least 200 feet from the front lot line and a landscape greenbelt is provided in accordance with the requirements of Section 17.02.

(e) **Size.** The size of all required loading/unloading spaces shall be at least 10 feet by 50 feet or 500 sq. ft. in area, with a clearance of at least 14 feet in height. The enforcement official may modify this requirement for uses that will involve smaller delivery trucks, such as office buildings.

(f) **Traffic Flow.** The size of the loading area shall be sufficient to prevent undue interference with adjacent required parking spaces, maneuvering aisles, or traffic flow on public streets.

(g) **Number.** The minimum number of loading spaces shall be provided in accordance with Table 18.03.

Table 18.03
Off-Street Loading Requirements

Gross Floor Area (in square feet)	Loading & Unloading Space Required
Commercial, Office & Institutional Uses	
Up to 20,000	1 space
20,001 - 60,000	1 space plus 1 space for each additional 20,000 sq. ft
60,001 & over	3 spaces plus 1 space for each additional 50,000 sq. ft
Industrial Uses	
Up to 20,000	1 space
20,001 - 100,000	1 space plus 1 space for each additional 20,000 sq. ft
100,001 - 500,000	5 spaces plus 1 space per additional 40,000 sq. ft in excess of 100,000
500,001 & over	15 spaces plus 1 space for each additional 80,000 sq. ft in excess of 500,000

(h) **Exceptions.** For uses that will not require large truck deliveries, the enforcement official may determine that loading may take place in undesignated places in parking lots provided such loading is of a short-term nature.

(i) **Pavement.** Loading dock approaches shall be constructed of asphalt or concrete with a base sufficient to accommodate expected vehicle weight.

(j) **Screening.** Loading areas shall be screened from adjacent uses in accordance with the requirements of section 17.03.

(k) **Lighting.** Illumination of loading areas shall be in accordance with the requirements of section 17.04.

(l) **Maintenance.** Loading areas shall be maintained free of trash and debris. Surface, curbing, light fixtures and signage shall be maintained in good condition.

Section 18.04 Driveway Access Management

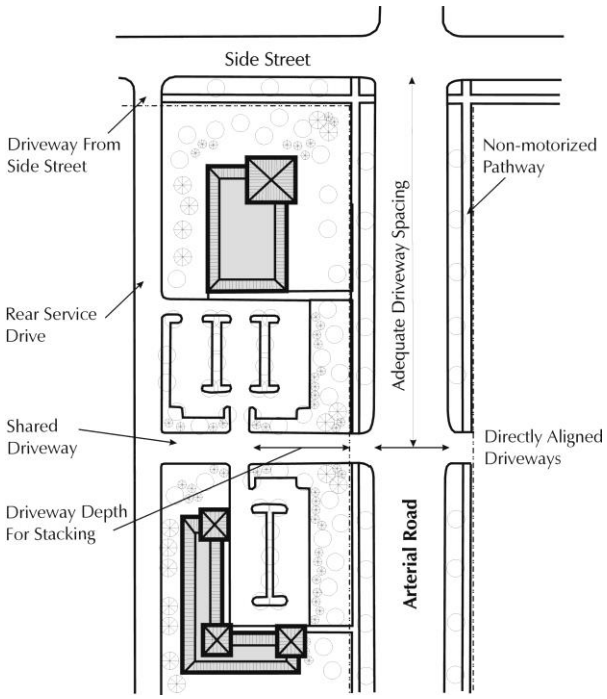
(a) **Purpose.** This section is intended to provide standards for the number and placement of access points (driveways and side street intersections) in order to preserve the capacity of major roadways and reduce the potential for crashes. The standards of this section are intended to promote safe and efficient travel within the county or city and minimize disruptive and potentially hazardous traffic conflicts. Preservation of roadway capacity through access management protects the substantial public investment in the roadway system and helps avoid the need for costly capacity upgrades. Proper driveway location and design will also help maintain a safe and efficient roadway system minimizing the loss of life and property from vehicle crashes.

(b) **Driveway Location in General**

(1) All driveways shall comply with the requirements of this section. Driveways shall also be subject to city engineering, county highway and INDOT access requirements. Where conflict occurs, the more restrictive standards shall apply.

(2) Driveways shall be located to minimize interference with the free movement of traffic and to provide the most favorable driveway grade.

(3) Driveways shall be located to meet safe sight distance requirements, as determined by the enforcement official. The driveway spacing requirements of this section may be modified by the enforcement official where necessary to provide safe sight distance.



(c) **Driveway Spacing Standards**

(1) Minimum spacing requirements between a proposed driveway and an intersection either adjacent or on the opposite side of the street may be set on a case-by-case basis but in no instance shall be less than the distances listed in table 18.04(c)(1). The following measurements are from the centerline of the proposed driveway to the near lane edge of the intersecting street or pavement edge for uncurbed sections.

Table 18.04(c)(1)
Minimum Driveway Spacing from Street Intersections (a)

Location of Driveway	Minimum Spacing for a Full Movement Driveway	Minimum Spacing for a Channelized Driveway Restricting Left Turns
Along any street intersecting a limited access highway interchange	600 ft.	600 ft.
Along major thoroughfares, where intersecting street is a major thoroughfare	250 ft.	125 ft.
Along major thoroughfares, where intersecting street is not a major thoroughfare	200 ft.	125 ft.
All other streets	75 ft.	50 ft.

a. For sites with insufficient street frontage to meet the above criterion, the enforcement official may require construction of the driveway on a side street, a shared driveway with an adjacent property, construction of the driveway along the lot line farthest from the intersection, or require a service street.

(2) Minimum spacing between two (2) driveways shall be determined based upon posted speed limits along the parcel frontage. The minimum spacing indicated in Table 18.04(c)(2) are measured from centerline to centerline on the same side of the street.

Table 18.04(c)(2)
Minimum Driveway Spacing from Another Driveway (a)

Posted Speed Limit (MPH)	Minimum Driveway Spacing (b)
25	130 ft.
30	185 ft.
35	245 ft.
40	300 ft.
45	350 ft.
50	395 ft.
55 & Over	435 ft.

a. For sites with insufficient street frontage to meet the above criterion, the enforcement official may allow a lesser spacing where the driveway is spaced from other driveways to the maximum extent possible.

b. For residential lots located on minor residential streets, one (1) driveway shall be permitted per lot. One (1) additional driveway may be where there is sufficient frontage to meet the driveway spacing requirements of Table 18.04(c)(2) above.

(3) To reduce left-turn conflicts, new driveways shall be aligned with those across the street where possible. If alignment is not possible along major thoroughfares, driveways shall be offset from those on the opposite side of the street as follows:

a. If the proposed drive is offset such that vehicles turning left into driveways do not pass prior to reaching the driveways, the minimum spacing shall be 150 feet.

b. If the proposed drive is offset such that vehicles turning left into driveways will pass prior to reaching the driveways, the minimum spacing shall be 250 feet.

(4) In the case of expansion, alteration or redesign of an existing development where it can be demonstrated that pre-existing conditions prohibit adherence to the minimum driveway spacing standards, the enforcement official may modify the driveway spacing requirements. Such modifications shall be the minimum necessary, but in no case shall spacing of two full-access driveways be less than 60 feet, measured centerline to centerline.

(d) **Number of Driveways**

(1) The number of driveways serving a property shall be the minimum number necessary to provide reasonable access, including access for emergency vehicles, while preserving traffic operations and safety along the public street.

(2) One driveway shall be permitted for each lot frontage. A second driveway may be permitted for property that has sufficient frontage to meet the driveway spacing standards of subsection 18.04(c) above from the first driveway on the site and all driveways on adjacent and opposing property.

(e) **Driveway Design**

(1) All driveways shall be designed according to the standards of the county, city or INDOT, as applicable. Driveways shall have a maximum width of 30 feet, excluding tapers or curb radii. Wider driveways shall be allowed for locations with large volumes of truck traffic.

(2) For high traffic generators, or for driveways along streets experiencing or expected to experience congestion, the enforcement official may require two (2) egress lanes.

(3) For a boulevard entrance, a fully curbed island, at least 180 square feet in area, shall separate the ingress and egress lanes. The radii forming the edges on this island shall be designed to accommodate the largest vehicle that will normally use the driveway.

(f) **Shared Driveways, Frontage Streets and Service Drives**

(1) The number of access points may be reduced where the enforcement official determines that there may be a beneficial effect on traffic operations and safety, while preserving the property owner's right to reasonable access. In this case, a shared driveway, frontage street or rear service drive connecting two (2) or more properties or uses may be required. Service streets may be required near existing traffic signals or near locations having potential for future signalization; along major thorougfares with high traffic volumes; and where there are a relatively high number of crashes or there is limited sight distance. Shared access or cross access shall be required between all sites that are in the same or similar zoning district (e.g. between all adjacent commercially zoned properties).

(2) Shared driveways and service streets shall be within an access easement recorded with La Porte County. A draft of the access easement shall be provided to the county or city, as applicable, for review and approval prior to filing.

(3) Service Street and Shared Driveway Design Standards

a. Location. Service streets shall generally be parallel or perpendicular to the front lot line and may be located either in front of, adjacent to, or behind, principal buildings. The enforcement official shall determine the most appropriate alignment, taking into account setbacks of existing buildings and anticipated traffic flow for the site and the corridor.

b. Access Easement. The service street shall be within an access easement permitting traffic circulation between properties. The required width shall remain free and clear of obstructions, unless otherwise approved by the enforcement official.

b. Construction and Materials. Service streets shall have a base, pavement and curb with gutter in accordance the applicable county or city standards for public streets, except the width of the service street shall have a minimum pavement width of 24 feet.

c. Access to Service Street. The enforcement official shall approve the location of all access points to the service street, based on the driveway spacing standards of this section.

d. Temporary Access. The enforcement official may approve temporary access where a continuous service street is not yet available and a performance guarantee is provided to assure elimination of temporary access when the service street is continued.

e. Elevation. The site plan shall indicate the proposed elevation of the service street at the lot line. The county or city, as applicable, shall maintain a record of all service street elevations so that their grades can be coordinated.

f. Landscaping. The area between a service street and the public street right-of-way shall be planted as a landscaped greenbelt, as specified in Section 18.02.

g. Maintenance. Each property owner shall be responsible for maintenance of the easement and service drive.

Section 18.05 Non-motorized Pathways and Sidewalks

(a) **Purpose.** The purpose of this section is to enhance the health, safety and welfare of the public by the development of a comprehensive non-motorized system to improve access, promote health, conserve energy resources and provide recreation opportunities.

(b) **Applicability.** Sidewalks shall be required in the following areas:

(1) The incorporated areas of all cities.

(2) The unincorporated areas of the county within one (1) mile of the borders of the cities of La Porte or Michigan City.

(c) **Sidewalk Requirement.** Within the applicable areas described in subsection (b) above, sidewalks shall be provided along all streets as follows:

(1) Sidewalks shall be required along both sides of all streets in all subdivision plats and multiple-family developments.

(2) Sidewalks shall be required for all uses along all major thoroughfare frontages. The applicant, owner or developer of any use that is subject to site plan approval under section 23.02 shall be required to install a sidewalk along the entire street frontage of the petitioner's lot, meeting the requirements of this section.

(d) **Location.** Sidewalks shall be installed by the developer one (1) foot within the dedicated street right-of-way. Sidewalks shall be located to align with existing or future sidewalks on adjacent lots. Where the applicable road agency determines that there is not sufficient right-of-way for sidewalks, the sidewalks shall be installed in pedestrian easements adjacent to the right-of-way.

(e) **Construction Standards.** All sidewalks shall be four (4) inch thick concrete, pervious pavement, rubber pavement systems or other suitable surface, as determined by the enforcement official, and constructed to the city engineering specifications. All sidewalks shall be at least five (5) feet wide. Sidewalks shall be graded such that runoff sheet flows to an adjacent vegetated area. Multi-modal pathways may be constructed of asphalt or concrete meeting the above thickness specifications or as specified by the county highway engineer or city engineer.

(f) **Crosswalks.** An inclined approach shall be required where sidewalks intersect curbs for barrier free access to the sidewalk. Crosswalk pavement markings and signs may be required at intersections.

(g) **Installation of Residential Sidewalks.** Required sidewalks may be installed for a residential lot in a new residential subdivision after construction of the dwelling unit, if the developer has posted a performance guarantee to cover the cost of all sidewalk installation. A certificate of occupancy for the dwelling shall not be issued until the required sidewalk is installed.

(h) **Low Density Developments.** For residential developments where the overall density is less than one dwelling unit per 24,000 square feet of 1.8 units per acre, the sidewalk requirement for streets internal to the development may be substituted for another form of pedestrian circulation system, such as sidewalks on one (1) side of the street or pathways through open space areas.

Article 19
Signs

Section 19.01 Intent

This article is intended to regulate signs and to minimize outdoor advertising in order to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction, and loss of visibility; promote public convenience; preserve property values; and enhance the aesthetic appearance and quality of life of the community. The requirements contained herein are intended to be content neutral. The following objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the county and cities in order to:

(a) Protect the public right to receive messages, including religious, political, economic, social, philosophical and other types of information protected by the First Amendment of the U.S. Constitution.

(b) Recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for crashes.

(c) Maintain and improve the image of the community by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.

(d) Recognize that the principal intent of commercial signs, to meet the purpose of these requirements and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names or off-premise activities, as these can be advertised more appropriately by other methods.

(e) Eliminate potential conflicts between business signs and traffic control signs, thereby minimizing the potential for confusion and hazardous consequences.

(f) Enable the public to locate goods, services and facilities without undue difficulty and confusion by restricting the number and placement of signs.

(g) Prevent placement of signs which will conceal or obscure signs of adjacent uses.

(h) Prevent off-premise signs from conflicting with other land uses.

(i) Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.

(j) Prohibit portable commercial signs in recognition of their significant negative impact on traffic safety and aesthetics.

Section 19.02 Scope of Requirements

A sign shall not hereafter be erected, re-erected, constructed, altered or maintained without receiving the proper sign permit, except as provided by this section.

Section 19.03 Signs Not Requiring Permit

A sign of the following type shall be permitted without the issuance of a sign permit, subject to all other requirements of this Article:

(a) **Device Signs.** Permanent signs on vending machines or other containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed three (3) square feet.

(b) **Flags.** Flags provided there shall be no more than three (3) flags per lot, the maximum size of each flag shall be 50 square feet, and the flag poles comply with height limitations of section 15.04.

(c) **Employment Signs.** "Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum total area for all such signs shall not exceed six (6) square feet.

(d) **Enclosed Signs.** Any sign that is located completely within a building and is not visible from the outside.

(e) **Historical Signs.** Plaques or signs designating a building or premises as a historic structure or premises not to exceed six (6) square feet.

(f) **Incidental Signs.** Small signs, emblems, or decals informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and signs providing information on business affiliations. The total area of all such incidental signs shall not exceed two (2) square feet.

(g) **Murals.** Murals shall be allowed; provided no text, commercial logos or other identifiable commercial representation are included.

(h) **Nameplate/Identification Signs.** Signs for the sole purpose of identifying an assigned house number, owner name, occupant, or building name. Identification signs of one (1) square foot in surface display area shall not be counted in the total sign area allowed on the premises, however, such signs larger than one (1) square foot shall be counted in the computation of total sign area otherwise allowed by this Ordinance.

(i) **Public Signs.** Public signs, including the authorized signs of a government body or public utility, including traffic signs, legal notices, railroad crossing signs, warnings of a hazard, and similar signs.

(j) **Temporary Signs.** Temporary signs shall be permitted provided they are setback a minimum of ten (10) feet from the public right-of-way or any lot line and in accordance with table 19.03.

Table 19.03
Temporary Sign Regulations

Type of Sign	Maximum Size	Maximum Height	Maximum Number	Permitted Duration
Community Special Event Signs	32 sq. ft.	10 ft.	1 per street frontage	Shall be installed up to 2 weeks prior to event and removed within 1 day after event
Construction Signs	64 sq. ft.	15 ft.	1 per lot, 2 on corner lot (1 facing each street)	Shall be removed from premises within 30 days after issuance of the occupancy permit or temporary occupancy permit
Garage Sale Signs	6 sq. ft.	6 ft.	1 per lot	Shall be erected no more than 7 business days before and removed within 1 business day after the sale
Grand Opening Sign, Special Sale & Promotional Signs and Banners	16 sq. ft.	Ground sign 6 ft. Wall sign not higher than building	1 per lot, 2 on corner lot (1 facing each street)	May be erected for a maximum of 20 consecutive days every 6 months
Political Signs	16 sq. ft.	--	--	The owner of the property or the person in charge thereof shall be responsible for the removal of the signs
Real Estate: Sale or Lease of Individual Business or Lot	12 sq. ft	6 ft.	1 per lot, 2 on corner lot (1 facing each street)	Shall be removed within 15 days of sale closing, or the lease or rental of the premises

(k) **Traffic Control Signs.** Signs directing and guiding traffic and parking on private property, but bearing no advertising, including logos. Driveway entry/exit signs shall only be allowed as an exempt sign under this section where there are one-way drives or restricted turning movements that require signage to direct motorists; directional signage at full-movement driveways shall be regulated as a freestanding sign under section 19.04.

(l) **Warning signs.** "No Trespassing" and other types of warning signs are allowed in all areas; not to exceed one and a half (1½) square feet per sign.

(m) **Window Signs.** Window signs shall be permitted in all non-residential districts, up to 25% of the glass surface provided:

(1) The area of permanent window signs shall be counted in determining compliance with requirements for total area of wall signs.

(2) Window signs that are faded, yellowed, ripped, or otherwise damaged shall be removed immediately.

Section 19.04 Permitted Signs

(a) The following signs require a permit under section 19.07. The number, display area, and height of signs within the non-residential zoning districts are provided in Table 19.04 and its accompanying set of additional requirements.

Table 19.04
Specific Sign Requirements

Type of Sign	Max. Height	Max. Size (1)	Max. Number	Additional Requirements
Agricultural	12 ft.	32 sq. ft. per face	1 per farm	
Awning	Must not exceed height of building	25% of awning up to a maximum of 50 sq. ft.	1 per awning	(2)
Billboard	30 ft.			(3)
Business Center	12 ft.	72 sq. ft. per face	1 per street frontage	(4)
Development and Subdivision Entry	4 ft.	20 sq. ft. per face	1 per entrance	(5)
Gasoline Price	12 ft.	12 sq. ft. per face	1 per street frontage	(6)
Home Occupation	--	3 sq. ft.	--	--
Marquee (Canopy)	--	Counted as part of allowed wall signage	1 per street frontage	(7)
Menu Boards (incl. A-frame; Sandwich Boards)	5 ft.	16 sq. ft. per side	1 per entrance	--
Monument or Ground	6 ft.	72 sq. ft. per side	1 per street frontage	(8)
Multiple family development signs	4 ft. unless on wall	12 sq. ft.		
Parking lot	12 ft.	12 sq. ft. per side	1 per parking lot	--
Pole	30 ft.	72 sq. ft. per side	1 per street frontage	(9)
Real Estate: Development Signs	12 ft.	72 sq. ft.	1 per development	(10)
Wall	Must not exceed height of building	10% of wall up to a maximum of 100 sq. ft.	1 per façade facing a street or public right-of-way	(11)

(b) Signs noted in Table 19.04 shall comply with the following requirements:

(1) The BZA may permit a fifteen 15% increase in the allowable sign area where the site has shared access with an adjoining site in accordance with Section 18.05.

(2) **Awnings.** Awnings may project over the public sidewalk, provided they are a minimum of eight (8) feet above the sidewalk.

(3) **Billboard.** Billboards shall only be permitted where in compliance with all of the following requirements:

a. **Districts Allowed.** Billboards are allowed only in the following districts:

1. For sites located in the unincorporated areas of the county outside of the boundaries of the cities, billboards shall be allowed in the business or industrial zoning districts within 1,000 feet of the right-of-way for I-90/I-80 and I-94/U.S. 30 Freeways.

2. For sites located within the boundaries of the cities of La Porte and Michigan City, billboards shall be allowed in the B3, M1 and M2 zoning districts.

b. **Location.** Billboards shall be constructed so that its principal view is fully screened from an interchange area involving merging traffic. Any billboard shall comply with the following:

1. The billboard must be constructed in such a manner as to be viewed principally from the freeway(s) and not from auxiliary roadways, side road, traffic intersections, or residential areas.
2. The premises must have a roadway easement to a non-freeway primary or secondary road such that the persons maintaining and servicing the sign may reach the site without danger.

c. **Size and Configuration.** A billboard shall be constructed according to applicable building requirements, codes, and zoning regulations, including the following:

1. The maximum height shall be 30 feet above the median ground level within a 500 feet radius of the site.
2. The maximum sign surface area shall be 672 square feet, except within the city of La Porte the maximum sign surface area shall be 384 square feet.
3. Billboards shall be back to back or a "v" design; for a "v" design maximum separation between sign ends shall be 20 feet.
4. Side-by-side or deck/stacked structures shall not be permitted.
5. Billboards shall be prohibited from:
   a. Extending above the tree line or horizon when viewed from any portion of the roadway that it faces.
   b. Being located on or over the roofs of buildings.
   c. Projecting over any public easement or right-of-way.

d. **Spacing and Separation.** A billboard shall maintain all of the following spacing and setback requirements:

1. Along the I-80/90 Toll Road and I-94, a minimum spacing of 1,000 feet, measured along the road in all directions, from any other billboard, including billboards in an adjacent municipality. Along all other highways a minimum spacing of 1,320 feet, measured along the road in all directions, from any other billboard, including billboards in an adjacent municipality.
2. At least 500 feet from any residential zoning district, historic district or outdoor park/recreational facility.
3. At least 300 feet from any park, school, church, hospital, cemetery, or government building.
4. The application shall include a certified site plan showing compliance with the spacing and separation distances required by this subsection.

e. **Setbacks.** Billboards shall comply with all setback requirements for a structure in the district in which they are located.

f. **Limitations on Movement.** A billboard shall be prohibited from having moving, flashing, oscillating or other distracting parts visible to drivers or vehicles. Rotating signs shall not be permitted.

g. **Illumination.** A billboard may be illuminated subject to all of the following requirements:

1. Illumination must be directed in such a manner that all incidental light generated falls on the sign face.

2. All lights must be shielded such that the light is not visible to traffic or surrounding homes or businesses.
3. The use of animated electrical signage shall be prohibited.
4. Billboards within 500 feet of any residential district may not be illuminated between the hours of 10:00 p.m. and 6:00 a.m.

h. **Non-use.** Any billboard not in use shall have the unused surface display a scenic view, consistent with the area scenery or a public service display.

i. **Maintenance and Unsafe Conditions**. Any billboard that collapses, topples or disintegrates shall be made safe within 30 days or the site shall be cleared of the debris.

j. **State Compliance Required.** All billboards shall comply with applicable requirements and conditions the State of Indiana. A billboard permit shall be first obtained from the Indiana Department of Transportation prior to approval.

k. **Identification Plate**. The framework, foundations or superstructure of the billboard shall have a metal identification plate, as defined, firmly attached thereto.

(4) **Business Centers.** Each business center with at least 300 feet of major road frontage may be allowed one (1) on-premises freestanding business center sign, subject to the following:

a. May be directly or indirectly illuminated.

b. May be double-faced.

c. Shall not reduce the number of signs or sign area otherwise allowed for the premises included within the business center, but shall prohibit any other freestanding signs from being located within the business center.

(5) **Community, Neighborhood, Development or Subdivision Entry Signs**

a. Freestanding signs of low profile design.

b. May be directly or indirectly illuminated.

(6) **Gasoline Service Stations.** Each gasoline service station may be allowed the following signs in addition to the signs otherwise allowed by this Article:

a. Gasoline pump signs not exceeding three (3) square feet per pump containing customary information regarding the brand, type of gasoline sold, and service provided.

b. Signage on the canopy, which shall be counted toward determining compliance with the requirements for total allowable area of wall signs allowed on the parcel.

c. May contain up to two (2) pump island signs located on the structural supports identifying "self-serve" and "full-serve" operations, provided that there is no business identification or advertising copy on such signs and that such signs do not exceed four (4) square feet in area.

(7) **Marquee Signs (Canopy).** May project over the public sidewalk provided they are a minimum of eight (8) feet above the sidewalk.

(8) **Monument or Ground Signs.** Monument signs shall have a brick base and landscaping around the base of the sign.

(9) **Pole Signs.** Pole signs shall require a special exception.

(10) **Real Estate Development Signs.** Permits for real estate development signs shall be issued for one (1) year and may be renewed on annual basis.

(11) **Wall Signs**

a. Sign shall not extend more than 18 inches perpendicular to the surface of the building wall area upon which it is painted, erected, or fastened. Wall signs may extend over a public sidewalk, provided they have a minimum 10-foot clearance from the sidewalk to the bottom of the sign.

b. For businesses that face directly onto adjacent public street right-of-way, the maximum allowable wall sign area may be increased as indicated in the table below or10% of the wall area, whichever is less.

Distance of Sign From ROW Line	Allowable Sign Area
0 - 200 ft.	100 sq. ft.
200 - 300 ft.	125 sq. ft.
301 + ft.	150 sq. ft.

c. Wall signs may be directly or indirectly illuminated.

Section 19.05 Prohibited Signs

The following devices and locations are specifically prohibited:

(a) **Unspecified Signs.** Any signs not expressly permitted are prohibited.

(b) **Banners.** Pennants, spinners, and streamers, and banners bearing any logo, product name, business name or other advertising and balloons are prohibited.

(c) **Commercial Vehicles used as Signs.** Unlicensed or inoperable stationary or abandoned motor vehicles, trailers or water craft parked on public or private property used specifically for signage and not for the intended use of the vehicle are prohibited. No commercial vehicle may be parked on a business or industrial premise for a time period exceeding 48 hours for the intended purpose of advertising a product or serving as a business sign.

(d) **Double Signs.** Double-wide sign structures, that is, a single sign structure on which two or more billboards, or other type of signs, are placed or located side-by-side and facing the same direction are prohibited. A double stack, or deck sign structure, that is, a structure on which two signs are placed on one pole or structure, such that one sign is above the other and facing the same direction.

(e) **Emergency Vehicles Simulation Signs.** Signs that simulate or could in any way be confused with the lighting of emergency vehicles or traffic signals are prohibited.

(f) **Exterior String Lights.** String lights used in connection with a commercial enterprise are prohibited, other than holiday decorations which are strung no more than 60 days before the holiday and removed within 10 days following the holiday for which they were erected.

(g) **High Intensity/Flashing Light Signs.** Signs that blink, flash, are animated by lighting in any fashion or have the appearance of traffic safety signs, or lights, or municipal vehicle warnings from a distance are prohibited.

(h) **Illuminated Signs Adjacent to Residential.** Illuminated signs within 50 feet of a residential district are prohibited unless it is designed to not reflect or shine light onto the residential district.

(i) **Moving Signs.** Rotating signs or signs having moving members or parts or appearance of movement are prohibited.

(j) **Snipe Signs.** Signs attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way are prohibited.

(k) **Obsolete Signs.** Signs that advertise a product that is no longer made, an event that has already occurred or a business that has closed are prohibited. The enforcement official shall provide a letter to the property owner giving a set time for removal of the obsolete sign.

(l) **Off-Premise Signs.** Signs, except for billboards, which identify a use or advertises products and services not available on the premises on which the sign is located (e.g. garage sale signs, residential open house signs, signs providing directions to a business) are prohibited.

(m) **Portable Signs.** Portable signs are prohibited except where expressly allowed in this article.

(n) **Roof Signs.** Signs erected above the roof line of a building are prohibited.

(o) **Signs that Confuse Traffic.** Signs that make use of the words "Stop", "Look", "Go", "Slow", "Caution", or "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic are prohibited.

(p) **Signs that Obstruct Access.** Signs that prevent free and unobstructed access to any door, window, fire escape, or other required exit are prohibited.

(q) **Signs that Obstruct Vision.** Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic are prohibited.

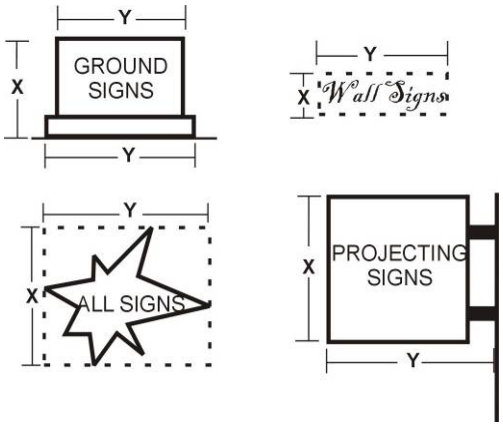
(r) **Signs Located in Public Right-of-way.** Signs located in, encroaching upon or overhanging public rights-of-way are prohibited, except awning, marquee and wall signs overhanging the sidewalk, as permitted in section 19.04.

(s) **Structurally Unsafe Signs.** Signs which are deemed structurally unsafe or are constructed in violation of the requirements of any adopted Construction Code are prohibited.

(t) **Objects Attached to Public Signs or Utility Structures.** For sale signs or other similar signs and objects shall not be attached to street signs, way-finding signs or utility poles in the public right-of-way.

Section 19.06 General Provisions for Permitted Signs

Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this section.



(a) **Determination of Sign Display Area.** No sign shall exceed the maximum sign display area allowed for a district. The sign display area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be computed as follows:

(1) **Single-Faced Sign.** The allowable area for a single-faced sign shall be measured by calculating the square footage of the sign face by enclosing the most protruding points or edges of a sign within a parallelogram or rectangle, including any frame.

(2) **Wall Signs.** Where a sign consists of individual letters and/or a logo affixed directly to a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.

(3) **Double-Face Signs.** Where a sign has two (2) or more faces, the area of only the larger face shall be considered when calculating maximum size, provided all faces are part of the same structure, back-to-back and are separated by no more than two (2) feet.

(b) **Setbacks.** All freestanding signs, unless otherwise provided for, shall be set back as follows. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.

(1) For sites located in the unincorporated areas of the county outside of the boundaries of the cities, signs shall be set back a minimum of ten (10) feet from any public road right-of-way.

(2) For sites located within the boundaries of the cities of La Porte and Michigan City, signs shall be set back a minimum of one (1) foot from any public road right-of-way.

(c) **Design Requirements**

(1) **Architectural Features.** All signs shall be placed in a manner that does not obstruct or intrude upon architectural features of a building.

(2) **Materials.** Sign materials shall be designed to complement the original construction materials and architectural style of the building façade to promote an overall unified and aesthetic effect as permitted in the various zoning districts. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.

(d) **Illumination**

(1) **General Requirements.** Signs may be illuminated only by steady, stationary, shielded light sources using approved electrical devices directed solely at the sign, or internal to it. Signage lighting shall be subject to the lighting intensity limits specified in section 17.05.

(2) **Non-glare, Shielded Lighting.** Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shaded and/or shielded downward so as not to project onto adjoining properties or thoroughfares.

(3) **Traffic Hazards.** Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited. The characters incorporated into any changeable message shall remain constant and not change in hue or intensity during the automatic changing of the sign's copy area.

(4) **Illumination by Other Sources.** Illumination by bare bulbs, luminous tubing or flames is prohibited, except that bare bulbs are permitted on theater marquees.

(5) **Electronic Changeable Message Sign.** Electronic changeable message signs illuminated by Light-Emitting Diode (LED) or other similar method shall be permitted, subject to the following requirements:

(a) Electronic changeable message signs shall only be permitted in non-residential zoning districts.

(b) Only one (1) electronic changeable message sign shall be permitted per business.

(c) Electronic changeable message signs that are greater than 12 square feet in area shall not be located with 600 feet any other electronic changeable message sign greater than 12 square feet in area.

(d) Electronic changeable message signs shall not exceed the following illuminative brightness:

Time of Day	Brightness	
	Within 500 feet of residential district or use	At least 500 feet from residential district or use
Night time	500 nits (cd/m2)	1250 nits (cd/m2)
Day time	3,500 nits (cd/m2)	5,000 nits (cd/m2)

(e) The message on an electronic changeable message sign shall remain static a minimum of twenty (20) seconds and shall not take longer than one (1) second to change. If the sign is within 500 feet of a residential use or zoning district, the message shall remain static from dusk until dawn.

(f) Electronic changeable message signs shall not contain any moving, blinking, flashing, scrolling or animated parts nor have the appearance of having any movement or animation. Only static messages shall be displayed. The lettering and/or message components being displayed at any given time shall not change, flash or fade to another color. The changeable message sign shall have a default design that will freeze the sign in a dark or blank position if a malfunction occurs.

(g) Conversion of an existing sign to a changeable message signs shall require a permit under this article. Electronic changeable message signs may not be added to a nonconforming sign.

(6) **Wiring.** Underground wiring shall be required for all illuminated signs not attached to a building.

(e) **Construction Requirements.** The following construction requirements apply to all permanent signs.

(1) **Fastenings.** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. No sign may be placed upon a tree or utility pole, except signs of a unit of government or utility.

(2) **Support Location.** No pole, cable or support of any nature shall be placed on any publicly owned property, road right-of-way, or proposed road right-of-way.

(3) **Sign Safety**

a. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least 20 pounds per square foot.

b. All signs shall be erected so that any part including cables, guys, etc. shall have a minimum clearance of four (4) feet from any electrical conductor, electric light pole, road lamp, traffic light, or other public utility pole or standard.

c. All signs shall be designed to comply with minimum wind pressure and other requirements set forth in the adopted building code. Signs with electrical connections shall comply with electrical code requirements, including the application, inspection, and approval of an electrical permit.

(4) **Safety Triangle.** No sign shall be located within, project into, or overhang the triangular area formed at the intersection of any two road right-of-way lines or a driveway approach, as required by section 15.06.

Section 19.07 Sign permits

(a) A sign permit shall be required prior to installing, changing the height, increasing the area or structurally altering any sign for which a permit is required. Before such a permit is issued, an inspection shall be made to determine that the sign location complies with the provisions of this article.

(b) As a condition to approval of a sign permit, all signs to be located along state road right-of-way shall obtain the proper state sign permit or written non-objection from the Indiana Department of Transportation, and a copy shall be provided to the enforcement official.

(c) For an off-premise sign, written consent of the property's owner or legal representative shall be submitted with the application for a sign permit.

(d) The sign permit shall be valid for a period of 90 days. The sign must be installed within that time period or the permit shall expire, provided the enforcement official may grant an extension for an additional 90 days. When a sign permit is issued in connection with an improvement location permit for a structure on the site, the sign permit shall run concurrent with the improvement location permit.

(e) No permit shall be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for signs which are stated as being allowable without a permit.

Section 19.08 Application Procedure

(a) **Application Form.** Application for a permit for a sign shall be filed with the enforcement official and shall provide the following information:

(1) Name, address, and telephone number of the applicant.

(2) Location of the building, structure, or lot on which the sign is to be attached or erected.

(3) Position of the sign in relation to buildings, structures, and property lines within 100 feet of the proposed sign.

(4) Plans showing the dimensions, materials, method of construction, and attachment to the building or in the ground.

(5) Copies of stress sheets and calculations, if deemed necessary, showing the structure as designed for dead load and wind pressure.

(6) Name and address of the person, firm, or corporation owning, erecting, and maintaining the sign.

(7) Information concerning required electrical connections.

(8) Written consent of the owner or lessee of the premises upon which the sign is to be erected.

(9) Other information required by the enforcement official to make the determination that the sign is in compliance with all applicable laws and regulations.

(b) **Application Review**

(1) **Location Improvement Permit Review.** All locations for placement of a sign submitted in conjunction with the proposed construction of a new building or addition to an existing building shall be reviewed as a part of the required location improvement permit review. The location, size and height of all existing and proposed signs must be shown on the site plan.

(2) **Enforcement official Review.** The enforcement official shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.

(3) **Issuance of a Permit.** Following review and approval of a sign application, the enforcement official shall have the authority to issue a sign permit upon payment by the applicant of the required fees.

(4) **Denial of a Permit.** The enforcement official shall deny the application for any sign that does not comply with the requirements of this article.

Section 19.09 Sign Inspection and Maintenance

(a) **Sign Inspection**

(1) **Responsibility for Compliance.** The owner of any property on which a sign is located is declared to be responsible for the permit, erection, inspection, safety, condition, and removal of a sign.

(2) **Inspection of New Signs.** All signs for which a permit has been issued shall be inspected by the enforcement official when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable requirements of other ordinances and codes.

(3) **Inspection before Enclosure.** In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the enforcement official when such fastenings are to be installed so that inspection may be completed before enclosure.

(4) **Inspection of Existing Signs.** The enforcement official may, at such times as deemed necessary, inspect any sign allowed under this section, and if upon inspection a sign is found to be unsafe or in a condition that does not comply with all the provisions of this section, the enforcement official shall give notice of that condition to the owner of the sign and cause the necessary repairs or alterations to be made, or require removal of the sign.

(b) **Sign Maintenance**

(1) **Maintenance of Signs.** All signs for which a permit is required and all supports therefore shall:

a. Be kept in compliance with the plans and specifications filed and approved for issuance of the construction permit.

b. Be kept and maintained in a safe condition, consistent with adopted building and mechanical codes.

c. At all times conform to all the provisions of this article.

(2) **Correction of Defects**. If the enforcement official finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the owner of the sign shall make the sign safe and secure by completing any necessary reconstruction or repairs, or entirely remove the sign in accordance with the timetable established by the enforcement official. Existing signs determined to be unsafe and an immediate hazard to health or safety shall be removed or repaired within 12 hours of notification.

(c) **Obsolete Signs.**

(1) Signs which are no longer functional, in disrepair, or are abandoned for more than 60 days, shall be removed, at the expense of the property owner on which the sign is located, within 30 days following notice of non-compliance. The owner shall be notified by certified mail.

(2) A sign which no longer identifies a use, product, business or entity located on the property, but is otherwise in conformity with the other provisions of this ordinance, may remain in place if the sign face is completely covered or obscured by a blank panel attached within the frame of the sign. In such case, the sign shall be permitted to remain for a period not to exceed 120 days. Following expiration of the 120 days, the sign shall be removed, unless identifying a new use, product, business or entity located on the property.

(d) **Legal Nonconforming Signs**

(1) **Status.** Any sign lawfully existing at the time of the adoption of this article that does not fully comply with all provisions of this ordinance shall be considered a legal nonconforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community, except as herein provided.

(2) **Continuance.** The nonconforming sign may continue as long as it is not destroyed, abandoned, or discontinued under 19.09(c) above. A sign damaged in excess of 60% of its replacement cost is considered destroyed and shall be removed by the property owner. If the sign is not removed, the county or city may remove the sign.

(3) **Restrictions.** A nonconforming sign shall not be altered or reconstructed, unless the alteration or reconstruction is in compliance with the provisions of this article. For the purpose of this article only, the terms "altered" or "reconstructed" shall not include any of the following:

a. Normal maintenance.

b. Changing of surface sign space to a lesser or equal area.

c. Ornamental molding, frames, trellises, or ornamental features or landscaping below the base line.

d. The addition, construction, installation, or changing of electrical wiring or electrical devices.

e. Changing backgrounds, letters, figures, or characters, or other embellishments.

(4) **Repairs and Maintenance.** Normal maintenance shall be allowed, provided that any nonconforming sign that is destroyed by any means to an extent greater than 60% of the sign's replacement value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels; or repair or replacement of electrical wiring or electrical devices.

(5) **Nonconforming Changeable Copy Signs.** The message on a nonconforming changeable copy sign or nonconforming bulletin board sign may be changed provided that the change does not create any greater nonconformity. Conversion of a nonconforming sign to an electronic changeable message sign shall not be permitted.

(6) **Substitution.** A nonconforming sign may not be replaced with another nonconforming sign.

Section 19.10 Fees

Any application for a sign permit or other request for action pursuant to the regulations set forth in this Article shall be subject to and accompanied by a fee as established by the legislative body. Such fees shall be collected in advance of any application review, inspection, or issuance of any permit or approval. Upon notification of deficient payment of fees, the enforcement official shall cause any permits to be suspended and reject applications for new permits directly associated with the request.

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Article 20
Stormwater Management

Section 20.01 Intent

The purpose of this Article is to protect the health, safety, and general welfare of the citizens by requiring compliance with accepted standards and practices for the management of stormwater runoff and drainage. These stormwater requirements are intended to minimize off-site water run-off, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize off-site discharge of pollutants. Stormwater shall be managed by the best and most appropriate technology and environmentally-sound site planning and engineering techniques, which may include Low Impact Development principles and Green Infrastructure techniques such as permeable paving, infiltration basins and swales, distributed storage and bio-retention as well as traditional storm sewer collection systems and storage basins.

Section 20.02 General Requirements

(a) All new development shall provide for the management of all storm and surface water drainage and provide for controlled flood runoff.

(b) All site designs shall establish stormwater management practices to control the peak flow rates and volume of stormwater discharge associated with specified design storms.

(c) Any land alteration must be accomplished in conformity with the stormwater management requirements. The stormwater management facilities shall be separate and independent of any sanitary sewerage system and shall meet the requirements of IDEM Rule 327 IAC 15-13 (Rule 13).

(d) Storm drainage facilities shall be so designed as to present no hazard to life or property; and the size, type and installation of all stormwater drains and sewers proposed to be constructed shall be in accordance with the applicable design requirements established by the respective jurisdiction.

(e) Exceptions to the requirements of this chapter may be available through the LaPorte County, City of LaPorte, and the City of Michigan City *Stormwater Fiscal Incentives Analysis*, hereby incorporated by reference.

Section 20.03 Applicability

(a) **Permit required.** This Article shall be applicable to all land disturbance projects that include clearing, grading, excavation, and other land disturbing activities affecting one acre or more for both new development and re-development. The article also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

(b) **Exceptions.** Development of a single family residence resulting in a total disturbance of less than 0.50 acres shall be exempt from the requirements of this article.

Section 20.04 Reference Regulations

Information pertaining to Best Management Practices (BMPs) to assist property owners in meeting the requirements of this division can be found in the following reference materials:

(a) La Porte County Surveyor's Office for additional stormwater requirements for legal drains.

(b) The Indiana Department of Environmental Management (IDEM) "Indiana Stormwater Quality Manual."

(c) The U.S. Department of Agriculture (USDA) "Urban Watershed Forestry Manual."

(d) The "Indiana Drainage Handbook."

(e) U.S. Environmental Protection Agency (EPA) Green Infrastructure Handbook series.

Section 20.05 Compliance

(a) No building permit for any improvement shall be issued without full compliance with the terms of this article and other applicable regulations. No land disturbance, as defined by this article, shall occur within La Porte County, the city of La Porte or the city of Michigan City without full compliance with the terms of this article and other applicable regulations.

(b) It will be the responsibility of the property owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the jurisdictional authority for approval. It will be the responsibility of the property owner to ensure proper construction and installation of all stormwater BMPs in compliance with the approved stormwater management permit, and to notify the jurisdictional authority with a Notice of Termination letter upon completion of the project and stabilization of the site. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this article.

Section 20.06 Stormwater BMP Requirements

(a) **General:** Stormwater BMPs shall be provided to allow capture and drainage of stormwater runoff from all of the upstream drainage area and from all areas within the proposed development to a place adequate to receive such runoff. Furthermore, a stormwater BMP shall:

(1) Be durable, easily maintained, retard sedimentation, and retard erosion. It shall not endanger the public health and safety, or cause significant damage to property.

(2) Seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(3) Be designed with sufficient storage volume and/or infiltration capacity to accept the stormwater runoff from the site after development in addition to runoff from all areas upstream, as dictated by the requirements of the applicable jurisdiction. Also, consideration shall be given to stormwater runoff from future developments in undeveloped areas upstream which cannot reasonably be accommodated in the upstream area. The types of stormwater management to be considered should include, but need not be limited to, infiltration, retention-detention systems, over-sizing with cost sharing, and granting of adequate easements for future construction. For purposes of stormwater management consideration, the type of future development shall be in accordance with the uses indicated in the Comprehensive Plan or the use allowed by current zoning, whichever reflects the most intense use. The volume of stormwater runoff attributable to future development shall be determined by good engineering practice, and may assume use of infiltration and/or retention-detention systems, with the following exceptions:

a. Parcels that are too small to effectively use said systems, and

b. Parcels where it is not technically and/or economically justifiable to use said systems.

(4) Be designed such that there will be no increase in the peak discharge runoff rate and volume as a result of the proposed development, unless the existing or improved downstream BMPs are adequate to accept:

a. The stormwater runoff from the site after development;

b. The pre-development stormwater runoff from developed and undeveloped areas upstream; and

c. The pre-development stormwater runoff from downstream areas contributory to downstream BMPs beyond the limits of the site.

(5) Be designed such that the low points of entry for residential, commercial and industrial structures are two (2) feet above the elevation of the 100-year flood. In addition, avenues of ingress-egress shall also be above the elevation of the 100-year flood.

(6) Shall not discharge directly into a jurisdictional wetland or local water body without adequate treatment. Where post-treatment stormwater discharges to wetlands are proposed, the impact of the proposed discharge on wetland hydrology, and biological and ecological functions shall be assessed by a qualified wetland professional or other scientist using a method acceptable to the MS4 coordinator. In no case shall the impact on functional values be any more than allowed by the USACE, IDEM or other agencies regulating wetlands in the State of Indiana.

(7) Shall incorporate post-construction stormwater quality measures as permanent features to continuously treat stormwater runoff from the stabilized site.

(8) Be inspected during construction by a professional engineer or land surveyor registered in the State of Indiana at the expense of the petitioner and certified in accordance with this ordinance.

(b) **Public Storm Sewers**

(1) Where a public storm sewer is accessible, the applicant may install storm sewer facilities and provide connection to the public storm sewer system; provided that design slope and cover requirements are met and acceptable capacity is deemed available by the jurisdictional authority.

(2) Public storm sewer facilities shall be located in the road right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width. Drain facilities shall be provided under driveways so that the flow of water in ditches is not impeded.

(3) Storm sewers, where provided, shall be designed according to the requirements of the applicable jurisdiction and a copy of the design computations shall be submitted along with plans and specifications.

(c) **Low Impact Development and Green Infrastructure (GI) BMPs**

(1) In general, Low Impact Development (LID) refers to the method of site development in which earthwork is minimized, existing runoff conditions are conserved or improved where practicable, stormwater is managed in a distributed manner and as close to its source as possible, and discharges from impervious surfaces are disconnected from the collection system to the extent practicable. In practice, LID helps to reduce the need for end-of-pipe solutions to stormwater, while providing aesthetically pleasing, lower maintenance water quality management systems.

(2) Acceptable LID methods and green infrastructure BMPs include reduced hard surface area, preservation of well vegetated areas, use of non-turf, alternate cover type in greenspace, settling ponds, constructed wetlands, infiltration systems including rain gardens, rain barrels, pervious pavement, vegetated channels with check dams and green roofs.

(3) LID and GI BMPs may be used to meet stormwater management requirements by reducing the post construction curve number by a value acceptable to the engineer of the applicable jurisdiction.

(4) In order to qualify for BMP credit, the BMP feature should be constructed on Hydrologic Soil Group A (HSG) soils or well-drained HSG B soils, or on amended soils with underdrains located above the seasonal high water table.

(5) LID and GI BMPs, where implemented, shall be designed according to the requirements of the applicable jurisdiction and a copy of the design computations shall be submitted along with plans and specifications.

(6) All LID and GI BMPs including pervious pavement shall be maintained by the owner(s)

(d) **Wet Basins**

(1) Wet Detention BMPs, primarily settling ponds or constructed wetlands, are generally characterized by a permanent pool of water and detention of the treatment volume for a design period of time. Sediments are stored below normal pool elevation.

(2) Detention/retention and/or infiltration shall be provided to limit stormwater discharge as required by the requirements of the jurisdictional agency.

(3) Stormwater ponds and constructed wetlands shall be designed according to the methods specified by the engineer of appropriate jurisdiction. The BMP design shall be endorsed and approved by the reviewing authority, and a copy of the design computations shall be submitted along with plans and specifications.

(4) At a minimum, design information shall address normal pool volume, water quality volume, hydraulic loading rate, normal pool depth, water balance, long term sediment control, outlet sizing, and vegetation.

(5) All Wet Detention BMPs including below ground stormwater detention systems shall be maintained by the owner(s) unless required by IC 36-9-27 to be established as an urban drain with the appropriate drainage board jurisdiction.

(e) **Infiltration Basins** (Dry Detention Basins, Rain Gardens, Sand Filters)

(1) Infiltration/Filtration BMPs are located over permeable soil or an underdrain system, and treat runoff through vertical subsurface filtration. Common names for infiltration/filtration BMPs include rain gardens, bio-retention areas, and extended dry detention basins.

(2) Infiltration/Filtration BMPs shall be designed according to the methods specified by the engineer of appropriate jurisdiction. The BMP design shall be endorsed and approved by the reviewing authority, and a copy of the design computations shall be submitted along with plans and specifications.

(3) At a minimum, design information shall address filter media, water quality volume, emptying time, water quality stage depth, long term sediment control, and outlet sizing.

(4) All Infiltration BMPs including below ground stormwater detention systems shall be maintained by the owner(s) unless required by IC 36-9-27 to be established as an urban drain with the appropriate drainage board jurisdiction.

Section 20.07 Basic Stormwater Management Design Criteria

(a) **Minimum control requirements.**

(1) All stormwater management practices will be designed for specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 10-year, 100-year) in accordance with the standards of the appropriate jurisdiction. Modification to the design and engineering standards shall be based upon the recommendation of the city engineer or county highway engineer and acceptable supporting engineering data. In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the enforcement official reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(b) **Site design feasibility.**

Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors to be considered:

(1) Topography;

(2) Maximum drainage area;

(3) Depth to water table;

(4) Soils;

(5) Slopes;

(6) Terrain;

(7) Location in relation to environmentally sensitive features or ultra-urban areas.

(c) **Detention basins.** Where detention/retention facilities or "ponds" are used for stormwater management, they shall accommodate site runoff generated from 2-year, 10-year, and 100-year storms considered individually unless the detention/retention basin is classified as a dam, in which case it must also meet any applicable dam safety standards. Adequate emergency bypass for runoff greater than that occurring from a 100-year, 24-hour storm shall be provided and shall be passed over an emergency spillway.

(1) All storm runoff shall be calculated using a 24 hour storm event for both before and after development. The allowable release rate shall be the rate as determined from the 2 year existing conditions. Preexisting conditions means the condition of the site immediately prior to the proposed development or proposed redevelopment. The storage volume required for a detention or retention pond shall be determined using the inflow determined from the 100 year-24 hour proposed development storm event with an allowable release rate as determined from the 2 year existing condition. Adjustments to the release rate may be made for upstream off site water which may pass thru the detention pond undetained.

(2) Retention basins shall be designed to accommodate 150% of the volume of runoff generated from a 100-year 24 hour storm event applied to the development site.

(3) Pond geometry and slopes shall address effective management of the water quality event. Design considerations shall distinguish water quality vegetation environment (i.e. littoral shelf) from structural safety ledge requirements.

(d) **Conveyance issues.** All stormwater management BMPs shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

(1) Maximizing of flow paths from inflow points to outflow points;

(2) Protection of inlet and outfall structures;

(3) Elimination of erosive flow velocities;

(4) Providing of under-drain systems, where applicable.

(e) **Treatment/geometry conditions.** All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications established by the applicable jurisdiction. These specifications will designate the water quantity and quality treatment criteria that apply to an approved stormwater management practice.

(f) **Landscaping plan requirements.** All stormwater management practices must have a landscaping plan detailing the vegetation, management and maintenance practices for the vegetation, and designating the party responsible for this management. Dominant vegetation in and around stormwater BMPs shall consist of vegetation native to the local region. Landscaping shall also comply with the requirements of section 17.02.

(g) **Non-structural stormwater practices.** The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structures. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices which reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the reference manuals of section 98-306 and/or by the MS4 coordinator. Applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners, and these non-structural practices must be approved by the MS4 coordinator.

Section 20.08 Restoration of Drainage

It is the responsibility of the developer/owner to restore any stream, watercourse, swale, floodplain or floodway that is disturbed during the period of development, to return these areas to its original or improved condition upon completion.

Section 20.09 Obstruction of Drainage

The developer/owner shall not block, impede the flow of, alter, construct any structure, deposit any material or object, or commit any act which will affect normal or flood flow in any ditch, stream or watercourse without having obtained prior approval from the jurisdictional authority, potentially including the city of La Porte, the city of Michigan City, La Porte County, the IDNR, IDEM, and/or USACE.

Section 20.10 Drainage Easements

Where a development is traversed by a watercourse, drainageway, channel, or stream, the developer/owner shall provide a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be acceptable to the engineer of appropriate jurisdiction. Such easement shall be adequately monumented; and, whenever possible, it is desirable that the drainage be maintained by a vegetated channel with landscaped banks.

Section 20.11 Operation and Maintenance

(a) Stormwater quality BMPs shall be maintained in good condition, in accordance with the Operation and Maintenance procedures and schedules listed in the Indiana Stormwater Quality Manual, this Ordinance, and/or the terms and conditions of the approved stormwater permit. Stormwater quality BMPs shall not be subsequently altered, revised, or replaced except in accordance with the approved stormwater permit, or in accordance with approved amendments or revisions in the permit.

(b) All stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance, as necessary, to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

(c) If the project is within an MS4 jurisdiction, operation and maintenance requirements of the MS4 shall apply. In the event of a conflict between the provisions, the more restrictive provision shall take precedence.

Section 20.12 Stormwater Management Approval Procedures and Requirements

Prior to the initiation of any construction activities, application shall be made to the enforcement official for a stormwater management approval. The application shall be submitted on a form provided by the enforcement official, accompanied by a fee and the following additional information:

(a) **Application stage.**

(1) Name, address and contact information of property owner and applicant (if different).

(2) A description of the proposed development activity.

(3) Location of the proposed development activity sufficient to accurately locate property and structure in relation to existing roads, streams, wetlands and other waterbodies.

(4) A legal description of the property.

(5) A site development plan showing existing site conditions, existing and proposed building and structure locations, existing and proposed land grades, proposed impervious surface, structural stormwater management and sediment control facilities, and potential or proposed impact to natural resources.

(6) Photographs of the proposed project site showing the existing condition.

(7) Soils information, including depth to ground water and permeability information, if available. If the proposed control measures are dependent upon the hydrologic properties of the soils, then a detailed soils report shall be submitted.

(8) Elevation of the 100 year flood, and floodplain and floodway boundaries (if applicable) at the project site.

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

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

(11) Narrative description of the project including extent to which the site will be altered or impacted as a result of proposed development and noting all grading, filling and vegetation removal proposed by the development plan.

(12) Sufficient engineering analysis in the form of a technical report showing that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with the requirements of the applicable jurisdiction. The analysis and calculations shall be prepared and sealed by a professional engineer or surveyor registered in the State of Indiana. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) soil curve numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) BMP capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the reference manuals or other ordinances, and (ix) documentation of sources for all computation methods and field test results.

(13) Description of construction sequencing and timetable for proposed activities, including a description of future phases of the project.

(14) Copy of approved permits from IDEM.

(15) Executed copy of operation & maintenance plan agreement.

(16) Copy of recorded maintenance easements.

(b) **Construction Stage**

(1) A Stormwater Pollution Prevention Plan (SWPPP) shall be submitted as part of the construction documents and shall include BMPs for active construction sites and for post-construction.

(2) The plan shall correspond with the NPDES Phase II requirements outlined in 327 IAC 15-5 (Rule 5).

(3) Changes to the development plan during construction must be submitted to the enforcement official and MS4 coordinator for review.

(c) **Post Construction**

(1) Upon completion of the project or development, a certified as-built site plan with all dimensions to scale, and all pertinent information including storm structure locations, rims and inverts, shall be submitted and accepted by the enforcement official prior to issuance of final occupancy permit.

Section 20.13 Performance Guarantee

(a) A performance guarantee in accordance with section 23.07 of the ordinance is required prior to issuance of a stormwater permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance guarantee shall be 100 percent of the total estimated construction cost of the stormwater management practices approved under the permit. The performance guarantee shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

(b) The installation performance security shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this division. The

MS4 coordinator will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this division. Provisions for a partial pro-rata release of the performance guarantee shall be addressed in accordance with section 23.07 of the ordinance.

Section 20.14 Waivers

(a) **Waivers.** Modification to the design and engineering standards shall be based upon the recommendation of the city engineer or county highway engineer and acceptable supporting engineering data. The city engineer or county highway engineer, in conjunction with the MS4 coordinator and/or technical review committee, upon consideration of technical requirements, pre-existing site conditions, relevant factors, and standards specified within this article, may grant a waiver from compliance with specific requirements of this ordinance.

(d) **Permits.** Any stormwater management waivers granted in a natural resource area subject to this article will require applicable permits from IDEM.

(e) **Special Conditions.** The With acceptable supporting engineering data, the city engineer , county highway engineer, or MS4 coordinator may conditionally approve permits or waivers for development activities. Examples of the types of conditions that may be attached to permits or variances include, but are not limited to:

(1) Design measures to reduce project impacts;

(2) Relocation of the proposed activity to reduce project impacts;

(3) Flood and erosion reduction measures to prevent hazard losses to activities or natural resources on other lands;

(4) Compensatory mitigation measures to offset losses to protected natural resource area acreage, functions, and values;

(5) Setbacks from the river, stream, or other water body of a size appropriate for the proposed activity and the particular project area;

(6) Deed restrictions, covenants, or execution of conservation easements regarding the future use of lands including but not limited to preservation of undeveloped areas and restrictions on vegetation removal;

(7) Erosion control and stormwater management measures;

(8) The clustering of structures or development;

(9) Long term monitoring and management requirements including control of exotic plant and animal species;

(10) Other conditions necessary to protect protected natural resource area functions, offset losses, and prevent increased natural hazard losses in the community.

Section 20.15 Enforcement and Penalties

In addition to the enforcement and penalties provided for in article 26, the MS4 coordinator shall have the power to order the restoration of any area impacted in violation of this article. If the responsible person or agent does not complete such restoration within a reasonable time following the order, the authorized local government shall have the authority to restore the affected natural resources to the prior condition and the person or agent responsible for the violation shall be held liable to the city or county for the cost of restoration.

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Article 21
Floodplains

"RESERVED"

Ordinance for Flood Hazard Areas for LaPorte County

The Floodplain Ordinance is a separate, stand-a-lone ordinance because it has to be updated and approved by the DNR on a yearly basis, but we have included it in the JZO for your convenience.

ORDINANCE FOR FLOOD HAZARD AREAS
FOR
LaPorte County

Ordinance No. 2013-08

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

Section A. Statutory Authorization.

The Indiana Legislature has in IC 36-7-4 and IC 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Board of Commissioners of La Porte County does hereby adopt the following floodplain management regulations.

Section B. Findings of Fact.

(1) The flood hazard areas of La Porte 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.

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

Section C. Statement of Purpose.

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

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

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

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

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

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

(6) Make federally subsidized flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

Section D. Objectives.

The objectives of this ordinance are:

(1) To protect human life and health.

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

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

(4) To minimize prolonged business interruptions.

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

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

(7) To ensure that potential homebuyers are notified that property is in a flood area.

Article 2. 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 or FHBM. 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. Mandatory flood insurance purchase requirements apply.

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. Mandatory flood insurance purchase requirements apply. (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. Mandatory flood insurance purchase requirements apply.

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. Mandatory flood insurance purchase requirements apply.

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. Mandatory flood insurance purchase requirements apply.

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. Mandatory flood insurance purchase requirements apply.

Accessory structure (appurtenant structure) means a structure 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 or a request for a variance.

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 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.

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.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

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

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.

Five-hundred year flood (500-year flood) means the flood that has a 0.2 percent chance of being equaled or exceeded in any year.

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 Hazard Boundary Map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

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.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

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

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

Historic structure means any structure 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 Map Amendment (LOMA) means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. 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 of 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 having a total net area of 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,

b). 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.

Map amendment means a change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

Map panel number is the four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

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 two fold: 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.

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-hundred year flood (100-year 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".

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".

Participating community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

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.

Post-FIRM construction means construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

Pre-FIRM construction means construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Probation is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

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 Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

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 jurisdictions of the **County** subject to inundation by the regulatory flood. The SFHAs of La Porte County are generally identified as such on the La Porte County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated November 6, 2013 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 FHBM or 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 it's 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.

Water surface elevation means the height, in relation to the North American Vertical Datum of 1988 (NAVD 88) or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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 FHBM or 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.)

Article 3. General Provisions.

Section A. Lands to Which This Ordinance Applies.

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

Section 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. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of La Porte County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of La Porte County, Indiana and Incorporated Areas dated November 6, 2013 and the corresponding Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated November 6, 2013 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 La Porte County, delineated as an "A Zone" on the La Porte county, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated November 6, 2013 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.

(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.

Section 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.

Section 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.

Section 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.

Section 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, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

Section 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.

Section 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 La Porte 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 thereunder.

Section 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 Code for La Porte County. All violations shall be punishable by a fine not exceeding two thousand five hundred dollars ($2,500.00) per day.

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

(2) The Board of Commissioners of LaPorte County 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.

Section J. Increased Cost of Compliance (ICC).

In order for buildings to qualify for a claim payment under ICC coverage as a "repetitive loss structure", the National Reform Act of 1994 requires that the building be covered by a contract for flood insurance and incur flood-related damages on two occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

Article 4. Administration.

Section A. Designation of Administrator.

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

Section 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 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 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.

(2) Construction stage.

Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder 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 certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder 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.

Section 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 not be 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 Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit 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 are to be maintained on file with the floodplain development permit.

(5) 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.

(6) 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 Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits 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.

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

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

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

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

(11) Review certified plans and specifications for compliance.

(12) 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.

(13) 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.

(14) Inspect sites for compliance. For all new and/or substantially improved buildings constructed in the SFHA, inspect before, during and after construction. Authorized County officials shall have the right to enter and inspect properties located in the SFHA.

Article 5. Provisions for Flood Hazard Reduction.

Section 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) Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further extended, or replaced.

(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.

Section B. Specific Standards.

In all SFHAs, the following provisions are required:

(1) In addition to the requirements of Article 5, Section 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 new structure having a floor area greater than 400 square feet.

b). Addition or improvement made to any existing structure:

(i) 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).

(ii) with a previous addition or improvement constructed since the community's first floodplain ordinance.

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

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

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

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

(2) **Residential Construction.** 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 Article 5, Section B (4).

(3) **Non-Residential Construction.** 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 Article 5, Section B (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

a). A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4, Section C (10).

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). 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.

e). 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).

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

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

h). Where elevation requirements exceed 6 feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor

to a use or dimension contrary to the structure's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.

(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.

b). The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.

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

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

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

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

a). The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

(i) outside a manufactured home park or subdivision;

(ii) in a new manufactured home park or subdivision;

(iii) in an expansion to an existing manufactured home park or subdivision; or

(iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

b). The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation 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. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

c). Manufactured homes 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 as required for elevated structures in Article 5, Section B. 4.

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

e). Recreational vehicles placed on a site shall either:

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

(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.

Section 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 lots or five 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).

Section 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.

Section E. Standards for Identified Floodways.

Located within SFHAs, established in Article 3, Section 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 non-substantial additions/ improvements to residences 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 (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit (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 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 Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot.

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.

Section 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 Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

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:

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

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway 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 Article 5 of this ordinance have been met.

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

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

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

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

Section 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 Article 5.

Article 6. Variance Procedures.

Section 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.

Section 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 LaPorte County Circuit or Superior Court.

Section C. Variance Procedures.

In passing upon such applications, the Board of Zoning Appeals 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.

Section 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 Article 5, Section E or Section G (1) of this ordinance may be granted.

(3) Any variance granted in a floodway subject to Article 5, Section E or Section 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 Article 5, Section 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 base flood elevation 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 Article 6, Section 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 Article 6, Section E).

Section E. Variance Notification.

Any applicant to whom a variance is granted 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 base flood elevation 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 base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator 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, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

Section 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.

Section G. Special Conditions.

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

Article 7. 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.

Article 8. Effective Date.

This ordinance shall take effect upon its passage by the Board of Commissioners of LaPorte County.

Passed and enacted by the Board of Commissioners of La Porte County, Indiana on the 2nd day of October, 2013.

LaPorte County Board of Commissioners
LaPorte County, Indiana

Willie Meiszo, President

David L. Decker, Vice-President

Vidya Kora

Vidya Kora

Attest: John Winski, Auditor

Article 22
Natural Resource Protection

Section 22.01 Intent

(a) **Findings of Fact.** Natural resources of La Porte County, Indiana contain some of the richest biodiversity in the state and region. The two major watersheds in which La Porte County resides are the Little Calumet – Galien Basin, which drains to Lake Michigan, and the Kankakee River Basin, which drains to the Mississippi River. The watersheds are separated by the Valparaiso Moraine, a hilly region underlain by glacial till and sand deposited during the Wisconsin Glaciation. The Little Calumet – Galien Basin historically contained extensive sand dune/swale ecosystems, wetlands including the Great Marsh, and other ecosystems. The Kankakee River Basin was historically an extensive system of wetlands known as the 'Grand Kankakee Marsh,' one of the largest marsh-swamp river basins in the interior of the U.S.

The La Porte County region has been significantly impacted and fragmented by human activity. In the Little Calumet – Galien Basin, channelization of waterways, implementation of drainage tile, industrial development and pollution, mining of sand dunes and other impacts have significantly altered and reduced the extent of natural resources. Channelization of the Kankakee River and its tributaries drained the Kankakee River Basin, eliminating the majority of the wetlands in that region. Expanding population, industrial and agricultural activity, historical pollution and development pressures continue to threaten the viability of La Porte County's natural resources. Piecemeal or cumulative losses have the potential, over time, to destroy remaining wetlands and other natural resources.

The wetlands and other natural resources of the County are indispensable and fragile ecosystems with significant development constraints due to flooding, erosion and soil limitations. In their natural state, wetlands and other natural resources function to serve people and nature. The multiple beneficial functions of La Porte County's natural resources, when maintained in a substantially natural state, include:

(1) Protection and improvement of surface and groundwater quality

(2) Recharge and discharge of groundwater

(3) Storage, conveyance and attenuation of floodwaters and storm waters

(4) Protection and improvement of air quality

(5) Habitat for fish, wildlife and vegetation

(6) Support of biodiversity, which serves as a basis for ecosystem stability

(7) Mitigation of floods and droughts

(8) Generation and renewal of soil and soil fertility

(9) Stabilization of soil and prevention of erosion

(10) Pollination of crops and natural vegetation

(11) Stabilization of micro and regional climate

(12) Natural resource education; scientific study; open space; and recreation opportunities

(13) Preservation of aesthetic quality of the county, which is important to quality of life for county residents, and for recreational and tourism value

(b) Destruction of natural resources compromises the ability of the ecosystems to provide the functions listed above. The uncontrolled use and development of natural resources in La Porte County affects public health and general welfare. Therefore, it is in the best interest of La Porte County to provide for the wise, regulated use of its shared natural resources.

(c) **Statement of Purpose.** The intended general purpose of this article is to require planning to avoid or minimize damage to natural resources of La Porte County, including the city of La Porte, city of Michigan City, and Town of Westville; to protect the rights of the residents of La Porte County to enjoy clean air, pure water and the natural, scenic, historic and aesthetic values of the environment; to restrict degradation of natural resources and to provide for their protection. Specific goals to be supported by this article include:

(1) Protect land and water resource areas, including groundwater recharge zones (aquifers), springs, streams, wetlands, woodlands, prime wildlife habitats, and areas constituting high ecological, recreational and other amenity value that exist on developed or undeveloped land, and other protected natural resource areas as defined by this article;

(2) Direct growth away from areas with sensitive natural resources and toward those areas most suitable for development in terms of available infrastructure (i.e. sewer, water, transportation), compatible land uses, and least impact on protected resources.

(3) Promote sustainable land use practices that are consistent with the preservation or improvement of the quality of the existing environment and of natural amenities. Sustainable land use includes those practices that improve or preserve the economic, social, and ecological function of natural resources.

(4) Establish that any development plan (e.g. site plan, subdivision plat, site condominium plan), shall be designed and arranged to protect and minimize disturbance to priority natural resource protection areas.

(5) Allow compensatory mitigation for natural resource impacts compliant with state and federal standards and define additional local mitigation requirements for impacts to protected natural resource areas.

(d) **Public Safety Purpose**. A further purpose of this article is to ensure that development activities in La Porte County, including the city of La Porte, city of Michigan City, and Town of Westville do not threaten public safety or cause nuisances by:

(1) Blocking drainage flows, destroying flood storage areas, or destroying storm barriers, thereby raising flood heights or velocities on other land and increasing flood damages;

(2) Causing water pollution through any means, including location of septic systems in wet soils, unauthorized application of pesticides, herbicides and algacides; disposal of solid wastes or surface water runoff at inappropriate sites; or the creation of unstabilized fills;

(3) Increasing erosion; or

(4) Increasing runoff of sediment and surface water.

(e) **Preservation Purpose**. A further purpose of this article is to ensure that development activities in La Porte County do not destroy natural resource functions important to the general welfare by:

(1) Decreasing breeding, spawning, nesting, wintering, feeding, or other critical habitat for fish and wildlife, including rare, threatened and endangered plant and animal species and commercially and recreationally important wildlife;

(2) Decreasing groundwater recharge;

(3) Destroying sites needed for education and scientific research as outdoor biophysical laboratories, living classrooms and training areas;

(4) Interfering with public rights in waters and the recreation opportunities for hunting, fishing, boating, hiking, bird watching, photography, camping and other activities in natural resource areas; or

(5) Destroying aesthetic or property values.

Section 22.02 Lands to which this Article Applies

(a) **Lands and waters to which this Article applies**. The provisions of this article shall apply to all natural resources and associated buffers within jurisdiction of La Porte County, the city of La Porte, the city of Michigan City and Town of Westville as mapped by the web-based GIS Database interactive mapping tool Local Decision Maker (LDM) at http://ldm.agriculture.purdue.edu. A listing of natural resource layers to be evaluated will be provided by the enforcement official, but at a minimum shall include:

(1) Sensitive Areas

(2) Steep Slopes (> 20%)

(3) Major Rivers and Lakes (USGS)

(4) Streams and Lakes (NHD)

(5) Recreational Facilities

(6) Indiana Biodiversity Initiative (IBI) High Irreplaceability Sites

(7) CrEAM diversity index – Species Rarity

(8) Indiana Natural Regions

(9) Floodplains

(10) NWI Wetlands

(11) NHD Watersheds

(b) **Lands and waters to which this Article does not apply**. The provisions of this article shall not apply to the following lands and waters in La Porte County:

(1) Artificially-constructed ponds, drainage ditches, stormwater collection basins, gravel pits, stone quarries or waste treatment systems or lagoons, except to the extent that such uses are restricted or prohibited in a natural resource protection area;

(2) Wetlands and other natural resource areas for which local, state or federal permits for fill were issued prior to the adoption of this article or prior to the extension of the planning and zoning jurisdiction La Porte County over the areas for which the permits were issued

(c) In the event of a conflict between the provisions of this subchapter and those of any other part of the Zoning Ordinance that governs the management of natural resource areas, the more restrictive provision shall take precedence.

Section 22.03 Activities Allowed by Right

The following uses are allowed in natural resource areas without a permit, providing they do not involve hydrologic or soil modifications, land disturbance or fills:

(a) Private wildlife sanctuaries, natural resource preserves, scientific or educational research, provided that they do not harm the natural ecosystem;

(b) Outdoor recreation including nature study, hiking, horseback riding, swimming, camping, trapping, hunting, fishing, shell fishing, cross-country skiing where otherwise legally permitted;

(c) Open space uses incidental to the enjoyment and maintenance of adjacent residential, commercial and industrial property such as open space for subdivisions and building setback areas;

(d) Maintenance and repair of existing ditches, watercourses, farm ponds, utilities, roadways providing the activity does not involve the expansion of roadways or related improvements into previously un-impacted areas; and

(e) Removal of diseased or invasive exotic plant species as identified and quantified in writing by a qualified biologist and approved in writing by Natural Resources Enforcement Official, and removal of dead or detached plant material.

Section 22.04 Establishment of Setback Requirements

(a) **Minimum setback of development activity from streams, lakes, ponds, and wetlands.** Absolutely no development activity (except as provided below) may occur within the minimum setback which is defined as 75 feet from the ordinary high water mark of streams, lakes, and ponds, and 50 feet from the edge of wetlands, or within a designated depressional area. In no case shall the setback be less than the boundary of the 100-year floodway as defined by FEMA. The enforcement official may require a larger setback based upon flooding, erosion, pollution, endangered species, riparian or wetland functions and values, or other relevant factors.

(b) Where a development pattern exists, the setback for a proposed principal structure may be reduced to the average setback of the principal structure on each adjacent lot, but the setback may not be reduced to less than 35 feet from the ordinary high water mark of any navigable water.

(c) These setback requirements do not apply to a stream in a culvert unless the stream is taken out of a culvert as part of development activity. If a culvert functions as a low-flow culvert, where water is intended to periodically flow over it, the setback requirements shall apply. Review waiver of this article for proposed development activity within the minimum setback area will consider the following:

(1) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches, or the development of park shelters or similar structures is allowed. The development and maintenance of roads, parking lots and other impervious surfaces necessary for permitted uses are allowed only on a very limited basis, and where no alternate location outside the setback area is available.

(2) Land surface modification within the minimum setback shall be permitted for development of stormwater drainage swales between the developed area of the site (including a stormwater detention facility on the site) and a stream, lake or pond, or wetland. Detention basins within the setback are generally discouraged, unless it can be shown that resultant modifications will not impair water quality, habitat, or flood storage functions.

(d) The purpose of this protection offset is to preserve the natural resource areas themselves and the environmentally sensitive areas immediately around the natural resource areas. These protection setbacks are separate and different from any state or federal wetland requirements.

Section 22.05 Requirement for Natural Resources Due Diligence Inventory

(a) Provision shall be made for the identification, evaluation, review, and permitting of identified natural resources in conformance with the provisions of this article prior to the commencement of any regulated land disturbance activities in natural resource areas. Activities include filling; excavating; grading; dredging; construction; clear-cutting; removal of peat, sand or gravel; or alteration of the water table, of flood-retention characteristics, of surface drainage or of topographical characteristics.

(b) Upon reviewing the project location and site plan, the enforcement official may require submittal of a Natural Resources Due Diligence Inventory to determine the presence or absence of identified natural resources requiring protection, mitigation and/or permitting. The Natural Resources Due Diligence Inventory shall be prepared by a professional wetland consultant employed by a professional ecological consulting firm included on the USACE Indiana Engineering and Environmental Consulting Firm list.

http://www.lrc.usace.army.mil/co-r/consult-IN.pdf

(c) In addition, a Natural Resources Inventory Survey shall be required for any project directly adjacent to an existing nature preserve, including but not limited to, the Ambler Flatwoods Nature Preserve, Barker Woods Nature Preserve, Little Calumet Headwaters Nature Preserve, Wintergreen Woods Nature Preserve, and Spice Lake Nature Preserve (St. Joseph County). A delineation of all natural resources including wetlands and/or streams shall be completed on the project site. The wetland delineation shall be completed using methods and procedures most recently established by the USACE.

(d) The Natural Resource Inventory Survey shall include correspondence with the United States Fish and Wildlife (FWS) and Indiana Department of Natural Resources (DNR) Division of Nature Preserves regarding Threatened, Endangered, or Rare (ETR) species. Additionally, the most recent, available list of ETR species shall be consulted. The project site shall be assessed to determine if potential habitat is present for any listed ETR noted in the region. A more exhaustive investigation may be warranted if it is determined that ETR species may exist on the project site.

IDNR ETR List: http://www.in.gov/dnr/naturepreserve/4666.htm

(e) Submittal of a Natural Resources Due Diligence Inventory does not preclude the applicant from obtaining local, state, and federal permits for impacts to natural resources.

Section 22.06 Compliance

(a) No structure shall hereafter be located, extended, converted or structurally altered within identified natural resource areas without full compliance with the terms of this article and other applicable regulations. No natural resource area within La Porte County, the city of La Porte or the city of Michigan City shall hereafter be altered without full compliance with the terms of this article and other applicable regulations.

(b) Any entity responsible for a premises, which is, or may be, the source of an impact to a protected natural resource area shall provide, at their own expense, reasonable protection from this impact through the use of acceptable best management practices (BMPs) and/or compensatory mitigation practices, as determined by the jurisdictional authority and outlined herein.

Section 22.07 Duties and Responsibilities of Enforcement Official

(a) The enforcement official and/or designee is hereby authorized and directed to enforce the provisions of this article. The enforcement official is further authorized to render interpretations of this article which are consistent with its spirit and purpose.

(b) Duties and responsibilities of the enforcement official shall include, but are not limited to:

(1) Review all due diligence inventory information pertaining to natural resource development to assure that the requirements of this article have been satisfied.

(2) Inspect and inventory damaged structures in natural resource areas and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the US Army Corps of Engineers (USACE), Indiana Department of Natural Resources, (IDNR), and/or Indiana Department of Environmental Management (IDEM) for all development projects subject to Section 401 and Section 404 of the Clean Water Act, and maintain a record of such authorization (either copy of actual permit, water quality certification, jurisdictional determination, regional general permit notification or construction in a floodway).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the ILP. Copies of such permits are to be maintained on file.

(5) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notification to Federal Emergency Management Agency (FEMA).

(6) Maintain for public inspection, and furnish upon request, local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, copies of USACE and IDEM permits, jurisdictional determination and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevations and data for all structures and mitigated wetland areas constructed subject to this article.

(7) Assure that monitoring and maintenance is provided within any mitigated portion of the natural resource area in accordance with permit requirements.

(8) Review certified plans and specifications for compliance.

(9) Issue stop work orders:

a. Upon notice from the enforcement official, work on any building, structure or premises that is being done contrary to the provisions of this article shall immediately cease.

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

(10) Revocation of approval.

a. The enforcement official may revoke approval issued under the provisions of this article, in cases where there has been any false statement or misrepresentation as to the material facts in the application or plans on which the approval was based.

b. The enforcement official may revoke approval upon determination by the enforcement official 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 article or the conditions of the permit.

Section 22.08 Inventory Procedures

Prior to any development activities, the enforcement official shall review the LDM interactive GIS database map information, conduct an analysis of submitted project materials required in Article 23 of this ordinance and notify the applicant if a natural resource due diligence inventory will be required for the project.

If required, the applicant shall retain a qualified ecological engineering consultant to perform a Natural Resources Due Diligence Inventory, including a wetland delineation, an Endangered, Threatened, or Rare (ETR) Species Investigation of flora and fauna including a database search of U.S. Fish and Wildlife information and the Indiana Department of Natural Resources for ETR species documented within one-mile of the site, and a preliminary summary of any available regulatory information for floodway/floodplain identified within the proposed project boundaries to meet the requirements of Section 22.07.

The inventory survey shall include the following information:

(a) **Application stage.**

(1) Name, address and contact information of property owner and applicant (if different);

(2) A description of the proposed development activity;

(3) Location of the proposed development activity sufficient to accurately locate property and structure in relation to existing roads, streams and other waterbodies;

(4) A legal description of the property;

(5) A site development plan showing identified natural resources, existing and proposed building and structure locations, existing and proposed land grades, and potential or proposed impact to wetlands;

(6) A description of all grading, filling and vegetation removal proposed by the development plan;

(7) An explanation of why this activity cannot be located at an upland site;

(8) A description of all measures proposed to reduce or compensate for project impacts;

(9) Photographs of the proposed project site showing the existing condition;

(10) Elevation of the 100 year flood, and floodplain and floodway boundaries (if applicable) at the project site;

(11) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88;

(12) Elevation (in NAVD 88) to which any non-residential structure will be floodproofed;

(13) Description of the extent to which any wetland natural resource area will be altered or impacted as a result of proposed development;

(14) Description of construction sequencing and timetable for proposed activities, including a description of future phases of the project.

(15) Natural resource feature determination in accordance with this article L

(16) Copies of approved permits from USACE, IDNR and/or IDEM.

(b) **Additional information.** The enforcement official may also require a permit applicant to submit additional information if the enforcement official deems such information necessary to determine the compliance of a proposed activity with the standards and criteria set forth in the article. All plans,

reports, calculations, and narratives shall be prepared in accordance with this article and signed and sealed by a professional engineer, registered by the State of Indiana. Such information may include:

(1) Description of ecological communities and functions;

(2) Description of how the development activity will change, diminish, or enhance the ecological communities and functions;

(3) Name, address, professional status, license number, and phone number of the person who is to prepare the protected natural resource management or mitigation plan;

(4) More detailed site plans;

(5) Engineering reports and analyses where the proposed activity may be subject to flood or erosion hazards, or increase such hazards or other types;

(6) Mapping or description of soil types where onsite waste disposal is proposed; and

(7) Analysis of chemical or physical characteristics of any fill material.

(c) **Construction stage.** Upon placement of improvements, it shall be the duty of the permit holder to submit to the enforcement official a certification of the improvements including NAVD 88 elevation, as built. This certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by that individual. When floodproofing is utilized for a particular structure, the certification shall be prepared by or under the direct supervision of a professional engineer or licensed architect and certified by that individual. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. (The enforcement official shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop work order for the project. All permits shall be valid for a period of one (1) year from the date of issuance, unless the enforcement official indicates otherwise.

(d) **Erosion Control Standards.** This Erosion Control Standards section applies to the following types of development:

(1) General: No changes shall be made in the contour of the land, nor shall grading, excavating, removal or destruction of the topsoil, trees, or other vegetative cover of the land be commenced, until a Storm Water Pollution Prevention Plan (SWP3) has been reviewed and approved by the enforcement official.

(2) The SWP3 shall meet the requirements of the MS4 Construction Activity Erosion and Sediment Control Program in accordance with Phase II Version of 327 IAC 15-5 (Rule 13)

(3) IDEM Review: Any development over one (1) acre shall be reviewed by IDEM. A copy of the submittal for approval shall be held in the office of the enforcement official.

(4) Off-site Sedimentation: Whenever sedimentation is caused by stripping of vegetation, regrading, or other development activities, it shall be the responsibility of the petitioner to remove it from all adjoining surfaces, drainage systems, and watercourses, and to repair any damage at the petitioner's expense.

(5) Off-site Fill: Off-site fill material shall be free of environmentally hazardous materials. The petitioner shall ensure to the enforcement official's satisfaction that fill material hauled from an off-site location is free of environmental contaminants. The source of fill material shall be identified prior to application for a Grading Permit, Improvement Location Permit, or Subdivision Improvement Permit. If directed by the enforcement official, the petitioner shall have testing

performed on representative samples of the fill material to determine if environmentally hazardous materials are present in the fill.

(6) Other Fill:

a. *Organic Material*: Detrimental amounts of organic material shall not be permitted in fills.

b. *Irreducible Material*: No rock or similar irreducible material with a maximum dimension greater than twelve (12) inches shall be buried or placed in fills unless included and approved as part of a grading permit, improvement location permit, or subdivision improvement permit.

(7) Health, Safety and Welfare: If the enforcement official determines that any existing excavation, embankment or fill has become a hazard to life or limb, endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, a written notice shall be issued to the owner of the property upon which the hazard is located or other person or agent in control of the property, who shall repair or eliminate such excavation, fill or embankment within the period specified in the notice to eliminate the hazard.

(8) Disturbance of Protected Areas: If any "no disturb" areas are driven over, altered, disturbed or damaged in any way, the petitioner or property owner shall be subject to a stop work order as outlined in Section 22.07 of this article.

Section 22.09 Basis for Protected Natural Resource Areas Determination

(a) Protected natural resource features include, but are not limited to, areas mapped and identified as such in Section 22.02 utilizing the LDM GIS interactive database map and the following reference materials and sources.

(1) **Wetlands**:

a.

b. U.S. Fish and Wildlife Service national wetland inventory (NWI) maps (for general location only)

c. Natural Resource Conservation Service(NRCS) soil surveys indicating hydric soils

d. Indiana Department of Natural Resources (IDNR) Indiana Natural Heritage Data Center

e. USEPA Region 5 Critical Ecosystems Report

f. Jurisdictional determination and delineation of the boundaries of "waters of the United States" and "waters of the State" in accordance with the Corps of Engineers Wetland Delineation Manual and electronic updates, to include field survey and mapping of plant material and hydric soils by a certified wetland specialist.

g. La Porte County Soil & Water Conservation District

(2) **Floodplain/Floodways**: See Article 21

(3) **Riparian Areas:**

a. La Porte County Surveyors Office

b. La Porte County Soil & Water Conservation District

(b) Where published sources listed above conflict with field based determinations, the applicant must receive correspondence from the publishing source concurring with the determination.

Section 22.10 Standards for Subdivision Proposals

(a) The enforcement official shall review all proposed subdivisions to determine whether the subdivision contains natural resource areas, as defined in Section 22.02. If the enforcement official finds the subdivision to be so located, the enforcement official shall require appropriate changes and modifications in order to assure that:

(1) The subdivision proposal is consistent with the need to minimize natural resource impacts;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to prevent adverse impact;

(3) Adequate drainage is provided to reduce exposure to flood hazards;

(4) On-site waste disposal systems, if provided, will be located and designed to avoid their impairment, and to prevent them from being a source of contamination during the occurrence of the regulatory flood.

(b) Developers shall record the delineated wetland boundaries on all subdivision plats containing lands identified elsewhere by ordinance as within a SFHA prior to submitting the plats for approval by the plan commission.

Section 22.11 Riparian Management Plan

(a) The enforcement official may require that a permit applicant submit a riparian management plan if the enforcement official believes such a plan is needed to meet the standards of this article, including conditions attached to permit issuance. Such a management plan must comply with procedures outlined in the Indiana Drainage Handbook and may include the procedures and timing of the proposed project, water level manipulation, removal of exotic species, replanting (if necessary) and other active management activities over time. The riparian management plan may also be combined with a compensatory mitigation plan as provided in Sections 21.12 of this article.

(b) The riparian management plan shall be consistent with the following requirements:

(1) The plan shall describe all conservation and/or land management techniques that will be used to conserve and restore the riparian area.

(2) The plan shall specify any management activities that will be carried out over time, and methods or techniques for implementing the activities.

(3) The plan shall specify the professional and personnel resources that will be committed to monitoring and managing the riparian area.

(4) The plan shall specify construction methods that identify and protect riparian habitat that is to be left unaltered.

(5) Site development shall accommodate the topography and soil so as to create the least potential for vegetation loss and site disturbance.

(6) Vegetation and soil removal shall be limited to the minimum amount necessary for the development of the site.

(7) Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as necessary to prevent soil erosion. New plantings shall be given sufficient water and protection to insure reestablishment.

(8) If the proposed development would affect the banks of the stream or river, bank stabilization techniques shall be required to prevent erosion.

Section 22.12 Compensatory Mitigation

(a) The applicant may be required to submit a compensatory mitigation plan developed by a qualified professional if it is determined that such a plan is needed to meet the standards of this article and IDEM, IDNR, and or USACE regulatory requirements. The standards of this article include no net loss of natural resource area functions, values, acreage and flood storage, and any conditions attached to the issuance of a wetland permit. Compensatory mitigation measures may take the form of protected natural resource area restoration, creation or enhancement. Compensatory mitigation plans shall comply with IDEM requirements and include design, implementation, maintenance, and monitoring elements. Plans shall include a description of the mitigation area, existing and proposed topography at one (1) foot contour intervals, any proposed fill (including source of the fill) or stockpiling, proposed excavation, planting plans (including source of plants) and erosion control measures.

(b) A compensatory mitigation plan shall also include, at a minimum:

(1) The restoration of vegetation that is native to the site;

(2) Periodic monitoring of mitigation features;

(3) Maintenance and replacement of damaged plants or other features; and

(4) A proposal for posting a performance bond or other financial assurances.

(c) In general, compensatory mitigation shall meet jurisdictional requirements. However, the enforcement official may allow use of offsite and out of kind mitigation including the use of mitigation banks if such use will have net ecological benefits, will not cause nuisances, and will not violate other laws. Use of mitigation banks will be allowed to compensate for impacts only where onsite measures are applied to ensure that flooding, water pollution, erosion, and other problems do not occur at the original site.

(d) Where feasible, mitigation projects shall be completed prior to development activities. In other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity. There shall be no introduction into a mitigation project of any plant or wildlife that is not native to the area, unless authorized by a state or federal permit.

(e) Minimum mitigation ratios shall be in compliance with current IDEM requirements for State Regulated Isolated Wetlands based on classification of the wetlands in accordance with IAC 13-18 or in compliance with USACE requirements for jurisdictional waters of the U.S.

(f) In evaluating the adequacy of proposed compensatory mitigation, the enforcement official shall consider its effectiveness in avoiding impacts, minimizing impacts, rectifying the impacts, reducing or eliminating the impacts over time; and compensating for the impacts. The following shall be considered:

(1) The risk of failure of the proposed mitigation project based upon the difficulty with which this type of protected natural resource area is restored, created, or enhanced; the experience and expertise of the individual or individuals proposing to carry out the mitigation; the proposed buffer and other protection measures; and the proposed management, monitoring and maintenance;

(2) The societal and natural resources value of protected natural resource functions provided by the mitigation plan in comparison to the societal and natural resources value of the functions of the original protected natural resource area;

(3) Whether the proposed mitigation will require long term maintenance and, if so, the adequacy of any proposed maintenance; and

(4) The need for long term monitoring and how such monitoring will be provided.

Section 22.13 Variances

(a) **Board of Zoning Appeals.** The board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this article in accordance with the procedures of article 28.

(b) **Variance Procedures.** In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:

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

(2) The importance of the services provided by the proposed facility to the community;

(3) The necessity of the proposed location to the success of the facility, where applicable;

(4) The availability of alternative locations for the proposed use which are not subject to degradation of natural resources.

(5) The compatibility of the proposed use with existing and anticipated development;

(6) The relationship of the proposed use to the comprehensive plan and development regulations for that area;

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

(8) The additional impact on natural resources for providing governmental services to the facility, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(c) **Variances.** Variances shall only be issued when there is:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship; and

(3) A determination that the granting of a variance will not result in increased natural resource degradation, additional threats to public safety, extraordinary public expense, or creation of nuisances, will not cause fraud, or victimization of the public, and will not conflict with existing laws or ordinances.

(d) **Permits.** Any variances granted in a natural resource area subject to this article will require applicable permits from USACE, IDNR and or IDEM.

(e) **Historic Structures.** 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 activity necessary to preserve the historic character and design of the structure.

(f) **Special Conditions.** The board of zoning appeals may conditionally approve permits or variances for development activities in natural resource areas. Examples of the types of conditions that may be attached to permits or variances include, but are not limited to:

(1) Design measures to reduce project impacts;

(2) Relocation of the proposed activity to reduce project impacts;

(3) Flood and erosion reduction measures to prevent hazard losses to activities or natural resources on other lands;

(4) Compensatory mitigation measures to offset losses to protected natural resource area acreage, functions, and values;

(5) Inclusion of a warning in the property deed that the property contains a protected natural resource area and that any activities in the protected natural resource areas are subject to the protected natural resource, wetland, floodplain and other regulatory requirements;

(6) Setbacks from the river, stream, or other water body of a size appropriate for the proposed activity and the particular protected natural resource area;

(7) Deed restrictions, covenants, or execution of conservation easements regarding the future use of lands including but not limited to preservation of undeveloped areas and restrictions on vegetation removal;

(8) Erosion control and storm water management measures;

(9) The clustering of structures or development;

(10) Long term monitoring and management requirements including control of exotic plant and animal species;

(11) Other conditions necessary to protect protected natural resource area functions, offset losses, and prevent increased natural hazard losses in the community.

Section 22.14 Enforcement and Penalties

In addition to the enforcement and penalties provided for in article 26, the enforcement official shall have the power to order the restoration of any natural resource area impacted in violation of this article. If the responsible person or agent does not submit a restoration plan to the enforcement official in accordance with the requirements outlined herein within 120 days following the order, the authorized local government shall have the authority to restore the affected wetlands to the prior condition and the person or agent responsible for the violation shall be held liable to the city or county for the cost of restoration.

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Article 23
Improvement Location Permits, Site Plans, Building Permits and Certificates of Occupancy

Section 23.01 General Requirements

No permit pertaining to the use of land or permits as required by building codes for the erection, enlargement, or structural alteration of a building or structure shall be issued by an officer, department, or employee of the county or city unless the applications for the permits have been examined by the enforcement official, indicating that the applications comply with the provisions of this chapter. Any certificate of occupancy certificate issued for applications that are in conflict with the provisions of this chapter shall be null and void.

Section 23.02 Required Materials

This provision is applicable to any structure, including accessory structures, whose ground floor area exceeds 144 square feet, or any additions to existing structures where the change will enlarge the ground floor area of the structure, regardless of the size of the addition. However, it does not apply to any interior alterations, other than a change of use, or any exterior change which does not alter the ground floor. The applicant for a building permit shall submit the following materials as required:

Activity/Use	Required Materials
Agricultural buildings or structures	Sketch plan
Single family detached and two family dwellings	Sketch plan
Multiple family dwellings	Site plan
Non residential building	Site plan
Establishment of a new special exception use (see Article 17)	Site plan
Planned Unit Development (see Article 25)	Site plan
Private road	Site plan
Wireless communication facility	Site plan
Change in use to an existing building to a more intensive use, as determined by the enforcement official	Sketch plan
Temporary uses, buildings, structures, and seasonal events	Sketch plan
Temporary storage/accessory structures	Sketch plan
Accessory commercial or industrial outdoor storage	Site plan
New parking lot/loading area or change in driveway access for a non-residential use	Site plan
Expanding an existing parking lot or paving an existing gravel parking lot	Site plan
Residential driveways and sidewalks that are located entirely on private property	Sketch plan
Construction, relocation or erection of signs, retaining walls, fences, walls, waste receptacle, sidewalks, antennas, lights, poles, cooling/heating or other mechanical equipment for any nonresidential use	Sketch plan
Mineral extraction	Site plan
Alteration of the existing grade in excess of two (2) feet relative to the grade at the property lines of adjoining property owners in Subdivisions, and/or in R-1, R-2, R-3, LR, MH Zoning Districts	Sketch plan
Private ponds	Sketch plan
All uses on the La Porte and Michigan City airport properties	Exempt See article 11

(a) Major activities such as commercial or industrial uses require a full engineered site plan. Minor activities such as single family residential dwellings may provide a less detailed sketch plan, provided the level of detail is sufficient to demonstrate compliance with this ordinance.

(b) All construction activity shall be subject to the building permit and inspection requirements of the Building Code in addition to the requirements of this ordinance. A drawing shall be provided to the enforcement official prior to commencement of any excavation, directional boring, or other subsurface disturbance, to establish compliance with Article 22.

Section 23.03 Site Plan/Sketch Plan Requirements

The application for permit shall be accompanied by the following:

(a) A description of the proposed development and legal description of the property site.

(b) A dimensioned site plan or sketch plan, drawn to scale showing existing and proposed structure locations and existing and proposed land grades. Engineered site plans must include all of the information listed below. Sketch plans shall include the information noted with an "x;" provided the level of detail is sufficient to demonstrate compliance with this ordinance.

Site Plan/Sketch Plan Information	Sketch Plan	Site Plan
Name, address and seal of professional engineer or land surveyor who prepared the site plan	X	X
The address of the parcel	X	X
Photograph of existing site conditions	X	X
Property survey showing topography, existing structures, utilities and floodplain elevation	X	X
Property boundaries, including dimensions	X	X
Net lot area (exclusive of any road right-of-way, or submerged land)	X	X
Drawing scale and a north arrow	X	X
Site location map showing the subject property, adjacent streets, and the nearest intersection	- -	X
Zoning of site and adjacent land	X	X
Rights-of-way (with street name and classification labeled) and easements	X	X
Drainage courses, floodplains, lakes, streams and wetlands	X	X
Required setbacks and yard areas	X	X
Adjacent buildings, structures or pavement within 100 feet of site, including buildings and decks on adjacent waterfront lots	X	X
All existing and proposed structures or other site improvement with the dimensions of such improvements	X	X
Height of all structures	X	X
Distances from all proposed structures to the property lines	X	X
Location of any existing or proposed septic field or other onsite wastewater treatment system	X	X
Well sites	X	X
Utility information including water mains, water service leads, fire hydrants and sewer lines	- -	X
Location of any existing or proposed driveway and/or parking areas	X	X
Parking space dimensions, number of required and provided parking spaces, driving aisle widths, pavement materials, curb locations	- -	X
Driveway widths, intersection radii, pavement materials, curb locations, deceleration tapers, and distances to the nearest drives on the same and opposite side of the street	- -	X
Location of any drive-through facilities, including vehicle stacking spaces and point of service	- -	X
Location of any loading areas	- -	X
Sidewalks (public and private) including construction details and accessible ramp details;	- -	X
Landscaping, with plant materials labeled according to size at planting and species	- -	X
Permanent or occasional outdoor storage, sales, and/or display	X	X
Fences or walls	X	X
Photometric plan and detailed specifications for all exterior lighting fixtures	- -	X
Waste containers and a detail demonstrating how they are to be enclosed	X	X
Location, type, and dimensions of any storm water structures, stormwater landscaping,	- -	X

conduits, or detention/retention ponds that are located on, cross, or adjoin the subject property		
General grades on-site sufficient to determine positive drainage	X	X
Flood hazard areas, including the finished floor elevation, base flood elevation, and flood protection grade for all structures;	X	X

(c) All plans shall be based on an accurate survey prepared by a licensed land surveyor. The requirement for a survey may be waived on agricultural parcels greater than two (2) acres where all buildings will be setback from all lot lines at least five (5) feet more than the minimum required setback.

(d) A driveway permit from the applicable state, county or city highway engineer.

(e) A well and septic permit or letter of non-objection from the county health department.

(f) A letter of approval from the county surveyor relative to drainage plan and setbacks from legal drains.

(g) A letter of air space approval, if so applicable.

(h) The enforcement official shall have discretion as to what information shall be required in order to determine conformity with the zoning ordinance. Any additional Site Plan/Sketch Plan requirements may be waived.

Section 23.04 Permits Review

(a) Upon receipt of an application for a permit and site plan/sketch plan, it shall be reviewed by all applicable departments, including planning, engineering, fire, water and sewer, as applicable or site plan review committee. The departments shall provide their recommendations to the enforcement official as to whether the application complies with this ordinance, other ordinances and other applicable building, and engineering standards. Based upon department reviews and the enforcement official shall determine if the site plan/sketch plan complies with the requirements of this ordinance.

(b) If the application for a permit is approved, the applicant shall post the permit in a conspicuous location on the site of a new, or altered building or structure, or an addition, or a building or structure moved from another location.

(c) All necessary building permits required by the Building Code shall be obtained prior to commencing construction.

(d) Buildings shall be completed for issuance of an occupancy certificate within one (1) year from the initiation of construction, or a building permit extension must be obtained.

Section 23.05 Occupancy Certificate

(a) Any land, vacant on the effective date of this chapter, and any building, structure, or addition or major alteration thereto, constructed after the effective date of this chapter shall not be used or occupied until an occupancy certificate has been issued by the building administrator and enforcement official. No new use shall be made of any land, building, or structure until an occupancy certificate has been issued.

(b) Every application for a building permit shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new use of land or existing building or structure where no building permit is required shall be made to the enforcement official.

(c) Time of issuance.

(1) An occupancy certificate shall be issued only after the enforcement official has inspected the premises and finds:

a. The premises to be in compliance with all applicable regulations of the zoning district in which it is located; and

b. That the use or building or structure is in conformance with the plans and specifications for which the building permit was issued.

(2) The enforcement official may issue only one temporary occupancy certificate for each application for a building permit as follows:

a. For a period not to exceed six (6) months from the date of its issuance, and with provisions, if required, for an extension of not more than a total of three additional months;

b. That the portion of the land, building, or structure for which the temporary occupancy certificate is issued has been completed and meets the requirements as set forth above, and the remaining portion of the land, building, or structure is in the process of completion.

(3) Every occupancy certificate shall be dated, shall state that the use or occupancy complies with the provisions of this chapter and shall be signed by the enforcement official.

(4) The occupancy certificate shall be issued, or written notice shall be given to the applicant specifying the reasons why a temporary or permanent certificate cannot be issued, not later than 14 days after the enforcement official is notified in writing that the building or premises are ready for occupancy.

Section 23.06 Records

A record of each improvement location permit and each occupancy certificate shall be kept by the enforcement official. Upon request, a copy shall be furnished to any person having proprietary or possessory interest in the premises concerned.

Section 23.07 Performance Guarantees

(a) Where required by this ordinance or as a condition of approval for a permit under this ordinance, a guarantee in a form acceptable to the county or city, such as a bond, cash deposit, certified check or irrevocable bank letter of credit shall be provided.

(b) In instances where all required improvements are not completed, and a temporary certificate of occupancy is requested, the estimated cost of completing the improvements shall be provided in the form of a guarantee acceptable to the county or city, such as a bond, cash deposit, certified check or irrevocable bank letter of credit.

(c) The guarantee shall include a schedule of costs assigned to the different improvements. Monies may be released to the applicant in proportion to work completed on the different elements after inspection of work and approval of the enforcement official. Any partial release of funds shall not reduce the amount of the remaining guarantee to less than ten percent (10%) of the original amount, which shall be retained by the county or city until all work has been completed and subsequently inspected and approved by the enforcement official.

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Article 24
Special Exception Review Requirements and Procedures

Section 24.01 Special Exception Approval

A use listed in a zoning district as a special exception, special use, contingent use or conditional use may only be established or expanded with the approval of the Board of Zoning Appeals (BZA) following the procedures and requirements of this article.

Section 24.02 Application

The applicant shall submit a special exception use application, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:

(a) **Site Plan.** A site plan, signed and dated, and clearly showing all features relevant to the special exception use request in accordance with Section 23.03.

(b) **Written Commitments.** Documentation of any written commitments being made as a part of the application.

Section 24.03 Notification

The petitioner shall provide public notice as required by Section 28.10.

Section 24.04 Public Hearing

The BZA will, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the special exception use application and required supporting information.

(a) **Procedures.** The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules of Procedure of the Board.

(b) **Possible Action.** The BZA may approve, approve with conditions, deny, or continue the application.

(1) **Approval.** The application may be approved if findings of fact are made consistent with the requirements of section 24.05.

(2) **Approval with Conditions.** The application may be approved with conditions if the BZA determines that the required findings of fact may be made only if certain written commitments are applied to the application.

(3) **Denial.** The application shall be denied if findings of fact consistent with the requirements of 24.05 are not made.

(4) **Continued.** The application may be continued by the BZA based on a request by the enforcement official, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the BZA that additional information is required prior to action being taken on the request.

Section 24.05 Decision Criteria

The BZA may grant a special exception use approval for any use listed as "special exception" in the applicable zoning district of this ordinance if, after a public hearing, it makes findings of fact in writing that each of the following is true:

(a) **General Welfare.** The proposal will not be injurious to the public health, safety, and general welfare of the community.

(b) **Surrounding Property.** The special exception use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish or impair property values within the neighborhood. The establishment of the special exception use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(c) **Hazard.** The special exception shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property.

(d) **Public Facilities and Services.** The use will be served adequately by essential public facilities and services such as: highways, streets, police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(e) **Development Requirements.** The development of the property will be consistent with the intent of the development requirements established by this ordinance for similar uses. The development will be designed, constructed, operated and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity, based upon the County Comprehensive Land Development Plan.

(f) **Ordinance Intent.** Granting the special exception use will not be contrary to the general purposes served by this ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.

(g) **County Land Development Plan.** The proposed use will be consistent with the character of the zoning district in which it is located and the recommendations of the County Land Development Plan.

(h) **Use Regulations.** Where there are use-specific regulations contained in Article 14, the special exception use shall comply with all of the regulations applicable to the use.

Section 24.06 Conditions & Commitments

The BZA may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in section 24.05 will be served. The BZA may also accept written commitments concerning the use or development of the property as specified under IC 36-7-4-921. Any conditions and/or commitments shall be recorded in the La Porte County Recorder's Office by the applicant within 90 days of approval.

(a) **Recording Required.** A copy of the recorded document shall be provided to the enforcement official for inclusion in the petition file prior to the issuance of any improvement location permits.

(b) **Compliance Required.** No improvement location permit shall be issued for any permit application which does not comply with the recorded conditions and/or commitments.

(c) **Expiration of Approval.** If a person to whom an improvement location permit has been issued for a special exception use fails to begin construction within 12 months after the permit is issued, or fails to comply with the approved plan, the BZA, may on its own initiative, or shall, upon written request of

any interested person, require the permittee to show cause why the permit should not be revoked. However, an order to show cause may not be issued for failure to begin construction on time if in the meantime construction has begun.

(1) In a proceeding to show cause under this subsection (c), the BZA shall hold a public hearing, of which written notice shall be published according to law and sent by certified mail to the holder of the permit at least 10 days before the date set for the hearing.

(2) At the hearing, evidence may be presented by any person present. If on the evidence the BZA finds that the holder of the permit has failed, as described in this subsection (c), it shall revoke the permit. However, if it considers the failure correctable within six (6) months, it may defer revocation and continue the hearing until a specified day within that period.

Section 24.07 Limitations

Special exception use approvals shall be invalid if:

(a) Changes are made to the site that violate the ordinance or the conditions of approval, or

(b) The special exception use approval is terminated.

Section 24.08 Special Exception Use Expansion

A use authorized as a special exception use may not be expanded, extended, enlarged or moved to a new location unless reauthorized by the BZA under the procedures set forth in this Article for granting a special exception use approval.

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Article 25
Planned Unit Development

Section 25.01 Intent

(a) The Planned Unit Development (PUD) standards are a supplementary list of "overlay" zoning district standards which apply to properties simultaneously with one (1) or more of the other zoning districts established in this Ordinance, hereinafter referred to as the "underlying" zoning district(s).

(b) The PUD standards are provided as a design option, intended to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership, and variety in design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land; to preserve farmland, significant natural, historical, and architectural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide better housing, employment, and shopping opportunities particularly suited to residents; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the site or its surrounding areas.

(c) The standards are intended to accommodate development on sites with significant natural, historical, and architectural features, on land which exhibits difficult development constraints, to encourage redevelopment of urban areas as mixed-use neighborhoods, to provide the opportunity to mix compatible uses or residential types, and to allow clustering of residential units to preserve common open space and natural features. The PUD standards shall not be sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes set forth in this section.

(d) In order to encourage PUD developments on specific properties, these standards may allow the plan commission and legislative body to relax or waive one (1) or more of the requirements of the underlying district through approval of a PUD ordinance. The PUD also allows the developer the opportunity to mix compatible uses or residential types on a single property, allows clustering to reduce construction costs, and may enhance marketability through the preservation of significant natural, historical, and architectural features.

Section 25.02 Qualifying Conditions

In order to qualify for PUD approval, the applicant must demonstrate in writing that each of the following criteria will be met by the proposed PUD:

(a) **Demonstrated Benefit.** The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district, as determined by the plan commission:

(1) Preservation of significant natural features or farmland.

(2) A complementary mixture of uses or a variety of housing types that provides a benefit to the community over conventional development.

(3) Common open space for passive or active recreational use.

(4) Off-site mitigation to community impacts resulting from the development, such as public roadway improvements to maintain or improve roadway level of service.

(5) Redevelopment of an outdated urban site or brownfield site where creative design can address unique site constraints.

(b) **Availability and Capacity of Public Services.** The proposed type and density of use(s) shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.

(c) **Compatibility with the County land development plan.** The proposed PUD shall be compatible with the overall goals and recommendations as proposed in the county or city county land development plan.

(d) **Compatibility with the PUD Purpose.** The proposed PUD shall be consistent with the intent of this Article and spirit of this Ordinance.

(e) **Development Impact.** The proposed PUD shall not impede the continued use or development of surrounding properties for uses that are permitted in this Ordinance.

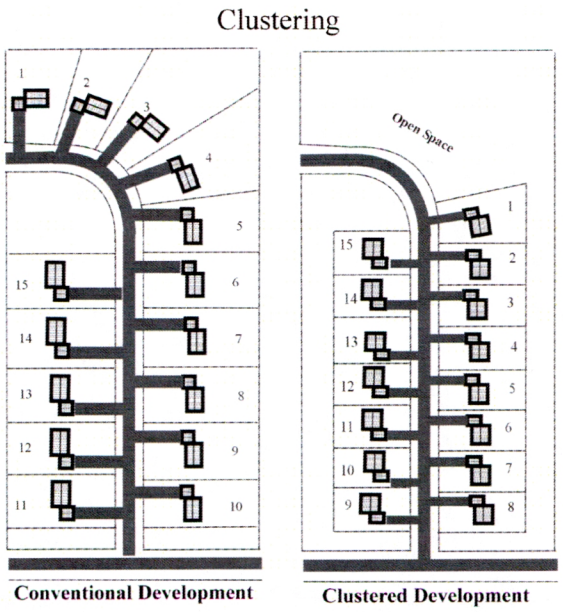
Section 25.03 Permitted Uses

Principal uses permitted under the PUD standards are based on the underlying zoning district(s).

(a) All permitted uses and special exception uses of the underlying district(s) shall be permitted unless otherwise specified in the PUD ordinance. In agricultural districts the uses may be based on uses permitted in the lowest intensity residential, commercial, or industrial district for the jurisdiction depending on the planned uses of the PUD and based upon the land use recommendations of the County Land Development Plan.

(b) In addition to those uses otherwise permitted, a mixture of single and multiple-family dwellings on a planned basis, through the use of attached dwellings, townhouses, apartment buildings, zero lot line configurations, and/or other similar building configurations; or any combination of these residential uses may be permitted within any PUD.

(1) Residential density shall be determined by a conventional development plan that illustrates how the site could be developed as a conventional subdivision, meeting all applicable zoning and subdivision requirements. The plan commission shall review the design and determine the number of buildable lots that could be feasibly constructed, taking into consideration any wetlands or other non-buildable land. This number shall be the maximum number of dwelling units allowable for the PUD. Where the underlying zoning is multiple family, density shall be determined based upon the underlying zoning district density limits. Portions of the site that are currently zoned for a non-residential use or are proposed to be developed with only non-residential uses shall not be included in the plan used to determine density. In agricultural districts, the density may be based on the allowable density in the lowest intensity residential district for the jurisdiction.



(2) Once the density has been determined, residential units may be clustered on smaller lots on a portion of the site, with the remaining land area being preserved as open space.

(3) For PUDs located within a city, a density bonus of up to 25% may be granted where the development will provide for infill development/redevelopment, create a walkable neighborhood and be in accordance with the city comprehensive plan.

(c) For a PUD in a residential district that has an area of at least 40 acres, up to 10% of the total site acreage may be developed with uses permitted in the B1 District. Such uses must front a public street and be developed in conjunction with, or following, development of the residential uses.

(d) For a PUD in a B1, B2, CBD1, CBD2, MB district, residential uses, such as residential apartments on a second floor above retail or office uses, may be permitted in a mixed use PUD.

Section 25.04 Dimensional Requirements

(a) **Base Zoning Regulations.** Unless modified by the plan commission and legislative body, according to the PUD standards, all Zoning Ordinance requirements for the zoning district shall remain in full force. In agricultural districts the requirements for the lowest intensity residential, commercial, or industrial district in the jurisdiction may be used as the base zoning regulations depending on the planned uses for the PUD and based upon the land use recommendations of the County Comprehensive Land Development Plan.

(b) **Regulatory Flexibility.** To encourage flexibility and creativity consistent with the PUD concept, the plan commission and legislative body may grant specific departures from the requirements of the zoning ordinance as a part of the approval process through the PUD ordinance. Development standards for lot area, lot width, building height, setbacks, off-street parking, general provisions, subdivision regulations or other zoning ordinance provisions may be modified, provided that such modifications result in enhanced buffering from adjacent land uses or public rights-of-way, preservation of natural features or creation of a walkable neighborhood. Minimum standards for improvements, such as road construction, sewage, water, and drainage may not be reduced as a part of the PUD ordinance.

(c) **Approval of Modifications.** Any regulatory modification shall be approved with the PUD overlay district and preliminary site plan through a finding by the plan commission and legislative body that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. No part of a PUD plan may be appealed to the board of zoning appeals. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided such variance does not involve alterations to open space areas, as shown on the approved PUD site plan or the requirements of the article.

(d) **Table of Modifications.** A table shall be provided on the preliminary PUD site plan that specifically details all deviations from the established zoning district's development standards for lot area, lot width, building height, and setbacks, off-street parking regulations, general provisions, subdivision regulations or other zoning ordinance provisions which would otherwise be applicable to the uses and development proposed in the absence of this PUD article. This specification should include Ordinance provisions, from which deviations are sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this ordinance and the county land development plan shall be considered.

Section 25.05 Open Space

(a) **Open Space Requirement.** All PUDs shall set aside a minimum of 25% of the total site area as common open space (including residential and non-residential areas).

(1) Common open space shall be planned in locations visible and accessible to all in the PUD. The common open space may either be centrally located, along the road frontage of the development, located to preserve natural features, located to buffer adjacent farmland, link with adjacent open space or recreation land or located to connect open spaces throughout the development. Open space shall be situated to maximize the preservation of any existing site woodlands, meadows and other high-quality natural areas.

(2) Land area use to meet the minimum 25% open space requirement shall be usable and not include stormwater detention/retention basins, wetlands, open water or other unbuildable areas. These areas may be preserved as common open space, but must be in addition to the 25% usable land area.

(3) On urban infill sites within the cities, open space may be in the form of parks, gardens and other green space, pedestrian plazas or walkways.

(b) **Open Space Protection.** The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement.

(1) The conservation easement shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use.

(2) The dedicated open space shall be maintained by parties who have an ownership interest in the open space. A maintenance agreement shall be recorded with approval of the final site plan.

(3) The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require plan commission approval, and shall not diminish compliance with the requirements of this ordinance.

(4) The open space or a conservation easement for the open space may be conveyed to a conservation organization or to a public agency for recreational or conservation use; however, any conveyance to a public agency shall be at the owner's discretion.

Section 25.06 Application and Review Procedure for Preliminary and Final PUD Site Plan

The application process for a PUD involves two (2) steps for review of a preliminary and final PUD. The procedures are described below.

(a) **Pre-application Meeting.** The applicant shall meet with the enforcement official to review the PUD requirements and ensure that application materials are complete. An optional pre-application workshop with the plan commission may be requested by the applicant or member of the Plan Commission to discuss the appropriateness of the PUD concept, solicit feedback, and receive requests for additional materials supporting the proposal. An applicant desiring such a workshop shall request placement on the plan commission agenda.

(b) **Application.** The applicant shall submit the preliminary PUD site plan, meeting the requirements of Section 25.07, at least 15 days prior to the meeting at which the plan commission shall first review the request.

(c) **Checkpoint Agency Review.** The following agencies shall review the application prior to the plan commission hearing and recommend changes or sign-off that they do not have concerns with the application.

(1) Natural Resource Conservation Service (NRCS)

(2) Drainage Board or MS4 coordinating agency

(3) City or county engineer

(4) Fire department

(5) Street or highway department

(6) Health department

(7) Utility providers (water, sewer) if applicable

(d) **Public Hearing.** The plan commission shall review the preliminary PUD site plan, and shall conduct a public hearing and satisfy requirements set forth in Ind. Code § 36-7-4-1505, which requires a PUD ordinance be adopted in the same manner as a zoning map change pursuant to Ind. Code § 36-7-4-608.

(e) **Plan Commission Action.** During this review, the plan commission may request additional materials supporting the PUD proposal, or recommend modifications or conditions not in contravention with the standards of Section 25.08 and comments from the checkpoint agencies. Once the plan commission is satisfied that all of the required information has been provided, the plan commission shall forward the PUD overlay district and preliminary site plan to the legislative body pursuant to Ind. Code § 36-7-4-601 et. seq.

(f) **Legislative Action.** The legislative body may vote on the proposed PUD overlay district within ninety (90) days of its certification by the plan commission. The legislative body may either approve or deny the PUD overlay district pursuant to Ind. Code § 36-7-4-601 et. seq. The legislative body may also seek modifications or additions to any written commitments. The legislative body may delegate further review to the Plan Commission pursuant to Ind. Code § 36-7-4-1511.

(g) **Commitments.** Any commitments attached to the approval of the preliminary PUD site plan shall be made part of the approval and shall be reflected in the final PUD site plan. The county or city attorney, as applicable, shall prepare the written commitments based on the legislative body action. The applicant shall reimburse the county or city attorney, as applicable, for all costs related to the preparation of the written commitments. The shall be signed by the legislative body and the applicant and recorded in the office of the County Recorder. The commitments must be recorded prior to submitting an application for final site plan approval.

(h) **Effect of Approval.** Approval of the PUD overlay district and preliminary site plan shall be effective for a period of one (1) year. If a final PUD site plan for at least the first phase of the project is not submitted within one (1) year of the preliminary approval, or an extension applied for, the preliminary PUD site plan shall expire and a new application must then be filed and processed. The one (1) year period for preliminary PUD approval may be extended for one (1) year, if applied for by the petitioner prior to expiration and granted by the plan commission. If a preliminary PUD is allowed to expire, the plan commission and legislative body shall take action to remove the overlay district from the zoning for the site.

(i) **Phased PUD.** If the approved preliminary PUD site plan indicated that the proposed development was to occur in phases, final PUD site plan approval may be granted on each phase of the development, provided that each phase contains all the necessary components to insure protection of significant natural, historical, and architectural features, and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area. Roads, utilities and other infrastructure for each phase shall be designed to fully operate in accordance with county or city, as applicable, engineering standards and not be dependent upon the completion of subsequent phases. Subsequent phases shall also follow the process for final PUD site plan outlined in this Article.

(j) **Final Site Plan.** The applicant shall submit the final PUD site plan for any or all phases of, the approved preliminary PUD site plan at least 30 days prior to the plan commission meeting at which the plan commission shall first review the request. If the PUD is being developed as a subdivision, then all requirements of the subdivision regulations shall be met and the final PUD application shall also include a primary plat. The primary plat shall be reviewed concurrently with the requirements of this article.

(k) **Checkpoint Agency Review.** The agencies in Section 25.06(c) shall review the final site plan for compliance with applicable federal, state, and local ordinances and standards prior to the plan commission review. The agency official shall state any items that need to be address prior to approval or sign-off that the final site plan is acceptable.

(l) **Plan Commission Review.** Upon submission of all required materials and fees, the plan commission shall review the final PUD site plan and shall take final action on the final PUD site plan, in accordance with the standards and regulations of this ordinance.

(m) **Conditions.** If the final PUD site plan was approved with conditions, the applicant shall submit a revised final PUD site plan to the enforcement official for approval prior to submitting construction plans.

(n) **Subdivision.** If the PUD is being developed as a subdivision, then the applicant shall be required to submit construction plans and secondary plat drawings in accordance with the subdivision regulations.

(o) **Final Approval.** Approval of the final PUD site plan shall be effective for a period of two (2) years. If construction has not begun on the first phase of the project within two (2) years of the final PUD approval, the right to develop under the PUD site plan shall terminate and a new application must then be filed and processed. If a final PUD is allowed to expire, the plan commission and legislative body shall take action to remove the overlay district from the zoning for the site.

Section 25.07 Preliminary PUD Site Plan Submittal Requirements

The preliminary PUD site plan shall set forth the proposed uses to be developed in the PUD. The following specific information shall be provided in the preliminary PUD site plan submittal:

(a) **Proof of Ownership.** Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire the land, such as an option or purchase agreement with written authorization from the owner.

(b) **Written Documentation.** Written documentation that the preliminary PUD site plan meets the standards of Section 25.08.

(c) **Application Form and Fees.** A completed application form, supplied by the enforcement official, and an application/review fee; a separate escrow deposit shall be required for administrative charges to review the PUD submittal.

(d) **Preliminary PUD Site Plan.** Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale of one (1) inch equals 20 feet for sites of 20 acres or less; and up to one (1) inch equals 100 feet or less for sites over 20 acres.

Cover Sheet
Applicant's name.
Name of the development.
Preparer's name and professional seal of architect, engineer or surveyor, licensed in the State of

Indiana.
Date of preparation and any revisions.
North arrow.
Property lines and dimensions.
Complete and current legal description and size of property in acres.
Small location sketch of the subject site and area within one-half (1/2) mile, and scale.
Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the PUD site.
Lot lines and all structures on the property and within 100 feet of the PUD property lines.
Location of any vehicle access points on both sides of the street within 100 feet of the PUD site along roads where vehicle access to the PUD is proposed.
PUD Site Plan
Existing locations of all natural, historical, and architectural features, existing drainage patterns, surface water bodies, floodplain areas, wetlands, meadows and woodlands.
Existing and proposed topography at five (5) foot contour intervals, and a general description of grades within 100 feet of the site.
Dimensions of existing and proposed right-of-way lines, names of abutting public roads, proposed access driveways and parking areas, and existing and proposed pedestrian paths.
Existing buildings, utility services, and any public or private easements, noting those which will remain and which are to be removed.
Layout and typical dimensions of proposed lots, footprints, and dimensions of proposed buildings and structures.
Proposed uses with the acreage allotted to each use. For developments with residential components: the number, type, and density of proposed housing units.
General engineering information for utilities and drainage.
General location and type of landscaping proposed (evergreen, deciduous, annuals, perennials, berm, etc.) noting existing trees and landscaping to be retained.
Size, type, and location of proposed identification signs.

(e) **PUD Development Ordinance** A draft written PUD Ordinance specifying all the terms and understandings of the PUD. The content of the ordinance shall be based on the extent of the proposed development, but shall, at a minimum, provide the following:

i. A survey of the acreage comprising the proposed development.
ii. The manner of ownership of the developed land.
iii. The amount, manner of ownership, and proposed method of dedication or mechanism to protect any areas designated as common areas or open space.
iv. Land use description including list of proposed uses, residential density, dwelling types, lot dimensions, setbacks and other dimensional standards.
v. Description of improvements to common areas, recreational facilities and non-motorized

pathways, including a plan for continued maintenance responsibility.

vi. General description of any improvements to roads or utilities. The cost of installing and maintaining all roads and the necessary utilities shall be assured by a means satisfactory to the plan commission.

vii. Provision assuring that open space areas shown on the plan for use by the public or residents of the development will be irrevocably committed for that purpose. The plan commission may require conveyances or other documents to be placed in escrow to accomplish this. The cost of installing and maintaining all open space amenities shall be assured by a means satisfactory to the plan commission.

viii. Provisions for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements.

ix. Provisions to ensure adequate protection of natural features.

x. The preliminary PUD site plan shall be incorporated by reference and attached as an exhibit.

xi. Complies with the requirements of Ind. Code § 36-7-4-1503, which requires an Ordinance to include:

1. Designates a parcel of real property as a planned unit development district.
2. Specifies uses or a range of uses permitted in the planned unit development district.
3. Specifies development requirements in the planned unit development district.
4. Specifies the plan documentation and supporting information that may be required.
5. Specifies any limitation applicable to a planned unit development district.
6. Meets with requirements of the 1500 series of Ind. Code § 36-7-4.

(f) **Multi-Phased PUD.** If a multi-phase PUD is proposed, the areas included in each phase shall be identified. For residential uses identify the number, type, and density of proposed housing units within each phase.

(g) **Additional Information.** Any additional graphics or written materials requested by the plan commission to assist in determining the appropriateness of the PUD such as, but not limited to: aerial photography; market studies; impact on public primary and secondary schools and utilities; traffic impact study; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; description of how property could be developed under the regulations of the underlying district; preliminary architectural sketches; and estimated construction cost.

Section 25.08 PUD Site Plan Standards for Approval

Based upon the following standards, the plan commission may deny, approve, or approve with conditions the proposed preliminary PUD site plan, subject to approval of the PUD ordinance by the legislative body.

(a) The PUD shall meet the qualifying conditions of section 25.02.

(b) The PUD must be consistent with the county land development plan.

(c) The uses must have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed must not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit

shall be one which could not be achieved under the regulations of the underlying district alone or that of any other zoning district.

(d) Any modifications to the dimensional standards of this Ordinance, such as lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards shall be reviewed and approved by the plan commission.

(e) Any increase in the density requirements of the underlying zoning district must be approved by the plan commission and be included under review of the preliminary PUD site plan and in the PUD ordinance.

(f) The number and dimensions of off-street parking shall be sufficient to meet the minimum required by article 18. However, where warranted by overlapping or shared parking arrangements, the plan commission may reduce the required number of parking spaces in the PUD ordinance.

(g) All roads and parking areas within the PUD shall meet the minimum design standards, unless modified by the plan commission and legislative body in the PUD ordinance.

(h) Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided.

(i) Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Plantings and other landscape features shall meet or exceed the standards of article 17.

(j) Judicious effort shall be used to preserve significant natural, historical, and architectural features and the integrity of the land.

(k) Adequate water and sewer facilities shall be available or shall be provided by the developer as part of the site development.

Section 25.09 Final PUD Site Plan Submittal Requirements

The final PUD site plan shall include all the following information, unless the enforcement official determines that some of the required information is not reasonably necessary for the consideration of the PUD:

(a) All information required for site plan submittal in accordance with section 23.03. If the PUD is being developed as a subdivision, then all information required for a preliminary plat shall be submitted in accordance with the Subdivision Regulations.

(b) Any additional graphics or written materials requested by the plan commission to assist in determining the impacts of the proposed PUD site plan, including, but not limited to, economic or market studies; impact on public utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction cost.

(c) A written version of the approved of PUD ordinance specific to the PUD. Such document shall include provisions for site layout, access, vehicular and pedestrian circulation, parking, screening, building design and architecture, landscaping, open space, lighting, and signage. The PUD ordinance shall also include any variations to the dimensional standards of this Ordinance, such as density, lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards.

Section 25.10 Final PUD Site Plan Standards for Approval

The plan commission shall use the standards for approval in Section 25.08 and any design requirements developed specifically for the PUD, in reviewing the final PUD site plan.

Section 25.11 Deviations from Approved Final PUD Site Plan

(a) Minor deviations and amendments from the approved final PUD site plan and associated PUD ordinance shall be reviewed and approved by the enforcement official. The following minor modifications can be approved by the enforcement official without the need for a new preliminary PUD site plan:

(1) For residential buildings, the size of structures may be reduced; or increased by five percent (5%), provided the overall density of units does not increase and the minimum square footage requirements are met.

(2) Gross floor area of non-residential buildings may be decreased; or increased by up to five percent (5%).

(3) Floor plans may be changed if consistent with the character of the use.

(4) Horizontal and/or vertical elevations may be altered by up to five percent (5%).

(5) Relocation of a building by up to five (5) feet, if consistent with required setbacks and other standards.

(6) Designated "Areas not to be disturbed" may be increased.

(7) Plantings approved in the Final Landscape Plan may be replaced by similar types of landscaping on a one-to-one or greater basis; consistency with the requirements of Article 17 must be maintained.

(8) Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.

(9) Changes of building materials to another of higher quality.

(10) Internal rearrangement of parking lot which does not affect the number of parking spaces or alter access locations or design, or reduce stormwater management capacity.

(11) Changes required or requested by the county or city for traffic safety reasons.

(b) If the enforcement official determines that the modifications to the final PUD site plan significantly alter the intent of the preliminary PUD site plan, a new submittal illustrating the modification shall be required and must be approved by the plan commission and legislative body as a new preliminary PUD site plan.

(c) Any deviation from the approved final PUD site plan that is not approved shall be considered a violation of this Article and shall invalidate the PUD overlay. The plan commission and legislative body shall take action to remove the overlay district in the event that the PUD is invalidated.

Article 26
Administration and Enforcement

Section 26.01 Enforcement Official Designated

The county and cities shall each designate an enforcement official for the jurisdiction under the provisions of I.C. 36-7-4-1013(a) and I.C. 36-7-4-1014(a) by resolution of the legislative body of each jurisdiction.

(a) **Enforcement Official.** The enforcement official shall have the authority to carry out all duties under this ordinance.

(b) **Staff.** The duties of the enforcement official specified in this ordinance may be delegated to staff working under the direction of the officials specified above in each of the local jurisdictions.

Section 26.02 Duties of the Enforcement Official

The enforcement officials designated in 26.01 above, and designated department staff, shall be responsible for carrying out the duties under this ordinance as follows:

(a) Determine conformance of applications for improvement location permits with the regulations of this chapter;

(b) Issue all zoning certificates, and make and maintain records thereof;

(c) Issue all certificates of occupancy, and make and maintain records thereof;

(d) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this chapter;

(e) Maintain permanent and current records of the administration and enforcement of this chapter, including, but not limited to, applications, processing and decisions for all amendments, special exceptions, variances, and appeals, and designate on the zoning district map each amendment and special exception granted by the plan commission or board of zoning appeals;

(f) Receive, file, and forward to the board of zoning appeals all applications for variances, special exceptions, or other matters on which the board of zoning appeals is required to act under this chapter;

(g) Forward to the clerk all applications upon which the legislative body of the community is required to act;

(h) Coordinate applications effecting Airport Overlay District with the La Porte Municipal Airport Authority or the Michigan City Board of Aviation Commissioners;

(i) Initiate, from time to time, a study of the provisions of this chapter, and make reports of recommendations to the plan commission not less than once a year;

(j) Issue permits regulating the erection and use of tents for specific periods of time for purposes such as temporary carnivals, churches, voluntary organizations such as Boy Scouts and Girl Scouts, eleemosynary uses, revival meetings or similar uses, provided, however, that said tents and uses thereof are in conformance with all other ordinances and codes;

(k) Review all applications for improvement location permits for new construction or additions to existing construction to ascertain whether the proposed construction or addition lies in a flood hazard area, as defined elsewhere by ordinance. If the proposed construction or addition is found to lie in

such an area, the enforcement official may require modifications to the design and materials the enforcement official may deem appropriate to prevent flotation, collapse, or lateral movement of the structure and minimize potential future flood damages.

Section 26.03 Schedule of Fees

The county and cities may adopt annually a schedule of fees at the first organization meeting of each year. Fees to consider would be any permit authorized for issuance by the enforcement official under the jurisdiction of the BZA or the plan commission.

Section 26.04 Enforcement

(a) **Injunction**. The county, city, BZA, or the enforcement official may bring an action against any person, firm, partnership, corporation, or other entity for the following:

(1) An injunction to restrain the violation of any part or provision of this title; or

(2) A mandatory injunction directing the removal of any structure erected in violation of any part or provision of this title.

(b) **Costs.** If any action as in division (a) above is successful and injunctive relief is granted, then the judgment may also award the county or city, as applicable, costs of the action, including attorney's fees, and fines as assessed or determined by the court as provided by this title for violation thereof.

(c) **Airport.** Any violations to the Airport Overlay District may be enforced under this section be the La Porte Municipal Airport Authority or the Michigan City Board of Aviation Commissioners.

Section 26.05 Procedure to Impose a Fine For Violation

(a) Any proceeding brought by the county or city, as applicable, to enforce the provisions of this title shall be brought pursuant to and governed by the provisions of:

(1) I.C. 36-1-3-8(a)(10);

(2) I.C. 36-1-6-1 et seq.;

(3) I.C. 34-28-5-1 et seq.;

(4) I.C. 36-7-4-1012;

(5) I.C. 36-7-4-1013(a);

(6) I.C. 36-7-4-1014(a) and (b);

(7) I.C. 36-7-4-1015;

(8) I.C. 36-7-4-1016;

(9) I.C. 36-7-4-1017; and

(10) I.C. 36-7-4-1018.

(b) This includes any amendments to any of the above cited provisions, hereinafter adopted, or any other provisions of state law hereinafter adopted in place thereof or supplemental thereto.

Section 26.06 Penalties for Violation; Collection

The county, city BZA, or the enforcement official may bring an action against any person, firm, or partnership, corporation, or other entity for:

a) An injunction to restrain the violation of any part of provision of this Zoning Ordinance of La Porte County, City of La Porte, City of Michigan City and Town of Westville;

b) A mandatory injunction directing the removal of any structure erected in violation of any part or provision of this Zoning Ordinance of La Porte County, City of La Porte, City of Michigan City and Town of Westville;

c) If any such action for injunctive relief is granted, then the judgment may also award the county, city, The Board of Zoning Appeals or the Zoning Administrator, costs of the action, including attorneys' fees;

Section 26.07 Separate Violations

Any structure erected raised or converted or land or such action for emesis used, in violation of this ordinance is a common nuisance and the owner or possessor of any such structure, land or premises is liable for maintaining a common nuisance.

Section 26.08 Procedure to Impose a Fine for Violation

(c) Any proceeding brought by the county, city or town, as applicable, to enforce the provisions of this title shall be brought pursuant to and governed by the provisions of:

(1) I.C. 36-1-3-8(a)(10);
(2) I.C. 36-1-6-1 et seq.;
(3) I.C. 34-28-5-1 e seq.;
(4) I.C. 36-7-4-1012;
(5) I.C. 36-7-1-1013(a);
(6) I.C. 36-7-4-1014(a) and (b);
(7) I.C. 36-7-4-1015;
(8) I.C. 36-7-4-1016;
(9) I.C. 36-7-4-1-17; and
(10) I.C. 36-7-4-1018

(d) including any amendments to any of the above cited provisions, hereinafter adopted, or any other provisions of state law hereinafter adopted in place thereof or supplemental thereto.

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Article 27
Plan Commissions

Section 27.01 Establishment

There shall be plan commissions for the county and each city, established as follows:

(a) **County of La Porte.** The county of La Porte plan commission exists as an advisory plan commission under the authority of I.C. 36-7-4-208 and any amendments thereto. The rules of the plan commission are adopted in accordance with the requirements of I.C. 36-7-4-401.

(b) **City of La Porte.** The city of La Porte plan commission exists as an advisory plan commission under the authority of IC 36-7-4-207(b) and any amendments thereto. The rules of the plan commission are adopted in accordance with the requirements of I.C. 36-7-4-401.

(c) **City of Michigan City.** The city of Michigan City plan commission exists as an advisory plan commission under the authority of IC 36-7-4-207(a) and any amendments thereto. The rules of the plan commission are adopted in accordance with the requirements of I.C. 36-7-4-401.

(d) **Town of Westville.** The town of Westville plan commission exists as an advisory plan commission under the authority of IC 36-7-4-207(a) and any amendments thereto. The rules of the plan commission are adopted in accordance with the requirements of I.C. 36-7-4-401.

Section 27.02 Officers and Employees

(a) Each plan commission shall establish officers consistent with I.C. 36-7-4-303 and 304.

(b) Each plan commission may appoint employees consistent with I.C. 36-7-4-311.

(c) Each plan commission may establish committees consistent with I.C. 36-7-4-407.

Section 27.03 Duties

The powers and duties of each plan commission shall be those set forth in state statute and other responsibilities as may be required by local ordinance including this ordinance. The plan commission has the following powers:

(a) The power to review all PUD applications and to hold pre-application workshops; the power to approve preliminary site plans, final site plans and all modifications and changes to any PUD or PD district including those that were existing under any predecessor zoning ordinance; the power to review, report upon, and enforce compliance with final plans for any PUD or PD district including those that were existing under any predecessor zoning ordinance.

(b) The power to hear and determine minor subdivision and major subdivision applications.

(c) The power to conduct hearings regarding changes to the zoning ordinance and the zoning maps, upon its own or upon request of the city common council or county commissioners or other landowner petitioners, and to make recommendations thereon to the city common council or county commissioners.

(d) The power to review and enforce any decision made under a predecessor zoning ordinance.

(e) The power to make recommendations on the zoning ordinance.

(f) The power to make an annual report to the city common council or county commissioners concerning the operation of the plan commission and the status of planning within its jurisdiction.

(g) The power to exercise all other powers and duties as set forth in state statute or this ordinance.

Section 27.04 Policy Covering Plan Commission Activities

(a) So as to assure the promotion of public health, safety, morals, convenience, order, or the general welfare and for the sake of efficiency and economy in the process of development, each plan commission shall prepare a county land development plan which must contain the items in (1) through (3) below (per I.C. 36-7-4-502) and may contain the other following items.

(1) A statement of objectives for the future development of the jurisdiction.

(2) A statement of policy for the land use development of the jurisdiction.

(3) A statement of policy for the development of public way, public places, public lands, public structures, and public utilities.

(4) Careful and comprehensive surveys and studies of existing conditions and probable future growth of the county or city and its environs.

(5) Maps, plats, charts, and descriptive material presenting basic information, locations, extent, and character of the community, including demographics, land use, infrastructure and environmental conditions.

(6) Reports, maps, charts, and recommendations setting forth plans for the development, redevelopment, improvement, extension, and revision of the subjects and physical situation of the community so as to substantially accomplish the object of the legislation.

(7) A long range development program of public works projects based on the recommended plans of the plan commission for the purpose of eliminating unplanned, unsightly, untimely, and extravagant projects and with a view to stabilizing industry and employment and the keeping of the program up to date by yearly revision.

(8) A long range financial program of governmental expenditures in order that the development program may be carried out and the keeping of the program up to date for all separate taxing units within the county or city for the purpose of assuring efficient and economic use of public funds.

(b) The plan commissions may also formulate policies for:

(1) The districts in which subdivision of land is permitted.

(2) The issuance of improvement location permits.

(3) Laying out and development of public ways and services to platted and unplatted lands.

(4) If the county land development plan includes a major thoroughfare or highway plan, the plan commission may determine the lines for new, extended, widened, or narrowed streets or highways in any portion of the community and certify to the legislative body the amended or additional plan.

(5) Procedures of the plan commission, including ethical standards.

Section 27.05 Meetings

(a) The plan commissions will meet as necessary to carry out the duties of this article. At the yearly organizational meeting, the plan commission will establish dates and times for meetings for the current year.

(b) Special meetings may be called by the president or two members of the plan commission upon written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting.

(c) The president of the plan commission shall preside over meetings, decide questions of order, subject to appeal by plan commission members, and preserve decorum in the meeting room. The president shall pronounce the decisions of the plan commission for purpose of recording in the minutes.

Section 27.06 Official Action; Discussion and Voting

(a) A majority of the members of the plan commission who are qualified to vote shall constitute a quorum. Action of the plan commission shall not be official unless it is authorized at a regular or properly-called special meeting by a majority of the entire membership of the plan commission.

(b) All members present shall vote on every question unless they are permitted to abstain by the presiding officer, or, in the case of a zoning matter, have disqualified themselves because of a conflict of interest as described in division (c) below.

(c) No member of the plan commission shall participate in a hearing, discussion, or decision of the plan commission upon any decision or legislative act (as defined in I.C. 36-7-4-1016) in which the member is: 1) biased or prejudiced or otherwise unable to be impartial; or 2) the member has a direct or indirect financial interest in the outcome of the zoning decision. A legislative act is defined as an administrative appeal, request for exception, use, and variances, appeals of commitment modification or termination, development plans, planned unit developments and all other acts set forth in I.C. 36-7-4-1016. A member shall declare his or her known conflict of interest. The plan commission shall enter into its records the fact that the member has this disqualification, and the name of the alternate member, if any, who participates in the hearing in place of the regular member.

(d) In the event that a majority vote of the plan commission cannot be achieved due to absences, permitted abstentions, or disqualifications, the matter shall be rescheduled for the next regular meeting at the request of any plan commission member, a petitioner, or a remonstrator.

Section 27.07 Minutes and Records

(a) The secretary of the plan commission shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or shall indicate that the member is absent, abstaining with permission, or not voting because of a disqualification.

(b) The minutes of plan commission meetings and all records shall be filed in the office of the plan commission and are public records, as defined by I.C. 5-14-3, once approved by the plan commission.

(c) The minutes shall be presented to the plan commission for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the president and attested by the secretary.

Section 27.08 Public Hearings

(a) The plan commissions shall hold those public hearings as are required by state statute and county or city ordinances. The plan commissions may hold additional hearings at times and places and upon such notice as it considers necessary.

(b) The petitioner shall prepare the legal advertisement of the public hearing for approval by the plan commission and shall bear the expense of the advertising costs. In addition, the petitioner will notify all persons deemed by state statute and the plan commission to be interested parties at least 10 days before the date of the public hearing. At the public hearing, the petitioner shall provide proof that he or she has complied with this requirement.

Section 27.09 Notice Requirements; Public Hearings

(a) A notice of a public hearing required by state statute or county, or city ordinance shall contain as a minimum the following information:

(1) The substance of the matter to be heard by the plan commission and including the nature and request concerning the appeal, use, exception, or variance applied for, if any;

(2) General location, general description, and address of the property affected;

(3) Name of the person, agency, or entity initiating the matter to be heard;

(4) Time and place of the hearing;

(5) Statement that the petition may be examined at the plan commission office;

(6) Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing; and

(7) Any other information which may be required by law to be contained in the notice.

(b) Where a petition to rezone a specific piece of property or several adjacent properties is filed by a private property owner, all interested parties as defined by section 30.03 of this code must receive notice of any petition pending before the plan commission. The applicant must provide the plan commission proof of mailing of notice to all interested parties at the time the petition is presented for hearing.

(c) The applicant must also publish notice pursuant to I.C. 5-3-1 et seq. Publication must occur at least 10 days prior to the meeting in which the petition is heard. At the time of hearing, the petitioner must provide an affidavit showing proof of publication.

(d) For the purpose of this subchapter, the notice requirements contained in the previous sections are the bare minimum necessary for the presentation of the petition of any matter to be heard before the plan commission. In the event that any state statute, particularly I.C. 36-7-4 et seq., requires any other additional notice, in addition to that provided by this subchapter, the petitioner shall comply with same.

(e) The names of the interested parties who are property owners to be notified are to be ascertained from the real estate tax records, as maintained by the county or city assessor's office.

Section 27.10 Conduct of Public Hearings

The plan commission shall conduct public hearings required under this ordinance based upon rules of procedure adopted by the plan commission.

Section 27.11 Final Disposition of Cases

(a) The final disposition of any petition shall be in the form of a findings of fact of the plan commission, together with any modification, specification, or limitation which it makes.

(b) The plan commission may dismiss a petition for lack of prosecution or lack of jurisdiction. When a petitioner has failed to appear at two consecutive meetings, the petition may be dismissed for lack of prosecution.

(c) Following the publication of notice for any public hearing, until the conclusion of the hearing, a petitioner may not withdraw the matter to come before the public hearing without the approval of the plan commission.

(d) A petition which has been withdrawn by the petitioner shall not be again placed on the docket for consideration within a period of 12 months after the date of withdrawal.

(e) A petition for rezoning which has been decided adversely to the petitioner shall not again be placed on the docket for consideration until 12 months after the date of decision previously rendered.

(f) **Legislative Action**. The plan commission recommendations on resolution, ordinance amendments and rezonings are advisory. Petitions for rezoning, amendments to the county land development plan, and amendments to the zoning or subdivision control ordinances shall be forwarded to the city common council or county commissioners for consideration within ten (10) days of the plan commission recommendation.

Section 27.12 Conformance with County Land Development Plan

After adoption of the county land development plan and zoning code, the legislative body and the plan commission shall be guided by and shall give consideration to the general policy and pattern of development set out in the county land development plan in the:

(a) Authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities. Further, no public way or platted lot shall be abandoned or vacated until the plan commission having jurisdiction over the area involved shall have first given notice and held public hearing on vacation or abandonment of the public ways or platted lots. The plan commission shall forward its recommendation to the governing body having jurisdiction over the area. This body shall not override the recommendation of the plan commission unless done so by a two-thirds vote of the governing body.

(b) Authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities.

Section 27.13 Actions for Injunction for Restraint of Violation

(a) The plan commissions or any designated enforcement official may institute a suit for injunction in the circuit court of La Porte County to restrain an individual or a governmental unit from violating the provisions of I.C. 36-7-4 or of an ordinance enacted pursuant to its terms.

(b) The plan commissions may institute a suit for a mandatory injunction directing an individual or a governmental unit to remove a structure erected in violation of the provisions of I.C. 36-7-4 or of an ordinance enacted pursuant to its terms. If the plan commission is successful in its suit the respondent shall bear the cost of the action.

(c) No compensation or delegations shall be awarded for the taking of or injury to any structure erected in violation of the provisions of I.C. 36-7-4 or of an ordinance enacted pursuant to its terms.

Section 27.14 Coordination with State Statutes

Should any provisions of state statute be amended in any way that affects this article, the provisions of this article shall be applied in a manner consistent with any such amendment.

Article 28
Board of Zoning Appeals

Section 28.01 Establishment

(a) **County of La Porte.** The county Board of Zoning Appeals, hereinafter called "the BZA," exists as an advisory BZA under the authority of I.C. 36-7-4-901 and any amendments thereto. The BZA shall consist of five (5) voting members, who shall be appointed and shall hold office for such terms as are provided by I.C. 36-7-4-902, as amended.

(b) **City of La Porte.** The Advisory Board of Zoning Appeals for the city of La Porte shall consist of one division, as provided for in IC 36-7-4-901 and shall be hereinafter called "the BZA." The BZA shall consist of five (5) members who shall be appointed and shall hold office for such terms as are provided by IC 36-7-4-902 et seq.

(c) **City of Michigan City.** The Advisory Board of Zoning Appeals for the city of Michigan City shall consist of one division, as provided for in IC 36-7-4-901 and shall be hereinafter called "the BZA." The BZA shall consist of five (5) members who shall be appointed and shall hold office for such terms as are provided by IC 36-7-4-902 et seq.

(d) **Town of Westville.** The Advisory Board of Zoning Appeals for the town of Westville shall consist of one division, as provided for in IC 36-7-4-901 and shall be hereinafter called "the BZA." The BZA shall consist of five (5) members who shall be appointed and shall hold office for such terms as are provided by IC 36-7-4-902 et seq.

(e) The duties of the BZA shall be those set forth in the statute named above, and other responsibilities as may be required by the ordinances of the city or county.

Section 28.02 Powers and Duties of the BZA

The BZA shall have the following powers and duties:

(a) Hear and decide all applications for special exceptions, special uses, contingent uses or conditional uses following the procedures of article 24.

(b) The BZA shall have the power to grant variances from the provisions and requirements of this ordinance, in the following situations:

  (1) A use variance under the provisions of, and after making the findings as required by IC 36-7-4-918.4 and section 28.11(a).

  (2) A variance of developmental standards under the provisions of, and after making the findings as required by IC 36-7-4-918.5 and section 28.11(b).

(c) Hear and determine appeals from and review any order, requirement, decision, or determination made by the enforcement official or any other official or administrative board charged with the enforcement of this ordinance. In exercising its powers, the BZA may reverse, affirm or modify the order, requirement, decision, or determination appealed from. For this purpose, the BZA has all the powers of the official or administrative board from whom the appeal is taken.

Section 28.03 Officers and Employees

(a) A chairperson and vice chairperson for each BZA shall be appointed consistent with IC 36-7-4-912.

(b) A secretary and employees may be appointed consistent with IC 36-7-4-913.

Section 28.04 Meetings

(a) The BZA will meet as necessary to carry out the duties under this ordinance. At the yearly organizational meeting, the BZA will establish dates and times for meetings for the current year. The location of the meeting shall be set by the BZA. If the date of a regular meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, the chairperson may set an alternate date, time, or place for the regular meeting or may cancel the meeting with the consent of the majority of the members of the BZA.

(b) Special meetings may be called by the chairperson or two (2) members of the BZA upon written request to the secretary. The secretary will notify all members at least three (3) days prior to the special meeting. Any special meeting must comply with the notice requirements of I.C. 5-14-1.5.

(c) The agenda shall list all items to be considered by the BZA at the regular or special meeting.

(d) The chairperson of the BZA shall preside over meetings and hearings, decide questions of order, subject to appeal by BZA members, and preserve decorum in the meeting room.

(e) The secretary of the BZA shall keep minutes of its proceedings and record the vote on all actions taken. The BZA shall also make written findings of fact in all cases heard by it.

Section 28.05 Official Action; Discussion and Voting

(a) A majority of the members of the BZA shall constitute a quorum. Action of the BZA shall not be official unless it is authorized at a regular or properly called special meeting by a majority of the entire membership of the BZA.

(b) At the conclusion of a public hearing on any petition requesting a variance, a special exception or special use, any member of the BZA may make any of the following motions with respect to the petition requesting a variance, special exception or special use to:

(1) Grant the request, as requested;

(2) Partially grant the request, or with limitations;

(3) Grant the request, but subject to certain conditions as enumerated in the motion;

(4) Deny the request; or

(5) Table the request until a future meeting.

(c) If any such motion is seconded, and then receives the affirmative vote of a majority of all of the members of the BZA, and not just a majority of those present and voting, the adoption of the motion will be considered to be a decision of the BZA. If any such motion fails to receive an affirmative vote by a majority of all of the members of the BZA, then the motion fails, but the BZA will not have made a final decision regarding the petition before it.

(d) If none of the above motions are made, or if made and seconded, fails to be approved, and if no other motion to dispose of the pending petition is made, then without any motion being made or seconded, the chairman shall declare that there is a motion before the board to grant a variance, special exception or special use as requested. Then, after permitting discussion on that motion, the chairman shall then submit this motion to a roll call vote. If the motion is approved by a majority of the members of the BZA, then the petition for a variance, special exception or special use is granted as requested. If the motion fails to receive an affirmative vote of a majority of the members of the BZA,

then the petition is denied. In either case, the BZA will then have made a final decision on the petition before it.

(e) Voting by the BZA shall be by roll call vote of the members. All members present shall vote on every question unless they are permitted to abstain by the presiding officer.

(f) No member of the BZA shall participate in a hearing, discussion or decision of the BZA in which the member: 1) is biased or prejudiced or otherwise unable to be impartial; or 2) has a direct or indirect financial interest in the outcome of the zoning decision. A member shall declare his or her known conflict of interest. The BZA shall enter into its records the fact that the member has this disqualification, and the name of the alternate member, if any, who participates in the hearing in place of the regular member.

(g) In the event a majority vote of the BZA cannot be achieved due to absences, permitted absenteeism, or disqualifications, the matter shall be rescheduled for the next regular meeting at the request of any BZA member, a petitioner, or a remonstrator.

(h) The final disposition of any case shall be in the form of a findings of fact of the BZA, together with any modification, specification, or limitation which it makes.

Section 28.06 Minutes and Records

(a) The Secretary of the BZA shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented, or indicate that the member is absent, abstaining with permission, or not voting because of a disqualification.

(b) The minutes of BZA meetings and all records shall be filed in the office of the BZA and are public records, as defined by I.C. 5-14-3.

(c) The minutes shall be presented to the BZA for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the Chairperson and attested by the Secretary.

Section 28.07 Public Hearings

(a) All regular special meetings and hearings of the BZA shall be open to the public, and all petitions acted on by the BZA at these meetings shall constitute a public hearing thereon.

(b) The applicant or his or her agent must appear before the BZA in order to present a petition. Failure to appear can cause the petition to be dismissed subject to the BZA's discretion. A petition continued more than once can be dismissed by the BZA or upon request by a remonstrator.

(c) The applicant may be granted a continuance of a public hearing for which a petition is scheduled but not acted upon and which has had a notice issued and published. The Chairperson or his or her designated representative may continue a hearing for the first time if the applicant requests a continuance at least 24 hours in advance of any scheduled public hearing. Any other additional continuances must be made before the BZA. These requests may be granted at the BZA's discretion upon the determination of good cause. The BZA may further waive notice requirements. If any additional notice for the continuance is necessary, the applicant shall bear responsibility for notice.

(d) A remonstrator may be granted a continuance which shall be made at the public hearing. No further notice is necessary if the hearing is rescheduled at that time. The continuance shall be based on cause as determined by the BZA.

(e) The BZA may continue a public hearing or defer decision upon an application to a subsequent public hearing. At the subsequent hearing the BZA may not consider any additional evidence unless all

parties are given equal opportunities to present additional evidence as necessary within the discretion of the BZA.

(1) Any applicant or petitioner may withdraw his or her petition at any time prior to the presentation of any evidence on application or petition as described in division (e)(1). The applicant may not refile the petition for three months after a withdrawal. After the beginning of presentation of evidence on the application or petition, the application or petition shall not be allowed to be withdrawn without unanimous consent of the BZA.

(2) After the beginning of presentation of evidence, the petitioner or applicant may move for a dismissal of his or her petition. In that event, the petition dismissed shall be considered the same as denial of the petition. In either event, the applicant may not refile the petition for 12 months after dismissal or denial.

(3) No further notice is necessary if the hearing is rescheduled at that time.

Section 28.08 Rules and Procedures

(a) The BZA may adopt any rules and procedures necessary to effectuate the intended purposes of this Title concerning conduct of business and for filings and hearings on applications for use, variance, special exception, or appeal.

(b) For the purpose of this title, all provisions enacted governing the conduct of hearings and the filing of applications and not in contradiction with I.C. 36-7-4 et seq. may be amended from time to time by the BZA, as herein provided. The BZA may further adopt any additional rules governing procedures as it deems necessary.

(c) The BZA may make amendments to the rules and procedures at the regular scheduled meeting.

(d) The BZA may suspend, by unanimous consent of all the BZA members present, rules and procedures as they deem necessary for the appropriate conduct of any hearing.

Section 28.09 Variance, Use, Exception and Appeal Procedure

(a) Every petitioner or applicant for an administrative appeal, special exception or variance of use or of developmental standards shall file a petition stating the reasons for the petition or application and the location of the property affected.

(1) Every petition for a special exception or variance of use or of developmental standards shall be filed with the Secretary no later than 15 days prior to its consideration by the BZA at the next regular scheduled BZA meeting.

(2) Any appeal of an administrative decision shall be filed no later than 15 days from the date of the decision appealed and shall be heard at the BZA's next regular scheduled meeting.

(b) An application for an administrative appeal, special exception or variance of use or of developmental standards should be signed by the owner of record of the real estate which is the subject matter of the application. If the applicant is other than the owner of record of the subject real estate, the applicant shall describe on the application the nature of his or her interest thereon and sign the same along with the owner of record. Only final decisions of the BZA may be appealed to the appropriate civil court as permitted by statute.

Section 28.10 Notice Requirements

(a) Any notice of an application or petition for an administrative appeal, special exception or variance of use or of developmental standards shall include at least the following items:

(1) General location, legal description, and address of the property affected;

(2) Nature of the request concerning the administrative appeal, special exception or variance of use or of developmental standards applied for; and

(3) Date and time of the public hearing thereon.

(b) For the purpose of I.C. 36-7-4-920(b), any person who is the owner of abutting property as well as any adjacent party, as defined by this title, shall be entitled to specific notice of the application for special exception or variance of use or of developmental standards.

(c) The applicant for the administrative appeal, special exception or variance of use or of developmental standards shall be responsible for placing publication or notice of the application or petition as scheduled for public hearing. The notice shall be published pursuant to the requirements of I.C. 36-7-4-900 and I.C. 5-14-1.5. Publication shall be 10 days prior to the regular meeting or public hearing on the petition or application.

(d) The applicant or petitioner shall be required to provide to the BZA proof of mailing or receipt of notice of all adjacent parties being mailed certified return receipt requested no less than 10 days prior to the date of the public hearing. The applicant may also file notice, personally signed, or delivered to the adjacent parties, and this notice shall be signed by the adjacent parties. Personal notice must show receipt at least five (5) days prior to the hearing.

(e) Prior to presentation of the petition the applicant shall provide an affidavit and listing of all owners of record considered as adjacent parties according to the real estate master file maintained by the County Auditor, as well as a copy of the notice mailed.

(f) Before approval of a variance in the Airport Overlay District, involving a structure regulated under IC 8-21-10 may become effective, the BZA must have received:

(1) A copy of:

a. The permit for the structure issued by the Indiana department of transportation; or

b. The Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration; and

(2) Evidence that notice of the filing of the petition for such a variance was delivered to the La Porte Municipal Airport Authority Board and the Michigan City Board of Aviation Commissioners, as required in IC 8-21-10-3 not less than sixty (60) days before the proposal is considered.

Section 28.11 Variance

(a) **Use Variance.** The BZA may approve or deny variances from the use provisions of the zoning ordinance only upon a findings of fact that support the following:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(3) The need for the variance arises from some condition peculiar to the property involved;

(4) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

(5) The approval does not interfere substantially with the Comprehensive Land Development Plan.

(b) **Development Standards Variance.** The BZA may approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance only upon a findings of fact that support the following:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) The use and value of the area adjacent to the property will not be affected in a substantially adverse manner; and

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Practical difficulties shall result from exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. The variance shall be necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district.

Section 28.12 Commitments and Conditions Authorized

(a) Prior to granting any special exception or variance of use or of developmental standards, a contingent use or conditional use, the BZA may prescribe appropriate conditions and/or commitments pursuant to I.C. 36-7-4-1015, which may be required in connection with the approval of the BZA of any such request. All conditions and/or commitments must be in writing and shall be recorded in the Office of the County Recorder and shall then be binding on all subsequent owners or any other person who acquires an interest in the parcel. Conditions and/or commitments may be modified or terminated only by the plan commission or board of zoning appeals after public hearing and proper notice pursuant to these rules and as set forth in I.C. 36-7-4-1015.

(1) For the purpose of I.C. 36-7-4-1015(e), the BZA or any person claiming to be adversely affected by any commitment is entitled to enforce the commitment.

(2) A commitment shall be created by the owner of the property by affixing his or her signature to a written statement of the terms of the commitment. The commitments shall be approved by the BZA and the same recorded with the La Porte County Recorder's Office by the petitioner prior to any variance taking effect.

(3) A commitment may be modified or terminated only by a decision of the BZA made at a public hearing after notice is given in accordance with the requirements set forth in this title.

(4) If any person fails to abide by a commitment, that person commits a violation of this ordinance. The commitment shall be enforced in accordance with the provisions of article 26. Any violation of any commitment for which a variance has been granted shall constitute a nullification of that variance.

(b) In granting a special exception or variance of use or of developmental standards, the BZA may also prescribe reasonable conditions or safeguards which it deemed reasonable.

(c) The violation of any specified conditions or commitment required as a part of granting a special exception or variance of use or of developmental standards will serve as a voidance of the special exception or variance of use or of developmental standards upon issuance of a stop order by the BZA or its designated representative.

Section 28.13 Approval Period

Approval of a special exception or variance of use or of developmental standards shall be valid for a period not longer than one (1) year unless the use or building authorized by the approval is established. Where the use or building is not established, the approval shall expire after one (1) year unless a building permit for the construction is obtained and construction is started and proceeds to completion in accordance with the terms of the permit and the requirements of the BZA.

Section 28.14 Appeal

Any decision of the Board of Zoning Appeals may be appealed to the circuit court or any superior court sitting in the county in the manner provided for by IC 36-7-4-1003 et seq., or any amendment thereto.

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Article 29
Nonconforming

Section 29.01 Nonconforming Uses

A use of a building or premises, lawfully existing at the time it was established, but is made nonconforming by the passage of a new ordinance or amendment, may be continued, except as hereinafter provided, although such use no longer conforms to all provisions of the ordinance or amendments to this ordinance.

(a) A nonconforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law.

(b) A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use or a less restricted one.

(c) No building shall be erected upon any premises devoted to a nonconforming use, except in conformance with regulations of this ordinance.

(d) When a building containing a nonconforming use is damaged by any means or in any manner, it may be restored, within 12 months, provided that its original use is not changed and size is not increased.

(e) In the event that a nonconforming use of any building or land is abandoned or discontinued for a period of one (1) year, the use shall thereafter conform to the uses permitted in the district in which it is located.

Section 29.02 Nonconforming Structures and Buildings

Structures and buildings that are existing and lawful on the effective date of this ordinance or amendments thereto, may be continued even though the structure or building does not conform with the dimensional or other provisions of this ordinance, subject to the following provisions of this section.

(a) If a nonconforming structure or building is altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then the nonconforming characteristics shall not be later re-established or increased.

(b) In the event that any nonconforming structure or building is damaged by any means or in any manner, it may be restored, within 12 months, provided that its original use is not changed and size is not increased.

(c) In the event a nonconforming residential structure or building is damaged by fire or other natural cause, a residential structure may be reconstructed on the same foundation provided the first floor footprint and the total floor area does not exceed the size of the previous residence.

(d) If a non-conforming structure or a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of maintenance and repairs and is declared as such by the county or city, as applicable, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

(e) A building that is nonconforming may be altered or rehabilitated if that activity will make the building conform to the regulations of this zoning ordinance and the building code.

(f) A residential nonconforming building may be expanded provided the expansion will be within required setbacks; other dimensional requirements are met (spacing between structures, height, maximum lot coverage, etc.). (Example: a home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming and maximum lot coverage is not exceeded). The addition must comply with all health department and building code requirements. Additional height above the nonconforming portion of the building shall not be permitted. The total cost of the expansion shall be limited by the improvements allowed by subsection (e) above.

(g) Nonresidential nonconforming buildings shall not be expanded, unless a variance is obtained from the board of zoning appeals.

(h) Nonconforming structures and buildings shall not be enlarged nor altered in a way which increases the nonconformity within the provisions of this ordinance or beyond the limits set in this section, unless approved by the board of zoning appeals.

Section 29.03 Nonconforming Lots

(a) In any zoning district, notwithstanding limitations imposed by other provisions of this ordinance, where an existing lot of record fails to meet the requirements of this ordinance for minimum lot area, minimum lot width or both, of the zoning district in which it is located, the lot may be used for the permitted uses of the zoning district, including permitted accessory uses, provided other requirements of the zoning district in which the lot is located are met. The lot must be an existing lot of record, created prior to the effective date of the original zoning ordinance or the amendment that made the lot nonconforming.

(b) A principal building and customary accessory buildings for a permitted use may be erected on any single lot of record existing at the effective date of this zoning ordinance, provided all other standards of the zoning ordinance are met. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that the buildings are in conformance with all other applicable yard setback, minimum floor area, maximum height and access requirements for the district in which they are located.

(c) Where there are multiple contiguous nonconforming lots under single ownership they may be combined and used as a single lot. Combined use of multiple contiguous lots shall be permitted; provided approval under the subdivision regulations shall be required if any lots are divided or any lot boundaries changed.

Section 29.04 Nonconforming Sites

The county or city, as applicable, may permit improvements and minor modifications to a conforming use and building on a site that does not meet all of the various site improvement related regulations of this zoning ordinance. This section is intended to allow gradual compliance with the site related requirements for sites which predate the various zoning ordinance standards for landscaping, paving, lighting, sidewalks and other non-safety items in proportion to the amount of expansion or improvement proposed. Improvements or expansions may be permitted by the enforcement official during site plan review without a complete upgrade of all site elements under the following conditions:

(a) The applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building improvements or expansion.

(b) The applicant has addressed safety related site issues on the overall site.

(c) The improvements or minor expansion will not increase noncompliance with site requirements.

Section 29.05 Nonconformity Resulting In Right-Of-Way Dedication

Where a nonconforming front yard setback, parking lot setback or greenbelt is created as a result of additional road right-of-way width being acquired by the city, county or state, the building or parking lot may be improved or expanded without the need to obtain a variance from the board of zoning appeals, provided the following conditions are met:

(a) The building or parking lot complied with the front yard setback prior to the acquisition of the additional road right-of-way.

(b) The building or parking lot expansion will not reduce the remaining depth of the front yard setback.

(c) All other ordinance requirements are met and necessary approvals obtained.

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Article 30
Amendments and Rezonings

Section 30.01 Application Initiation

(a) **Amendments to the Zoning Map.** Proposals for zoning map amendments may be initiated by either the plan commission or legislative body, or through an application signed by property owners of at least 50% of the land involved (per IC 36-7-4-602(c)(1)(B)). The procedure to amend the zoning maps is set forth in I.C. 36-7-4-608 et. seq.

(1) **Plan Commission/Legislative Body Initiation.** The enforcement official shall prepare the application for zoning map amendment on behalf of the plan commission if either the commission or the legislative body has initiated the application. The enforcement official shall serve as the representative of the applicant for such proposals.

(2) **Property Owner Initiation.** Any property owners requesting a zoning map amendment shall be the applicants and assume responsibility for preparing application materials.

Section 30.02 Application

The applicant shall submit a rezoning application, a legal description for the property involved, the required filing fee, and any supporting information.

Section 30.03 Notification

Before any action can be taken by the Plan Commission to adopt a new ordinance, amend the text or amend the zone maps, notice must be given as required in I.C. 36-7-4-604. Public notice setting forth the time and place shall be given at least 10 days before the date of the hearing in a newspaper of general circulation. Notification shall also be provided by regular US mail at least 10 days before the date of the hearing to the applicant and all abutting or adjacent property owners. For a rezoning request initiated by a property owner, the cost of such notices shall be borne by the person applying for the rezoning and at the public hearing, the petitioner shall provide proof that he has conformed to the above by proof of publication and return-receipt mail or personal sign-off on delivery of notices.

Section 30.04 Plan Commission Public Hearing

The plan commission will then, in a public hearing scheduled no later than 60 days following the receipt of the application (per IC 36-7-4-608), review the rezoning application and required supportive information. The procedure to be followed by the Plan Commission at any hearing on an amendment to the zoning ordinance or to the zoning maps, the notification of the Plan Commission's action to the Common Council to the legislative body of the City an action by the legislative body shall follow the provisions set forth in I.C. 36-7-4-604 to I.C. 36-7-4-612; I.C. 36-7-4-1015, and I.C. 36-7-4-1016. The plan commission shall either forward the application to the legislative body with a favorable recommendation, an unfavorable recommendation, or no recommendation; or continue the request.

Section 30.05 Certification

The plan commission shall certify its recommendation by resolution to the legislative body within 10 business days of its determination (per IC 36-7-4-608).

Section 30.06 Legislative Action

The legislative body shall vote on the proposed rezoning ordinance within 90 days of its certification by the plan commission (per IC 36-7-4-608).

Section 30.07 Decision Criteria

In reviewing the rezoning application, the plan commission shall pay reasonable regard to all of the following (per IC 36-7-4-603):

(a) **County Land Development Plan.** That a change of zoning will be consistent with the county land development plan, local community plans and any other applicable, adopted planning studies or reports.

(b) **Current Conditions.** That a change of zoning will be compatible with the conditions and character of current structures and uses in each district or that the character of the area under consideration has changed either through technological advances or developmental changes.

(c) **Desirable Use.** That a change of zoning will provide for the most desirable use for which the land in each district is adapted and the proposed land use will not have an adverse effect on surrounding land.

(d) **Property Values.** That a change of zoning will not be injurious or detrimental to the surrounding property values and will further the conservation of property values throughout the planning jurisdiction.

(e) **Responsible Growth.** That a change of zoning will promote for orderly and responsible community growth and development and will not adversely affect the community.

(f) **Environmental Conditions.** That the topography, soil condition, and other physical features of the land involved are suitable for the proposed use and zoning change.

(g) **Spot Zoning.** That the petition is not "spot zoning" which will confer a special benefit on a relatively small tract without commensurate benefit to the community.

(h) **Neighborhood Plan.** In areas where there is a neighborhood plan, that a change of zoning will not disrupt or destroy the neighborhood plan.

Section 30.08 Conditions and Written Commitments

The applicant in any rezoning application may make written conditions and/or commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with IC 36-7-4-1015. Written commitments may also be initiated by the plan commission or legislative body.

Section 30.09 Zoning Text Amendments

(a) The legislative body or the plan commission may initiate a proposal to amend or partially repeal the text according to the procedures of IC 36-7-4-602 et. seq. The procedure to amend or partially repeal the text of the Joint Zoning Ordinance is set forth in I.C. 36-7-4-601 et. seq.

(b) The plan commission shall review the ordinance on an annual basis and identify any amendments deemed necessary to the ordinance for review, public hearing and recommendation for adoption.

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Article 31
Definitions

Section 24.01 Construction of Language

(a) **Interpretations**

(1) If the meaning of this Ordinance is unclear in a particular circumstance, then the individual or body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of the Ordinance or law.

(2) All words and phrases shall be construed and understood according to the common preferred use of the language; but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.

(3) Whenever a word or term defined hereinafter in the text of this Ordinance, its meaning shall be construed as defined herein. Words or terms not herein defined shall have the meaning customarily assigned to them.

(4) The definitions contained in this Article are for the purposes of this Ordinance.

(b) **Terms**

(1) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(2) The terms “Ordinance” shall be understood to include the term “as amended” where the context is appropriate.

(3) The terms “abutting” or “adjacent to” include property along the lot lines of the subject site, including those in another community, but do not include lands separated by a public street right-of-way.

(4) A "building" or "structure" includes any part thereof.

(5) The word “build” includes to “erect” or “construct.”

(6) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity. A masculine term shall include the feminine version of the term and vice versa.

(7) The phrase “used for” includes “arranged for,” “intended for,” “occupied for,” and “maintained for.”

(8) Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.

a. "And" indicates that all connected items, conditions, provisions, or events shall apply.

b. "Or," indicates that the connected items, conditions, provisions or events may apply separately or in combination.

c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply separately, not in combination.

(c) The particular shall control the general. For terms used in this Ordinance the use of a general term shall not be taken to be the same as the use of any other specific term.

(d) Words used in the present tense shall include the future; words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates otherwise.

(e) Computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the city, county or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

(f) All measurements shall be to the nearest integer, unless otherwise specified herein.

(g) Unless the context clearly indicates to the contrary, where an illustration accompanies any item in this Ordinance, the written text shall have precedence over the illustration.

Section 31.02 Definitions "A"

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

Abandoned. Cessation of the use of a structure or land, with the intent to abandon the use at that location. The intent to abandon may be demonstrated by records indicating that the address is vacant or occupied by another use, the utility service associated with the use has been disconnected, the telephone number associated with the use as disconnected/moved to another location or the business associated with the use has moved to another location or been discontinued.

Abuts or abutting. Having a common property line or district line.

Access management. A technique to improve traffic operations and decrease the potential for accidents along major thoroughfares through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to, and across from, one another; and the promotion of alternatives to direct access.

Accessory building or use. A subordinate building located on the same lot with the main building, or a subordinate use of land, either of which is incidental to the main building or to the principal use of the land. An ***accessory building or use*** includes, but is not limited to:

(1) A children's playhouse, garden house, or private greenhouse;

(2) A detached garage, shed, or building for domestic storage;

(3) Incinerators incidental to residential use;

(4) Storage of merchandise normally carried in stock on the same lot with any retail, service, or business use, unless that storage is prohibited by district regulations;

(5) Storage of goods used in, or produced by, manufacturing activities on the same lot or parcel of ground with those activities, unless that storage is prohibited by district regulations;

(6) A non-paying guest house or rooms for guests within an ***accessory building***, if those facilities are used for the occasional housing of guests of occupants of the principal building and not for permanent occupancy by others as housekeeping units;

(7) Servants' quarters, if part of an accessory garage and solely for occupancy by a servant or household employee of the occupants of the principal dwelling and the family of that servant or employee;

(8) Off-street motor vehicle parking area and loading and unloading facilities;

(9) Signs, other than advertising signs, as permitted and regulated in each district incorporated in this title;

(10) Boat house;

(11) Swimming pool, if private and being incidental to use by the owner and guests; and

(12) Public utility communication, electric, gas, water, and sewer lines, their supports, and incidental equipment.

Accessory equipment building. A structure used to house equipment for the operation, maintenance, or repair of a wireless communications tower, including electronic receiving and relay equipment.

Accessory living quarters. Living quarters within an accessory building for the sole use of persons employed on the premises, such as quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling.

Acreage. Any tract or parcel of land which has not been subdivided and platted.

Adjacent. To lie near or close to; in the neighborhood or vicinity of, including across a public right-of-way, stream, river or railroad.

Adjacent property owners, owner, or interested party. The owners of record of each lot or parcel of real estate abutting the tract of real estate that is the subject of the application, petition, or matter upon which a public hearing is to be held before the legislative body, plan commission, or board of zoning appeals. The owners of record shall be according to the real estate master file as maintained by the auditor of the county or city, at the time of the filing of an application or petition,

Adjoining. Touching or contiguous, as distinguished from lying near or adjacent.

Adult regulated use. The following definitions shall apply to adult regulated uses:

(1) ***Adult arcade.*** Any place to which the public is permitted or invited wherein cash-operated, credit-operated, coin-operated or slug-operated or electronically, internet or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images and where the images so displayed are distinguished or characterized by the depicting or describing of "sexually explicit activities" or "specified anatomical areas".

(2) ***Adult bookstore or adult video store.*** A commercial establishment which offers for sale or rental for any form of consideration, as one of its principal business purposes, any one or more of the following:

a. Books, computer diskettes, tapes or hard drives, magazines, periodicals or other printed matter or photographs, films, motion pictures, video matter or photographs, cassettes or video reproductions, slides or other visual representation which depict or describe "sexually explicit activities" or "specified anatomical areas"; or

b. Instruments, devices or paraphernalia which are designed for use in connection with "sexually explicit activities"; or

c. Items, materials, gimmicks, or paraphernalia depicting, displaying, advertising or packaged as "sexually explicit activities" or depict or describe "specified anatomical areas".

d. For purposes of this chapter, "principal business purpose" means:

1. The devotion of a significant or substantial portion of its stock-in-trade or interior floor space, meaning at least 30% of the floor area; or

2. The receipt of 50% of more of its revenues from the sale of the items listed above; or

3. The devotion of a significant or substantial portion of its advertising expenditures to the promotion of the sale, rental or viewing of books, magazines, periodicals or other printed matter, or photographs, film, motion pictures, video cassettes, compact discs, slides or

other visual representations, items, materials, gimmicks, or paraphernalia which are characterized by the depiction, description, display, advertising or packaging of "sexually explicit activities" or "specified anatomical areas".

e. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "sexually explicit activities" or "specified anatomical areas", and still be characterized as an adult book store, adult novelty or retail store or adult video store. Such other business purposes will not serve to exempt such establishment from being categorized as an adult bookstore, adult novelty store or adult video store, so long as the establishment falls within the definition of an adult bookstore, adult novelty store or adult video store as set forth above.

(3) ***Adult cabaret.*** A nightclub, bar, restaurant or similar commercial establishment, whether or not alcohol is served, which regularly features:

a. Persons who appear in a state of restricted nudity; or

b. Live performance which are characterized by the partial exposure of "specified anatomical areas"; or

c. Films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas".

(4) ***Adult massage parlor.*** Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other manipulation of the human body which occurs as part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of sexually oriented business shall not include the practice of massage in any licensed hospital, nor by a licensed chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program nor a therapeutic massage practitioner. An ***adult massage parlor*** is considered a sexually oriented business for purposes of these regulations.

(5) ***Adult motel.*** A hotel, motel or similar commercial establishment which:

a. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are regularly characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas"; and which advertises the availability of this adult type of material by means of a sign, visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, internet or television; or

b. Permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electric transmission over the world wide web; or

c. Offers a sleeping room for rent for a period of time that is less than 10 hours; or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

(6) ***Adult motion picture theater.*** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, compact discs, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas."

(7) ***Adult theater.*** A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by the performance of "sexually explicit activities." this definition does not include a theater which features occasional live nude performances with serious literacy, artistic or political value and which has no adverse secondary effects.

(8) ***Escort.*** A person who, for consideration in any form, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately perform as an entertainer, including, but not limited to, the modeling of lingerie, the removal of clothing and the performance of a dance or skit. Under this definition, "privately" shall mean a performance for an individual or that individual's guests.

(9) ***Escort agency.*** A person or business association that furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes, for a fee, tip or other consideration.

(10) ***Nudist colony.*** A resort, camp, park or other facility where clothing is optional and people can visit the facility in a state of nudity.

(11) ***Nude model studio.*** Any place where a person appears in a state of nudity or displays "specific anatomical areas", and is provided money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons. This includes modeling studios that provide for nude modeling on an occasional basis, but it does not include a modeling studio whose primary function is to provide art classes as part of a college, university or educational institution and which is certified by the state of Indiana.

(12) ***Nudity.*** The appearance of a human bare buttock, anus, male genitals, female genitals or female breasts.

(13) ***Peep booth.*** An adult motion picture theater with a viewing room or cubical of less than 150 square feet of floor space.

(14) ***Principal owner.*** Any person owning, directly or beneficially: 10% or more of a corporation's equity securities; 10% or more of the membership interests in a limited liability company; or in the case of any other legal entity, 10% or more of the ownership interests in the entity.

(15) ***Private room.*** A room in a hotel/motel that is not a peep booth, has a bed and a bath in the room or adjacent room, and is used primarily for lodging.

(16) ***Semi-nude.*** A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(17) ***Sexually explicit activities.*** Any of the following: the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation or sodomy; or masturbation, actual or simulated; or any activity intended to arouse, appeal to or gratify a person's lust, passions or sexual desires; or the display of human genitals in a state of sexual stimulation, arousal or tumescence; or the display of excretory function as part of or in connection with any of the activity set forth above.

(18) ***Specified anatomical areas.*** Any of the following: less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, or female breast or breasts of any portion thereof that is situated below a point immediately above the top of the areola, or any combination of the foregoing; or human genitals in a state of sexual arousal, even if opaquely and completely covered.

Adverse Impact. Any activity that would destroy, harm, impair, diminish or degrade the value, utility or function of a natural resource.

Advertising device. An advertising sign, billboard, or poster panel which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where the sign is located or to which it is affixed. However, this does not include those advertising signs, billboards, or poster panels which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

Agricultural building. A structure utilized for the keeping of livestock, storage, or raising of agricultural products or storage of agricultural equipment.

Agricultural land use. The use of land for the production of animal or plant life, including forestry, pasturing or yarding livestock, and planting, growing, cultivating, and harvesting crops for human or livestock consumption.

Agriculture. The use of land for agricultural purposes with the intent of selling any products produced by this type of activity. Agricultural uses include farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the products. The operation of any accessory uses shall be secondary to that of the normal agricultural activities. The agricultural use does not include the operation or maintenance of a commercial stockyard or feedlot (confined feeding operation).

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

Anchoring system. An approved system of straps, cables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured or mobile home.

Animal

(1) ***Domesticated Animal/Pet.*** Any animal that is commonly considered capable of being trained or is capable of adapting to living in a human environment and being of use to human beings, and which is not likely to bite without provocation, nor cause death, maiming or illness to human beings, including: dogs, cats (domesticated), birds (caged), fish, turtles, rodents (bred, such as a gerbils, rabbits, hamsters or guinea pigs) and lizards (non-poisonous). Wild, vicious, or exotic animals shall not be considered domesticated.

(2) ***Exotic or Vicious Animal.*** Any animal of a species not indigenous to the State of Indiana and not a domesticated animal, including any hybrid animal that is part exotic animal; or any animal which, irrespective of geographic origin, is of wild or predatory character, or which because of size, aggressive or vicious characteristics would constitute an unreasonable danger to human life or property if not kept, maintained or confined in a safe and secure manner, including any hybrid animal that is part exotic animal; or any animal that attacks, bites, or injures human beings or other domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.

(3) ***Livestock.*** Any of various bird or animal breeds, long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man, including animals such as: horses, ponies, mules, donkeys, cattle, sheep, goats, buffaloes, lama, swine, chickens, ducks, geese and turkeys.

Ansi/nfpa 501: a standard for installation of manufactured homes. Model national standards (including all authorized successor documents) for installation of manufactured and mobile homes, as adopted and copyrighted by the National Fire Protection Association and the Manufactured Housing Institute.

Apartment. See ***dwelling, apartment***.

Applicant. The owner, or his or her representative, of land which is proposed to be developed, subdivided, or rezoned or for which a variance is sought, or their designated representative.

Arcade. A commercial recreation business, usually conducted indoors, which provides mechanical and/or electronic games for entertainment.

Automobile car wash. A commercial building, or portion thereof, containing facilities for washing vehicles or other items using production line methods, or other mechanical devices including the use of steam cleaning or high pressure equipment.

Automobile repair.

(1) ***Major.*** Engine rebuilding, or major reconditioning, collision service, body, frame, or fender straightening, or repair and overall painting of vehicles, or trailers.

(2) ***Minor.*** Incidental repairs, replacement of parts, and motor service to motor vehicles, such as oil changes, and lubrication, tune-ups, wheel alignment, replacement of mufflers, exhaust systems, brakes, shock absorbers, batteries, pumps, belts, hoses, air filters, and windshield wipers, radiator cleaning, and flushing; auto detailing, sale/installation of automobile accessories such as tires, radios, and air conditioners, but not including any operation included above under automobile repair, major.

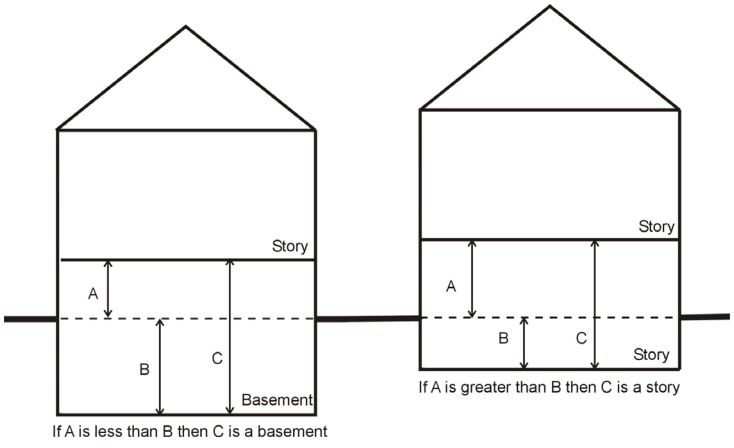
Automobile service station. A building, or portion thereof, or premises used for dispensing or offering for sale, at retail, gasoline when stored only in underground tanks, kerosene, lubrication oil, or grease, for operation of automobiles, and where tires, batteries, and similar automobile accessories may be offered for sale on the premises at retail. Minor vehicle repair services and installation customarily incidental thereto may also be performed if enclosed in a building. However, ***automobile service stations*** do not include ***open sales lots***, as defined herein, or vehicle wash establishments.

Awning. A roof-like structure which projects from the wall of a building.

Section 31.03 Definitions "B"

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

Basement or cellar. A story partly or wholly underground, but having more than one-half of its clear height below finished grade. If more than one-half its clear height is above grade, it shall be considered a story for the purposes of height measurement.



Bed and breakfast. A residential building, or portion thereof, (other than a hotel, apartment hotel, or motel) containing lodging rooms for accommodation of persons who are not members of the keeper's family and where lodging and/or meals are provided by pre-arrangement, for definite periods of time and for compensation.

Block. A tract of land bounded by streets, public or institutionally owned lands, railroad rights-of-way, rivers and lakes, and other lines of demarcation.

Board of zoning appeals (bza). The board of zoning appeals has the duty to hear and determine appeals on orders, requirements, or decisions made in connection with this ordinance and is authorized to grant variances and special exceptions from the code. There shall be individual bzas for the county and both cities.

Boarding stable. A building or structure designed, arranged, used, or intended to be used for housing saddle horses or ponies where horse owners pay a fee to keep their horses.

Boat club. A private facility that provides service to members for docking, storing and loading of at least five (5) watercraft. A boat club may include docking facilities, boat storage, clubhouse and other recreational facilities for members. A boat club shall include a lot held in common by a subdivision, association, similar agency or group of individuals which provides docking, storing and loading of at least five (5) watercraft. (See also "*Boat harbor/public marina.*")

Boat harbor/public marina. A facility that: can service simultaneously at least five (5) watercraft; and provides, for a fee, one (1) or more of the following:

(1) Watercraft engine fuel.

(2) Watercraft repair.

(3) Watercraft sales or rental.

A public marina shall be distinguished from a "*boat club"* in that a public marina may lease docks for long-term mooring of watercraft or short-term transient boaters (See also "*Boat club*.")

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

Buffer. A landscaped or naturally vegetated area established or managed to provide separation between adjacent land uses.

Buffer Strip. An area of required space adjacent to the boundary of a natural feature or property, not less in width than is designated in this article, which consists of native vegetation appropriate to the feature to which it is adjacent.

Building. A structure built for the support, enclosure, shelter, or protection of persons, animals, or chattels, or affixed to the land.

(1) ***Building, detached.*** A building, surrounded by open space on the same lot with, but no structural attachment to, another structure.

(2) ***Building, principal***. The main or dominant building in which is conducted the principal use of the lot on which the building is located.

(3) ***Building, residential.*** A building which is arranged, designed, used, or intended to be used for residential occupancy by one or more families or lodgers and which includes, but is not limited to, the following types:

a. Single-family detached dwellings;

b. Two-family dwellings;

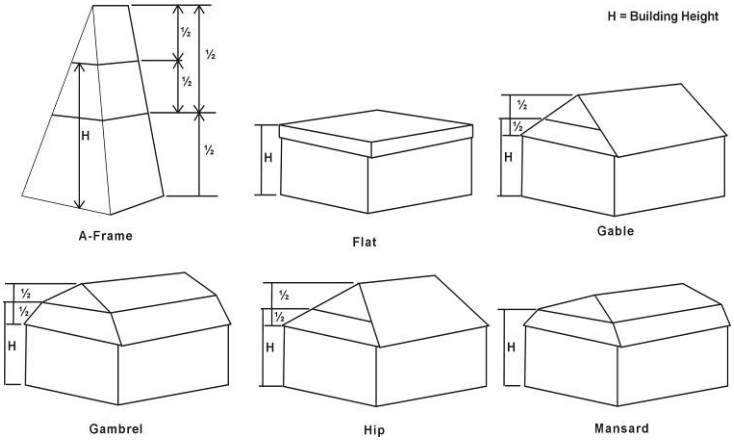
c. Single-family or two-family attached and semi-detached dwellings developed initially under single ownership or unified control

d. Multiple-family dwellings; and

e. Mixed-use buildings with residential uses on upper floors above non-residential uses.

(4) ***Building, semi-detached.*** A building having one party wall in common with an adjacent building.

(5) ***Building, temporary.*** Any building not designed to be permanently located at the place where it is, or where it is intended to be temporarily placed or affixed.



Building commissioner. The secretary of the county plan commission and board of zoning appeals oversees the operation of the building department and is responsible for insuring the enforcement of county zoning and subdivision ordinances, building standards, and compliance with related planning requirements, and issues and approves building permits.

Building height. The vertical distance from the average grade around the building foundation to the highest point of the roof surface for a flat roof, to the deck line of a mansard roof, and the midpoint between the peak and eave of a pitched roof. Chimneys, spires, elevator penthouses, tanks, and similar projections that do not include usable floor space shall not be included in calculating the height. This definition and method of measuring building height shall apply to all structures including principal buildings and accessory structures. For buildings located in the Waterfront View Protection Overlay Zoning District, the method for determining building height shall be as specified in section 12.03.

Building line. A horizontal line generally parallel to a front, rear, or side lot line which is located at the point of the foundation of a principal building nearest to the front, rear, or side lot line.

Building permit. An official document or certification issued by the building official authorizing performance of a specified activity that complies with all provisions of this title and the building code.

Bulk. The term used to indicate the size and setback of buildings or structures, and their location with respect to one another, and includes the size and height of buildings, the location of exterior walls, the floor area ratio, the open space allocated to buildings, and the lot area and lot width.

Business. An occupation, employment, or enterprise which occupies time, attention, labor, and materials, or wherein merchandise is exhibited or sold, or where services are offered.

Section 31.04 Definitions "C"

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

Capacity in persons. The maximum number of persons that can avail themselves of the services or goods of an establishment or use at any one time, with reasonable comfort and safety.

Carport. An open-sided roofed automobile shelter, formed by the extension of a roof from the side of a building.

Cemetery. Land or structure used or intended to be used for the lawful disposition of the remains of a deceased individual in the earth, a mausoleum, a garden crypt, a columbarium, or scattering garden area, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of a ***cemetery***.

Certificate of compliance. A document issued by the proper authority stating that the plans for a proposed use meet all applicable codes and regulations.

Certificate of occupancy. A certificate stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this title, and any other ordinance adopted by the county or city relating to a building code.

Church, temple or similar place of worship. A building used for public worship where regular organized services are held.

Club or lodge, private. A private association of persons who are bonafide members paying annual dues, which owns, hires, or leases a building, or portion thereof, the use of the premises being restricted to members and their guests. The affairs and management of a private club or lodge are conducted by a board of directors, executive committee, or similar body chosen by the members.

Co-location. The use of a wireless telecommunications facility by more than one wireless communications provider.

Commission's seal. The official seal of the plan commission.

Commitments. Restrictions and guidelines placed upon a property's use or development and recorded in the office of the county recorder to take effect upon adoption of an amendment to the zoning map or upon granting approval for a special exception, contingent use, or variance from the terms of this ordinance.

Common ownership. The ownership of real property by family members, shareholders, business partners, corporations, or any other legal entity with the intent to develop under a common scheme or plan.

Compensatory Mitigation: See: "***Flood-Related Definitions***."

Comprehensive plan. see "County land development plan."

Condominium. Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, such as yards, foundation, basements, floors, walls, hallways, stairways, elevators, and all other related common elements, together with individual ownership in fee of a particular unit or portion of the building.

Confined feeding operation. A feedlot is the confinement of livestock or fowl for any period of time, whether open or enclosed based upon the number of animals regulated by the Concentrated Animal Feeding Operation Ordinance contained in Chapter 97 of the La Porte County Code of Ordinances.

Conforming building or structure. Any building or structure which complies with all the regulations of this title or of any amendment hereto governing the zoning district in which the building or structure is located.

Conservation. The planned management of a natural resource to prevent its exploitation, destruction or neglect.

Contractor. Any person, firm, or corporation engaged in the business of general contractor, roofing, insulation, electrical, plumbing, sewage, well installation, heating, ventilation, air conditioning, or other ancillary contracting, excepting those individuals doing work on their own residence.

Contractor's yard. A site on which a building or construction contractor stores equipment, tools, vehicles, building materials, and other appurtenances used in or associated with building or construction. A contractor's yard may include outdoor or indoor storage, or a combination of both.

Conservation easement. A legal agreement in which the landowner retains ownership of private property, but conveys certain specifically identified rights to a land conservation organization or a public body.

Construction. Any act or process that is carried out under a current and valid building permit consisting of on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facilities or addition thereto, including related activities. Construction implies a diligent continuance of action toward completion, and any construction that has ceased due to expiration of a permit shall be considered inactive.

Convenience store. A small retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase relatively few items. It may be designed to attract, and depend upon, a large volume of transient traffic. The store may or may not also sell gasoline and other automotive supplies.

Corner lot. See "L***ot, corner.***"

County Land Development Plan. The document, adopted by the La Porte County plan commission, city of La Porte plan commission and city of Michigan City plan commission, that is a compilation of policy statements, goals and objectives, standards, maps, and statistical data for the physical, social, and economic development of the community. The County Land Development Plan serves as the community comprehensive plan under the requirements of I.C. 36-7-4. The County Land Development Plan shall include any community master plan, comprehensive plan or other similar plan.

Court. An open unoccupied space bounded on two or more sides by the exterior walls of a building or by exterior walls and lot lines.

Critical facilities: See: "***Flood-Related Definitions***."

Section 31.05 Definitions "D"

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

Day care centers, commercial. A child care use licensed to care for more than 12 children from a provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. licensed for 12 or fewer children.

Day care homes, residential. A residential structure in which at least six (6) and not more than 12 children plus three (3) children during the school year only who are enrolled in at least grade one (1) 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 (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. licensed for 12 or fewer children.

(4) A child for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or who is at least fourteen (14) years of age and does not require child care; shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

Decibel. A unit of measurement of the intensity (loudness) of sound. Sound level meters, which are employed to measure the intensity of sound, are calibrated in decibels.

Developer. Any person engaged in developing or improving a lot or group of lots or structures thereon for use or occupancy.

Development.

(1) Any improvement or change to property brought about by human activity (man-made), including, but not limited to:

a. Construction, reconstruction, or placement of a building or any addition to a building valued at more than $1,000;

b. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than 180 days;

c. Installing utilities, erection of walls and fences, construction of roads, or similar projects;

d. Construction of flood control structures such as levees, dikes, dams, channel improvements, and the like;

e. Mining, dredging, filling, grading, excavation, or drilling operations;

f. Construction and/or reconstruction of bridges or culverts;

g. Storage of materials; and

h. Any other activity that might change the direction, height, or velocity of flood waters or surface waters.

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

Diameter at Breast Height (DBH). The diameter of the trunk of a tree (including the bark) measured in inches at point four and one-half (4.5) feet above the ground level. This point of measurement is used for established and mature trees.

District. A geographical area within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this title.

Domesticated Animal/Pet. See: ***"Animal."***

Drive-in establishment. An establishment which offers merchandise, service, or entertainment to persons in parked motor vehicles. A drive-in restaurant is distinct from a drive-through restaurant in that the majority of drive-in patrons consume food and beverages while in the vehicle and parked on the premises.

Drive-through establishment. An establishment where persons in motor vehicles wait in line to obtain merchandise from a service window.

Driveway. An approach and private vehicle travel way providing access from a street to private property.

Dune and Swale Complex. A series of roughly parallel, sandy ridges and low, wet swales formed from irregular cycles of high and low water levels, also known as linear dunes, beach ridge complexes or shore parallel dune ridges.

Dwelling. A permanent building, or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels or lodging houses.

(1) ***Apartment dwelling.*** An apartment is an attached dwelling unit with party or common walls, contained in a building with other dwelling units or sharing the occupancy of a building with other than a residential use. Apartments are commonly accessed by a common stair landing or walkway. Apartments are typically rented by the occupants, but may be condominiums. Apartment buildings often may have a central heating system and other central utility connections. Apartments typically do not have their own yard space.

(2) ***Multiple-family.*** A building, or portion thereof, used or designed as residences for three (3) or more families living independently of each other and each doing their own cooking in the building, with the number of families in residence not exceeding the number of dwelling units provided. This definition includes three-family houses, four-family houses, and apartment houses.

(3) ***Single-family.*** A detached building or manufactured home designed exclusively for the complete living accommodations of one (1) family, and containing one (1) dwelling unit only.

(4) ***Single-family, attached/townhouse.*** A self-contained single dwelling unit attached to a similar single dwelling unit with party or common walls, designed as part of a series of three (3) or more dwelling units, each with: a separate entryway with direct access to the outdoors at ground level, a separate garage, separate utility connections and defined front, and rear yards. Single-family attached townhouses may also be known as row houses, clustered single family dwellings or stack ranches. Any three (3) or more attached dwellings not meeting the above criteria shall be considered a multiple-family dwelling.

(5) ***Two-family***. A detached building, designed for or occupied exclusively by two (2) families living independently of each other. May also be termed as a duplex.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking, and sanitation.

Section 31.06 Definitions "E"

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

Easement. An authorization or grant by a property owner for right of access or passage for limited use of private land by another person or for a defined public or quasi-public purpose.

Ecosystem. A system made up of a community of organisms and its interrelated physical and chemical environment.

Enforcement official. Officials for each of the cities and the county, duly appointed and designated as the enforcement official responsible for administering the terms of this ordinance and supporting the functions of the plan commission.

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

Erosion control measure. A practice or a combination of practices to control erosion and resulting sedimentation.

Erosion control plan. A written description of pertinent information concerning erosion control measures designed to meet the requirements of this title as submitted with a site plan or subdivision application.

Essential services. The erection, construction, alteration, or maintenance of public utilities of underground, surface or overhead distribution of gas, electrical, cable TV, fuel, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including

mains, drains, sewers, pipes, conduits, wires, cables, transformers, splice boxes, police call boxes, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith but not including buildings or storage yards.

Section 31.07 Definitions "F"

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

Family. One person or two or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than four (4) persons not all so related, together with his or their domestic servants, maintaining a common household in a dwelling unit. In addition, a family may include not more than two (2) roomers, boarders, or permanent guests, whether or not gratuitous.

Farm. An area of ten or more acres used for agricultural operations including truck gardening, forestry, tree or plant nursery, or the production and/or keeping of livestock and poultry.

Feedlots. The confinement for any period of time of livestock or fowl, whether open or enclosed.

Fence. A barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials, used to prevent, or control entrance, confine within, mark a boundary or screen.

Fill material. Any solid material, when placed in a wetland or lake, that displaces water or reduces water holding capacity.

Flood-Related Definitions

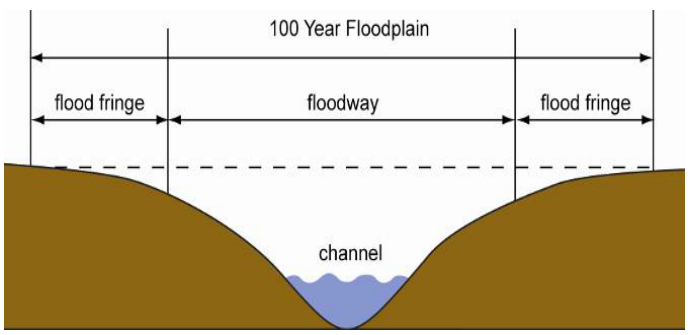
(1) ***Compensatory Mitigation.*** Replacement of floodplain acreage, functions and values to compensate for floodplain areas that were subjected to human disturbance.

(2) ***Critical facilities.*** Facilities that if impacted by flood, can have a community-wide impact on public health, safety and welfare, including schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

(3) ***FEMA.*** Federal Emergency Management Agency.

(4) **FHBM**. Flood Hazard Boundary Map. A FHBM is defined by FEMA as a map based on approximate data that identifies, in general, the SFHAs within a community. A FHBM is used in the NFIP's Emergency Program for floodplain management and insurance purposes.

(5) ***Floodplain.*** The channel proper and the areas adjoining any wetland, lake or watercourse that have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts. Floodplains are generally relatively flat lowlands next to a watercourse. For the purposes of this document, all SFHAs are considered floodplains, defined by the 100-year flood as delineated on FEMA Flood Insurance Rate Maps.



(6) ***Floodway***. The channel of a river, stream or other watercourse and the land areas of the floodplain adjoining the channel that are reasonably required to efficiently carry and discharge the flood water or flood flow of a river or stream

and must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(7) ***Floodway Fringe***. The portions of the floodplain lying outside of the floodway.

(8) ***Flood Protection Grade (FPG).*** The elevation of the regulatory flood plus two (2) feet at any given location in the Special Flood Hazard Area or 100-year floodplain.

(9) ***IDNR***. Indiana Department of Natural Resources

(10) ***Letter of Map Amendment (LOMA).*** An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA. See: "***Flood-Related Definitions***."

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

(12) ***National Flood Insurance Program (NFIP).*** A program managed by FEMA, to identify and map flood hazard areas, assist with community floodplain management programs, and to provide flood insurance to participating communities that are located within a SFHA.

(13) ***Regulatory Flood.*** In La Porte County, the flood having a one percent probability 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 Natural Resources Commission and the FEMA.

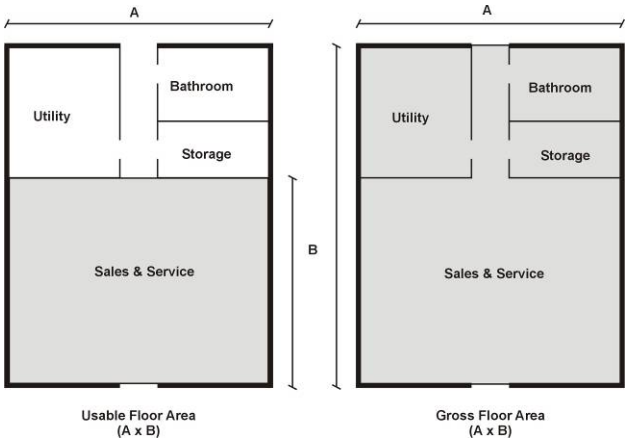
(14) ***Special Flood Hazard Area (SFHA).*** The land area covered by the floodwaters of the regulatory flood on NFIP maps. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO and AH. The SFHAs of the County are generally identified as such on the Flood Insurance Rate Map of the County prepared by the FEMA and dated June 4, 1996.

Floor area.

(1) ***Gross floor area (GFA).*** The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets/ storage rooms, thickness of walls, columns, or other features.

(2) ***Residential floor area.*** For the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior wall. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed or unenclosed porches.

(3) ***Usable floor area (UFA).*** That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage of merchandise, or areas such as hallways, stairways, elevator shafts, utilities space or sanitary facilities, shall be excluded from this computation of UFA. Measurement of UFA shall be the sum of the horizontal areas of the several floors of the building, measured from the exterior faces of the



exterior walls. When a detailed floor plan is not available, a factor of 80% shall be used to estimate the useable floor area for purposes of calculating parking requirements and other standards based on useable floor area.

Footcandle. A unit of illumination, equivalent to the illumination at all points which are one foot distant from a uniform point source of one candlepower.

Foster care home. As defined by the state department of social service, homes which provide congregate living arrangements for non-family members.

Foundation siding or skirting. A type of wainscoting constructed of fire and weather resistant material, such as aluminum, asbestos board, treated pressed wood, or other approved materials enclosing the entire undercarriage of a manufactured or mobile home.

Freight terminal. A building or area in which freight brought by motor truck or railroad freight cars is assembled or stored for routing in intrastate or interstate shipment by motor trucks or railroad freight cars.

Frequency. Signifies the number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

Frontage. All of the property of the lot fronting on a street, road, or highway as measured between the side lot lines and as measured along the front lot line unless a public right-of- way easement exists, then along the easement line of the parcel or lot.

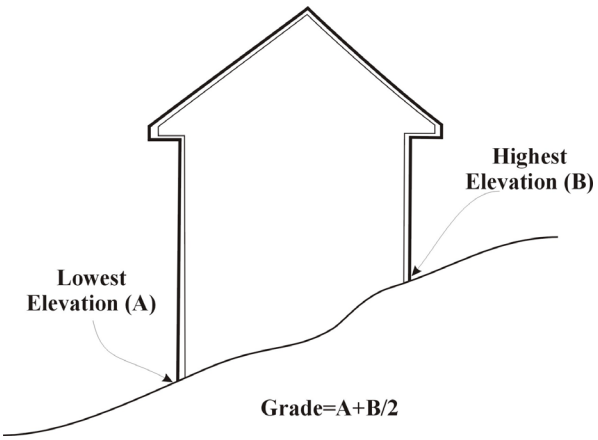
Funeral home. A business that provides burial and funeral services for the deceased and their families. These services may include a prepared wake and funeral, the provision of a chapel for the funeral and a crematory.

Section 31.08 Definitions "G"

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

Garage. An accessory building or an accessory portion of the principal building, including a carport, which is intended for or used for storing the private passenger vehicles of the family or families residing upon the premises. No business, service, or industry connected directly or indirectly with the motor vehicles is carried on.

Grade. The arithmetic average of the lowest and highest pre-construction grade elevations within the boundaries of the foundation line of a building or structure.



(1) For construction on a vacant lot, the pre-construction grade shall be the undisturbed average grade of the proposed building site, before it is altered by land clearing, berming or preparation for construction.

(2) For additions to existing buildings, the pre-construction grade shall be the average grade within the boundaries of the foundation line of the building and the undisturbed land area proposed to be covered by an addition.

(3) For lots located in the Waterfront View Protection Overlay Zoning District, the method for determining grade shall be as specified in section 12.03.

Greenbelt. A zone of trees or treelike plantings along a road frontage.

Ground floor area. The area of a building in square feet, as measured in a horizontal plane at the ground floor level within the largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

Group homes. A residential facility licensed by the State of Indiana that provides residential services for not more than four (4) unrelated individuals and such staff, as are sufficient to manage the home, but not including a halfway house.

Section 31.09 Definitions "H"

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

Halfway house. A facility used to house persons who have been recently released from prison for the purpose of reintegration with society, while still providing monitoring and support.

Home occupation. Any gainful occupation or profession conducted within a dwelling unit by a member of the family residing in the dwelling unit which is incidental and secondary to the use of the dwelling unit for residential purposes, provided that no retail sales activities are conducted.

Hospital. An institution where sick or injured persons are given medical care and, in the course of same, are housed overnight, fed and provided nursing and related services. This definition shall include any related, accessory facilities such as laboratories, outpatient departments, training facilities, central service facilities and staff offices which are integral parts of the facility.

Hotel (motel). A building or structure under a single management that provides rental rooms or suites intended primarily as sleeping accommodations for public rental on a daily basis for registered guests. A hotel or motel shall maintain a central, internal lobby. A hotel or motel shall provide daily room cleaning and linen changes for its guests, and may include supportive areas such as meeting rooms, incidental retail sales and commercial services, central kitchen facilities, dining rooms, restaurants, lounges, office areas, swimming pools, recreational facilities, spas, and fitness/exercise areas and other similar services and amenities intended principally as services for registered guests.

Hotel-minium. A structure meeting the definition of a hotel (motel), and in addition allows for individually-owned units with full kitchen facilities.

Section 31.10 Definitions "I"

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

IDEM. Indiana Department of Environmental Management.

IDNR. Indiana Department of Natural Resources.

Impact fee. A fee imposed on a development to help finance the cost of improvements or services.

Impervious surface. Any man-made material which covers the surface of land and substantially reduces the infiltration of storm water to a rate of five percent (5%) or less. Impervious surfaces include but are not limited to pavement, buildings, and structures.

Improvement location permit. A permit stating that the proposed erection, construction, enlargement, or moving of a building or structure referred to therein complies with the provisions of this ordinance.

Individual sewage disposal system. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

Indoor recreation facility. An establishment which provides indoor exercise facilities and/or indoor court and field sports facilities, and which may include spectator seating in conjunction with the sports facilities such as skating rinks, swimming pools, indoor golf facilities, pool or billiard halls and bowling alleys. Auditoriums and stadiums are not included.

Industrial waste facility. Any facility used for the storage, transportation, reclamation, or disposal of any waste classified as hazardous or toxic by the united states environmental protection agency.

Industry, heavy. Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; which require large sites, open storage and service areas, extensive services and facilities, and ready access to regional transportation; and which normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the district boundary. Waste is limited to wastes other than those classified as hazardous or toxic by the United States Environmental Protection Agency.

Industry, light. Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances. Waste disposal is limited to wastes other than those classified as hazardous or toxic by the United States Environmental Protection Agency.

Interested party. The interested parties shall include, but are not limited to, the appellant and the county or city's official or body whose order, decision, or determination is being appealed, the applicant for the relief being sought, and adjacent property owners. This also includes any individual who addresses the Board favoring or opposed to a matter before the legislative body, plan commission, or board of zoning appeals.

Invasive Plant Species. Predominantly non-native, non-indigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have no natural predators, and which can so dominate an ecosystem that they kill off or drive out many indigenous plant species. Invasive trees, shrubs, vines, or herbaceous species include, but are not limited to:

Section 31.11 Definitions "J"

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

Junk. For the purpose of this ordinance, the term "junk" shall mean any motor vehicles, machinery, appliances, product, or merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose for which the product was manufactured.

Junk yard. See "***Salvage yard***."

Section 31.12 Definitions "K"

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

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

Section 31.13 Definitions "L"

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

Laboratory. A facility devoted to experimental study, testing, or analysis. Manufacturing, assembly, or packaging of products shall not be conducted within this facility.

Land disturbing activity. Any man- made change of the land surface, including removing vegetative cover, excavating, filling, transporting, and grading. In the context of this title, it includes only non-agricultural land disturbing activities on sites which also require a local improvement location permit or an approved subdivision plat.

Letter of Map Amendment (LOMA). See: "***Flood-Related Definitions***."

Letter of Map Revision (LOMR). See: "***Flood-Related Definitions***."

Livestock. See: ***"Animal."***

Loading and unloading space, off-street. An open, hard-surfaced area of land other than a street or public way, which is principally used for the standing, loading, and unloading of motor trucks, tractors, and trailers to avoid undue interference with the public use of streets and alleys.

Locker plants. A facility for the cold storage and preservation of food in separate and individual compartments that are offered to the public for cold storage of privately owned food, including meat processing.

Lodger or roomer. Any person, not the principal tenant or a family member of the principal tenant, who resides in a living unit and who pays remuneration to the principal tenant, as distinguished from a guest who does not pay remuneration to the principal tenant.

Lodging room. A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room for the purpose of this title.

Lot.

(1) ***Lot.*** A legally described parcel of land occupied, or intended to be occupied, by a building or a group of buildings, or utilized for the principal and accessory uses, together with such yards and open spaces as are required under the provisions of this ordinance. For purposes of meeting the dimensional standards of this ordinance, a lot does not include public rights-of-way or private road easements, but does include access easements for a service drive. A lot may consist of:

   a. A single lot of record;

   b. A portion of a lot of record;

   c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; or

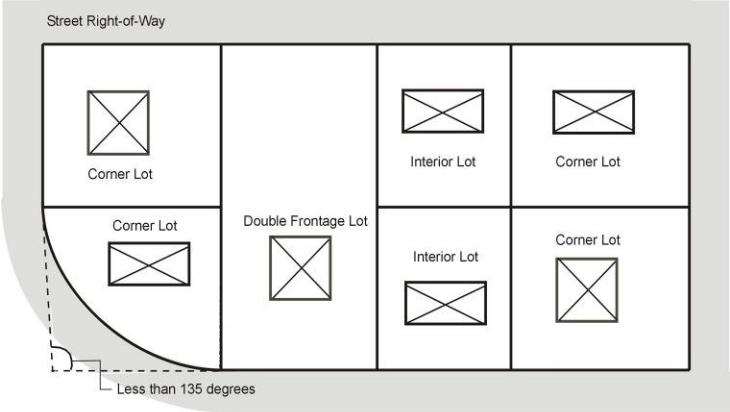
   d. A parcel of land described by metes and bounds.

(2) ***Lot, corner.*** A lot situated at the intersection of two streets, the interior angle of that intersection not exceeding 135 degrees. (the narrowest part of a lot having frontage on a street is the front of the lot.)

(3) ***Lot, double frontage or through.*** A lot, other than a corner lot, which fronts on two more or less parallel streets.

(4) ***Lot, interior.*** A lot other than a corner lot or a through lot.

(5) ***Lot, reverse corner.*** A corner lot where the side lot line adjoining a street is substantially a continuation of the front line of an adjacent interior lot.



(6) ***Lot, zoning.*** A single tract of land located within a single block, which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or unified control. A zoning lot may or may not coincide with a lot of record.

Lot area, gross. The area of a horizontal plane bounded by the front, side and rear lot lines, but not including any area occupied by a public road right-of-way or the waters of a lake, river.

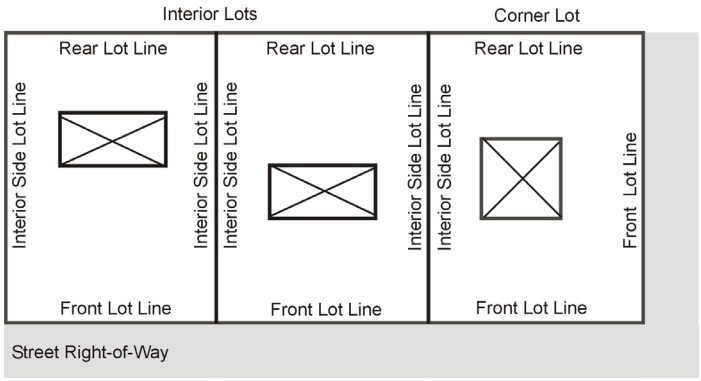
Lot coverage. The percentage of the lot area that is occupied by buildings or structures, including accessory buildings or structures.

(1) ***Building lot coverage.*** The percent of the lot area that is covered by buildings.

(2) ***Impermeable surface coverage.*** The percent of the lot area that is covered by buildings plus other impermeable surfaces, such as pavement, decks and pools.

Lot depth. The average distance between the front lot line and the rear lot line of a lot.

Lot frontage. See "***Frontage.***"



Lot line.

(1) ***front lot line.*** The boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public way. On a corner lot the lot line having the shortest length abutting a street line shall be the front lot line, unless otherwise determined by the enforcement official.

(2) ***Rear lot line.*** The boundary of a lot which is most distant from, and is, or is most nearly, parallel to the front lot line.

(3) ***Side lot line.*** Any boundary of a lot which is not a front or rear lot line.

Lot of record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the county recorder, or a parcel of land, described by metes and bounds, the deed to which was recorded in the office of the recorder prior to the adoption of this title.

Lot width. The horizontal distance between the side lot lines, measured at the two (2) points where the minimum required front setback line intersects the side lot lines.

Section 31.14 Definitions "M"

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

Manufactured home. A dwelling unit (as defined in I.C. 9-13-2-96), designed and built in a factory, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law, and certified by the state. Also, 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 subdivision. A parcel of land platted for subdivision according to all requirements of the subdivision and zoning ordinances, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes.

Manufactured housing construction and safety standard codes. Title VI of the 1974 Housing and Community Development Act (42 USC 5401 et seq.), as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder (including information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of that code by the state Administrative Building Council; all of which became effective for mobile and manufactured home construction on June 15, 1976.

Marina. (See also "*Boat harbor, public marina*.")

Marquee or canopy. A roof-like structure of a permanent nature which projects from the wall of a building.

Medical or dental clinic. A building, or portion thereof, the principal use of which is for medical or dental study and/or treatment and in which the services of at least two professionals in the medical or dental fields of practice are provided.

Mineral extraction. Includes mining, quarrying, and removal of earth materials.

Mobile home. A detached transportable structure larger than 320 square feet and designed to be used as a single-family residential dwelling with all of the following characteristics:

(1) Certified in a factory and fabricated to the standards outlined in I.C. 20-12-5 et seq. pursuant to I.C. 9-20-12-1;

(2) Designed to be transported after fabrication on its own wheel; and

(3) Arriving at the site where it is to be occupied as a dwelling complete, including the major appliances, and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to the utilities, and the like.

Manufactured home park. Any parcel or tract of land licensed and registered under provisions of I.C. 16-41-27 et seq. under the control of any persons, upon which three or more occupied manufactured homes are harbored on a continual or non-recreational basis, or which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the harboring or occupancy of manufactured homes.

Manufactured home tie downs. Sufficient anchorage to resist flotation, collapse, or lateral movement of any mobile home. At a minimum, this anchorage shall consist of:

(1) Over-the-top ties to be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring only one additional tie per side;

(2) Frame ties to be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

(3) All components of the anchoring system to be capable of carrying a force of 4,800 pounds; and

(4) Additions to the manufactured home to be similarly anchored.

Modular home. A housing unit designed, built, and certified in a factory to I.C. 22-12-2 through 22-12-5 for use as a principal residence. It is to be constructed complete with the necessary plumbing, heating, and electrical systems. It is designed to be transported by means other than its own undercarriage to a prepared site, and becomes suitable for permanent occupancy after proper installation of foundation supports and connection to utility service.

Monopole. A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Motel. See "***hotel/motel.***"

Motor vehicle. A passenger vehicle, truck, truck-trailer, or semi-trailer propelled or drawn by mechanical power.

Section 31.15 Definitions "N"

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

Native Vegetation. Vegetation composed of plants which originated, developed, or were produced naturally in the Northern Indiana region and were not introduced directly or indirectly by humans. Native vegetation may be found in but is not limited to marshes, native grasslands, coastal/inland sage scrub, woodlands, and forests.

National Flood Insurance Program (NFIP): See: "***Flood-Related Definitions***."

National wetlands inventory or NWI. A series of maps produced by the Fish and Wildlife Service of the U.S. Department of the Interior, in coordination with the maps produced by the U.S. Geologic Survey, showing the location and classification of certain identified wetlands in standard topographic areas.

Natural Resources. A component of a landscape existing or maintained as a part of the natural environment and having ecological value. Such resources include those which, if disturbed, may cause hazards or stress to life, property and the natural environment. Natural resources shall include, but not be limited to, all ecosystems listed in article 22 and the following:

(1) ***Sensitive areas.*** A Local Decision Maker map layer that indicates areas where development is illegal or highly undesirable. "Sensitive areas" as defined by Indiana code (327 IAC 16-2-34) are 300 foot buffers around streams, lakes, karst areas and 100 foot buffers around water wells. These buffer areas are especially susceptible to pollution from human activity and serve as a refuge for many plant and wildlife species.

(2) ***Steep slopes.*** A Local Decision Maker map layer that shows distribution of slopes steeper than 20% in Indiana.

(3) ***Major rivers and lakes of Indiana (USGS).*** A Local Decision Maker map layer that shows main hydrologic features of Indiana landscape.

(4) ***Streams and lakes of Indiana (NHD)***. A Local Decision Maker map layer that shows detailed hydrologic features of Indiana landscape. The National Hydrography Dataset (NHD) is a feature-based database that interconnects and uniquely identifies the stream segments or reaches that make up the nation's surface water drainage system.

(5) ***Recreational facilities in Indiana.*** A Local Decision Maker map layer dataset that contains point locations of sites in Indiana that have outdoor recreation facilities. It includes facilities managed by federal, state, and local governments, as well as non-government organizations, private and commercial entities, and schools. It does not include sites that are private and not open to the public.

(6) ***Indiana Biodiversity Initiative (IBI)- High Irreplaceability Sites.*** A Local Decision Maker map layer that shows grid squares that have the highest potential to contribute to the conservation of plant communities and plant species. Grid squares containing rare plant species often have particularly high scores. The highest scores are typically for grid squares with unique conservation potential, not necessarily those with the greatest area of natural vegetation.

(7) ***CrEAM - Species rarity (C3.2), Indiana.*** A Local Decision Maker map layer map of species rarity that is based on the Heritage Program data that contained observations for any individual quad with a possible GHRS (Global Heritage Ranking System) rank as rare as G1 or as common as G5. Within a quad, the rarest GHRS rank determined the score for the entire quad. If the highest observation in the quad was G1, the whole quad received the score of 100. A score from 100 to 0 was assigned to each quad in the region, and each cell was assigned the score of the quad in which it was located.

(8) ***Indiana floodplains, IDEM.*** A Local Decision Maker map database layer that is an interim version of the Digital Flood Insurance Rate Map (DFIRM) Database. The DFIRM depicts flood risk information and supporting data used to develop the risk data. The primary risk classifications used are the 1- percent-annual-chance flood event, the 0.2-percent-annual-chance flood event, and areas of minimal flood risk.

(9) ***Indiana wetlands.*** A Local Decision Maker map layer that represents the extent, approximate location and type of wetlands and deepwater habitats in the conterminous United States.

(10) ***Biodiversity – Ecological Classifications - Indiana Natural Regions.*** A Local Decision Maker map layer that presents the ecological classification system (ECS) of the eastern United States.

Non-access easement. A public easement along a public road right-of-way which restricts or prohibits direct access from the property to the roadway.

Non-conforming building or structure. A legally established building or structure, or portion of a structure, existing at the effective date of this code, or subsequent amendment thereto, that could not be built under the terms of this title by reasons of restrictions on lot size, height, yards, location on the lot, or other requirements concerning the structure.

Non-conforming use. A legally established use of land, buildings, or structures which does not comply with all of the regulations of this title or of any amendment hereto governing use for the zoning district in which that use is located.

Noxious matter or materials. Matter or material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

Nursing home. A home for the care of aged, chronically ill, children, infirm, or incurable persons, or a place of rest for those persons suffering bodily disorders, in which three or more persons not members of the family residing on the premises, are received and provided with food, shelter, and care, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases, or mental illness. A nursing home also includes rehabilitation housing for released mental or alcoholic patients where medical treatment is not provided and no longer deemed necessary.

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

Nuisance. An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people and traffic.

Section 31.16 Definitions "O"

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

Occupancy permit. A required permit allowing the use of a building or structure after it has been determined that all the requirements of applicable ordinances have been met.

Odorous matter. Matter or material that yields an odor which is offensive in any way.

Official thoroughfare plan. The part of the County land development plan, now or hereafter adopted, which includes a major thoroughfare and highway plan and sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, highways, and other thoroughfares.

Off-site. Restoration or creation of a wetland at a location not adjacent to, or within 25 feet of, a previous wetland.

One- and two-family dwelling code, Indiana. The nationally-recognized model building code prepared by the Council of American Building Officials, adopted by the state Administrative Building Council (ABC) as mandated through P.L. 360, Acts of 1971, and which includes those supplements and amendments promulgated by the ABC.

Open sales lot (yard, garage, roadside, or similar). Land used or occupied for the purpose of buying or selling merchandise stored or displayed out-of-doors. The merchandise includes, but is not limited to, passenger cars, trucks, motor scooters, motorcycles, boats, and monuments.

Ordinary High Water Mark (OHWM): Uppermost elevation on bank or shore influenced by prolonged contact with surface water, evidence of which is found in distinctive marks left by surface water. Such marks can include water lines on trees, erosion scour line, debris deposits, destruction of terrestrial vegetation, transition point from wetland to terrestrial vegetation.

Outdoor recreation. Outdoor recreation includes one or more of the following uses: riding clubs, polo fields, horse shows, hunter trials, and other equestrian sports; conservation clubs; girl scout and boy scout

lodges or clubhouses; private parks or playgrounds; archery ranges; and other outdoor recreation uses, and accessory uses, buildings, and structures such as off-street parking and loading facilities, administration, maintenance, and clubhouse buildings.

Owner. Any individual, firm, association, syndicate, co-partnership, or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this title.

Section 31.17 Definitions "P"

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

Parcel. A separate division of land individually described, surveyed, and of record to show the actual boundaries of the property.

Parcel of property. A single tract or plot of land.

Parking space. An area reserved for the parking of one motor vehicle, unenclosed or enclosed in a building.

Particulate matter. Dust, smoke, or any other form of airborne pollution in the form of minute separate particles.

Performance guarantee. A security, in the form of cash deposit, certified check, irrevocable bank letter of credit, or surety bond, in an amount sufficient to cover the estimated cost of improvements required as part of an application for development that is deposited with the municipality to ensure that said improvements are satisfactorily completed.

Performance standard. Criteria established to control smoke and particulate matter, noise, odor, toxic or noxious matter, vibration, fire and explosion hazards, glare or heat, or radiation hazards generated by or inherent in uses of land or buildings.

Permanent foundation. Any 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.

Permanent perimeter enclosure. A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground.

Person. Includes a corporation, firm, partnership, association, organization, or any other group which acts as a unit.

Philanthropic and eleemosynary institutions. Centers operated by philanthropic or non-profit institutions that assist individuals with social needs, such as shelters and rehabilitation centers. These centers may provide temporary housing, meals, counseling, health services, education, job placement assistance and leisure-time activities. Adult care facilities, community centers, hospitals, medical centers, medical/psychiatric offices, shelters for abused women/children and government health/social services facilities are not regulated under the requirements of "philanthropic and eleemosynary institutions." Churches or other places of worship that provide community outreach services are also not regulated under this definition, unless they operated an onsite homeless shelter.

Plan commission. The county plan commission has jurisdiction within the unincorporated area of the county and each city has a plan commission for the incorporated areas of each city. The plan commissions have the following duties for each of their respective jurisdictions: to formulate and recommend the adoption of plans for the conservation of resources and community betterment, participate in the preparation of a county land development plan for the development of the county, approve proposed subdivisions, authorize the preparation of public road maps, and administer this ordinance.

Planned unit development or PUD. A tract of land developed under single ownership or control, the development of which is unique, incorporating some or all, but not limited to, the following attributes: a variety of uses, varied density of development, reduced right-of-way width, dedicated open space, and zero lot line development.

Plat.

(1) A map representing a tract of land showing the boundaries and location of individual properties and streets; or

(2) A map of a subdivision or site plan.

Plat, final. A map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.

Plat, preliminary. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the plan commission for approval.

Plat, primary. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the plan commission for approval.

Porch. A roofed-over structure, projecting out from the wall or walls of a main structure, with a portion of it commonly open to the weather.

Practical alternative. An alternative to a proposed project that would accomplish the basic purpose of the project and avoid, or have less adverse impact on, a wetland or lake.

Private road. A non-dedicated road serving more than one (1) parcel for access.

Private sewer. A disposal system which is not constructed, installed, maintained, operated, or owned by a municipality, taxing district established for that purpose, or a utility under the jurisdiction of the Public Services Commission of the state.

Private water. A water supply which is not constructed, installed, maintained, operated, or owned by a municipality, taxing district established for that purpose, or a utility under the jurisdiction of the Public Services Commission of the state.

Property lines. Legally defined lot lines bounding a lot.

Protected Natural Resource Area. Include wetlands, streams, floodplains, riparian zones, and other natural resource features regulated by local, state and/or federal regulation.

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

Public sewer. A sewage disposal system which is constructed, installed, maintained, operated, and owned by a municipality or taxing district established for that purpose.

Public utility. A firm, corporation, municipal department, or board duly authorized to furnish or furnishing under regulation to the public: electricity, gas, steam, communication (including CATV), transportation, drainage, sewer, or water.

Public water. A water supply system which is constructed, installed, maintained, operated, and owned by a municipality, taxing district established for that purpose, or a utility under the jurisdiction of the Public Services Commission of the state.

Section 31.18 Reserved for Future Use

Section 31.19 Definitions "R"

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

Railroad right-of-way. A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, or water towers.

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

Recreational vehicle. Commonly referred to as an RV. A vehicle used for travel, camping recreation, and vacation use.

(a) This type of vehicle is:

(1) Built on a single chassis;

(2) Four-hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

(b) An RV may include, but is not limited to:

(1) ***Motor home.*** A self-propelled vehicle with a dwelling constructed as an integral part of the vehicle, or so altered.

(2) ***Pick-up coach.*** A structure designed to be mounted on a truck chassis or cut-down car.

(3) ***Travel or camping trailer.*** A vehicle or other portable structure that is designed to move on the highway and designed or used as a dwelling.

Recycling facility. See "***waste disposal management and reduction***."

Regulatory Flood: See: "***Flood-Related Definitions***."

Research laboratory. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

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

Restaurant. Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

(1) ***Carry-out restaurant.*** A business establishment whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

(2) ***Delicatessen.*** A restaurant typically offering both carry-out and seating of sandwiches and other foods and beverages. A delicatessen also typically offers meats, cheese and prepared foods on a retail basis.

(3) ***Drive-in restaurant.*** A business establishment whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building. A drive-in restaurant may also have interior seating.

(4) ***Drive-thru restaurant.*** A business establishment whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises. A drive-thru restaurant may also have interior seating.

(5) ***Standard restaurant.*** A business establishment whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a building or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building. Restaurants may include accessory outdoor seating.

(6) ***Tavern/bar.*** An establishment licensed to serve alcoholic beverages on the premises. Taverns/bars may include accessory outdoor seating.

Rezone. To change the zoning classification of particular lots or parcels of land, otherwise known as a map amendment.

Right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way hereafter established and shown on a secondary plat is to be separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of the lots or parcels. Rights- of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency, shall be dedicated to public use by the maker of the plat(s) on which the rights-of-way are established.

Riparian: Lands adjacent to waterways and lakes, that are influenced by the adjacent water body by overbank flooding and changes in elevation of the water table.

Riparian or wetland buffer. An area surrounding a watercourse, floodplain or wetland, containing trees and other vegetation that intercepts surface water runoff, wastewater, subsurface flow, and/or groundwater flows from upland sources. Riparian and wetland buffers help process and remove nutrients, sediment, organic matter, pesticides, or other pollutants from runoff and subsurface flow. This transition area between aquatic and terrestrial environments can also provide wildlife habitat, control water temperature, attenuate flood flows, and provide opportunities for passive recreation.

Roadside stand. A structure for the display and sale of agricultural products, with no space for customers within the structure itself.

Roadway. That portion of a street which is used or intended to be used for the travel of vehicles. See also "street."

Runoff. The portion of precipitation from such sources as rainfall, snow melt, or irrigation water that flows over the ground surface.

Section 31.20 Definitions "S"

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

Salvage yard. An open area where waste or used materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled. Such waste and used materials include, but are not limited to, motor vehicles, vehicles, machinery or equipment drawn or operated by being attached to motor vehicles, mechanical units which are not in running or operable condition, scrap iron, other metals, paper, rags, rubber tires, and bottles. It does not include residential, commercial or municipal "garbage" which is defined as animal, vegetable or mineral refuse. Any lot containing three (3) or more unlicensed vehicles shall be considered a salvage yard.

Self-storage facility. A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.

Setback. The minimum horizontal distance between a lot line and the wall of a building or structure.

Shopping center. A structure or group of structures located on the same lot or parcel which is developed in accordance with an overall plan and designed and built as an interrelated project that provides a variety of commercial uses and common off-street parking, pedestrian access and vehicular movements. Buildings constructed on outlots shall not be considered part of the shopping center unless access and parking easements are provided.

Shoreline. The average normal water level as established under I.C. 14-26-4-1 through 14-26-4-12 for public freshwater lake and administered under supervision of the state Department of Natural Resources or the ordinary high water mark.

Sight distance. The length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway.

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

(1) A ***sign*** shall not include:

a. The display of official court or public office notices;

b. The flag, emblem, or insignia of a nation, political unit, school, or religious group; or

c. One located completely within an enclosed building, except signs located behind window areas intended to be viewed from outside the building.

(2) ***Billboard.*** A structure or accessory structure that advertises or directs attention to a business, commodity, service, entertainment or any other subject matter not located or carried on the parcel of real estate where any such sign is located or in the building or structure to which the sign is affixed.

(3) ***Business sign.*** A sign which directs attention to a business, commodity, service, or entertainment related to the premises where the sign is located or to which it is affixed.

(4) ***Electrical reader board.*** Sign which contains a traveling message or a message which appears to be traveling and usually in a horizontal manner.

(5) ***Flashing sign***. An illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when the sign is in use. A revolving, illuminated sign shall be considered to be a flashing sign.

(6) Gross area of sign:

a. The entire area within a single continuous perimeter enclosing the extreme limits of the sign and in no case passing through or between any adjacent elements of same.

b. The perimeter shall not include any structural elements lying outside the limits of the sign and not forming an integral part of the display.

(7) ***Ground/monument sign.*** A three dimensional, base mounted freestanding display sign, that is supported by uprights or braces in or upon the ground surface or mounted on a base, and consisting of two (2) or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.

(8) ***Identification sign.*** A sign which directs attention to a residence, a business, commodity, service, entertainment, or other activity conducted on the lot upon which the sign is located.

(9) ***Nameplate sign.*** Non-illuminated sign flush with the front of the building indicating the name or address of a building, or the name of an occupant thereof and the practice of a permitted occupation therein.

(10) ***Pole sign.*** A type of freestanding sign that is elevated above the ground on poles or braces and not attached to any building or other structure.

(11) ***Reader board sign.*** A sign whereon provision is made for letters or characters to be placed in or upon the surface area either manually or electronically to provide a message that may be changed periodically

(12) ***Roof sign.*** A sign erected, constructed, and maintained above the roof of any building.

(13) ***Wall sign.*** A sign attached to, painted on or erected against the wall of a building with the sign face in a parallel plane to the plane of the building.

(14) ***Window Signs.*** A sign attached to a window or glass door and any sign on the interior of a window that is visible from the outside of the window, including signs not attached to the window.

Site plan. A drawing to scale which must be furnished to the enforcement official when application is made for an improvement location permit and which shows size and location of all existing and proposed buildings, all adjacent streets and highways, size of all entrances and exits from the land, and a legal description of the land. For some uses a landscape development plan must be included.

Special exception. Those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction by the board of zoning appeals.

Special Flood Hazard Area (SFHA): See: "***Flood-Related Definitions***."

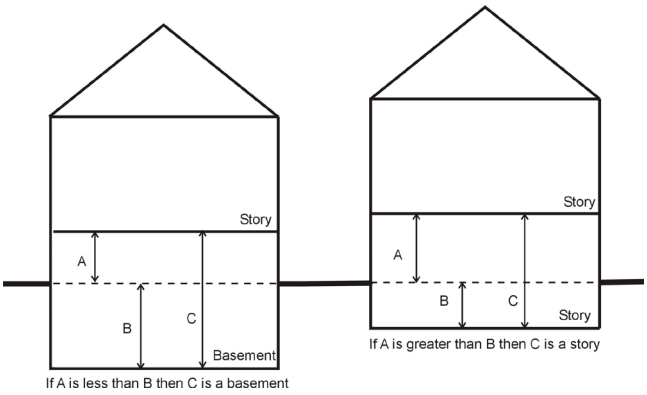
Spot zoning. The rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the county land development plan.

Sprawl. Uncontrolled growth, usually of a low-density nature, in previously rural areas and some distance from existing development and infrastructure.

Stable. A building or structure designed, arranged, used, or intended to be used for housing saddle horses or ponies. See also: ***"Boarding Stable."***

Stockyards. A yard for livestock; especially an enclosure, usually with pens, and the like, in which cattle, hogs, sheep, or horses are kept temporarily before being slaughtered or sent to market.

Story. That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it. The floor of a story may have split levels provided that there is not more than four (4) feet difference in elevation between the different levels of the floor. A mezzanine floor shall be counted as a story when it covers over one-third the area of the floor next below it, or if the vertical distance from the floor next below it to the floor next above it is 24 feet or more. A basement shall be counted as a story if it is 50 % or move above the average grade.



Story, half. A partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of the story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Street or road. A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name.

(1) ***Cul-de-sac street.*** A street with a single common ingress and egress and with a turn-around at the end.

(2) ***Highway, limited access.*** A freeway, or expressway, providing a for through traffic, to which abutting lands have no legal right to have direct access, and all access is at defined points determined by the public road agency having jurisdiction over that roadway.

(3) ***Minor street.*** A local roadway, the primary function of which is to provide direct access to residential, commercial, industrial, or other abutting real estate.

(4) ***Major thoroughfare.*** All arterial streets, county primary roads, major city streets and state highways.

Stormwater-related Definitions:

(1) ***Accelerated erosion.*** Erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

(2) ***Applicant.*** A property owner or agent of a property owner who has filed an application for a stormwater management permit.

(3) ***Best Management Practices (BMPs)*** Structural measures (wetlands, ponds, infiltration basins, etc.) or non-structural measures (low impact development planning, restrictive zoning, reduced impervious areas, etc.). BMPs are designed for the benefit of water quality and quantity.

(4) ***Building.*** Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

(5) ***Channel.*** A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(6) ***Clean Water Act (CWA).*** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(7) ***Construction Activity.*** Activities subject to a stormwater management permit. These include construction projects resulting in land disturbance of ¼ acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition. This term does not include routine ditch or road maintenance, minor landscaping projects, agricultural land disturbing activities, forest harvesting activities, or individual building lots within a larger permitted project.

(8) ***Detention.*** The temporary storage of storm runoff in a stormwater BMP with the goals of controlling peak discharge rates and providing settling and filtration of pollutants.

(9) ***Detention facility.*** A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff, and gradual release of stored water at controlled rates.

(10) ***Drainage easement.*** A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

(11) ***Erosion and sediment control plan (ESCP).*** A plan that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(12) ***Hotspot.*** An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(13) ***Hydrologic soil group (HSG).*** The Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups according to texture and drainage capacity. The groups are HSG-A, B, C, and D. Runoff volume for a given rainfall depth increases, and infiltration capacity decreases, From HSG A to D.

(14) ***Illicit Connections.*** Either of the following:

a. A stormwater conveyance system that allows an illicit discharge to enter the storm drainage system or the MS4. Such systems include but not limited to any conveyances that allow any non-stormwater discharge, and any connections to the storm drainage system, MS4, or receiving waters from indoor drains and sinks. Such systems are illicit regardless of whether said drain or connection had been previously allowed, permitted, or approved. Or,

b. Any conveyance connected from a commercial or industrial land use to the storm drainage system, MS4, or receiving water that has not been documented in plans, maps, or equivalent records and approved.

(15) ***Illicit Discharge.*** An unapproved direct or indirect non-stormwater or pollutant discharge to the storm drainage system, MS4, or receiving waters.

(16) ***Industrial Activity.*** Activities subject to NPDES Industrial Permits as defined by 327 IAC 15-6-1:12 (Rule 6).

(17) ***Invasive Plant Species.*** Predominantly non-native, non-indigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have no natural predators, and which can so dominate an ecosystem that they kill off or drive out many indigenous plant species.

(18) ***Impervious cover.*** Surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

(19) ***Industrial stormwater permit.*** A National Pollutant Discharge Elimination System (NPDES) permit issued to a commercial industry or group of industries, which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

(20) ***Infiltration***. The process of percolating stormwater into the subsoil.

(21) ***Infiltration facility.*** Any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

(22) ***Land disturbance activity.*** Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

(23) ***Low Impact Development (LID)***. Development strategy that encourages maintaining existing drainage patterns while minimizing changes to existing topography. LID often employs distributed, localized storage of stormwater, disconnection of directly connected impervious surfaces to the site outlet, and incorporation of public education into the long-term plan for stormwater management.

(24) ***Maintenance agreement.*** A legally recorded document that acts as a property deed restriction, and that provides for long-term maintenance of stormwater management practices.

(25) ***Maximum Extent Practicable (MEP).*** The statutory standard that establishes the level of pollutant reductions that operators of regulated MS4s must achieve.

(26) ***Municipal Separate Storm Sewer System (MS4).*** A stormwater conveyance system which is owned or operated by a state, city, town, county, tribe, district, association, or other public body or a designated and approved management agency under Section 208 of the Clean Water Act, that discharges into waters of the United States (40 CFR 122.26(b)(8)).

(27) ***MS4 Advisory Committee.*** Appointed representatives of the municipal and county entities who administer the MS4 Program under the permit issued by IDEM.

(28) ***MS4 Coordinator.*** Designated representative of the city responsible for assisting in the implementation and management of the Stormwater Quality Management Program for the city.

(29) ***National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit.*** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(30) ***Non-point source pollution.*** Pollution from any source other than discernible, confined, and discrete conveyances, including but not be limited to pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

(31) ***Notice of Intent (NOI).*** A written notification indicating an entity's intention to comply with the terms of a specified general permit rule in lieu of applying for an individual NPDES stormwater discharge permit. The NOI includes information as required under 327 IAC 15-3 and the applicable general permit rule.

(32) ***Pollutant.*** Anything that causes or contributes to pollution. **Pollutants** may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes; yard wastes, including grass, brush, leaves, and limbs; refuse, rubbish, garbage, litter, or other discarded or abandoned objects,

ordinances, and accumulations;; floatables, pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; soil and sediments; and noxious or offensive matter of any kind.

(33) ***Recharge.*** Replenishment of underground water reserves.

(34) ***Redevelopment***. Any construction, alteration or improvement equal to or greater than 43,560 square feet (one acre) in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.

(35) ***"Rule 5" and "Rule 13.*** 327 IAC 15-5 and 327 IAC 15-13, respectively. The Indiana Department of Environmental Management (IDEM) has the authority to administer the Erosion Control Program under Rule 5. When IDEM approves the transfer of the Erosion Control Program to MS4 entities, such authority will be by Rule 13 in the MS4 areas only. Rule 5 will continue to apply to non-MS4 areas of the state. The issuance of an authorization letter by IDEM will determine which rule will have precedence or apply.

(36) ***Stormwater Conveyance Systems.*** System of surface and subsurface drainage systems, catch basins, and other drainage structures including retention and detention BMPs, vegetated swales, municipal streets, catch basins, curbs, gutters, roads with subsurface drainage systems, reservoirs, pumped piping systems and other drainage structures or watercourses.

(37) ***Stormwater management.*** The use of structural or non-structural practices, physical and biological measures that are designed to reduce stormwater runoff pollutant loads, discharge volumes and peak flow discharge rates. Goals of stormwater management include avoiding detrimental changes in the hydrology, water quality and temperature of receiving waters that affect habitat and ecological function, and minimizing flash floods.

(38) ***Stormwater Pollution Prevention Plan (SWPPP).*** A document that describes the best management practices and activities to be implemented by an entity to identify sources of pollution or contamination at a site, and actions that will be taken to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

(39) ***Watercourse.*** A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(40) ***Structural alteration.*** A change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.

Structure. Anything constructed or erected, the use of which requires location above the ground or attached to something having location on the ground. A structure will include buildings, fences, walls, decks, towers, pools, gazebos, play structures, tree house, and other similar above ground structures.

Subdivision. The division of land by deed or other recorded instrument. A subdivision shall be deemed to have occurred on any land, vacant or improved, that is divided into two (2) or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease, mortgage or development, either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision and the granting of access easements. However, this regulation shall not apply to the following:

(a) An allocation of land by a court decree for the distribution of property;

(b) The unwilling sale of land as a result of legal condemnations as defined and allowed in the Indiana State Law.

Support system. A pad or a combination of footings, piers, caps, plates, and shims, which, when properly installed, support the manufactured or mobile home.

Section 31.21 Definitions "T"

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

Tattoo establishment. Any place or establishment which is operated for the principal business or primary purpose of marking the skin with indelible pigment or other such substance so as to produce a permanent design, mark or similar feature on the skin.

Tavern/bar. A building where liquors are sold to be consumed on the premises and where entertainment may or may not be provided.

Terrace, open. A level and rather narrow plane, or platform, which for the purpose of this title is located adjacent to one or more faces of the principal structure and which is constructed not more than four feet in height above the average level of the adjoining ground.

Travel trailer park. An area of land on which two or more travel trailers 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 connection with providing that accommodation.

Truck stop. Any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may include overnight accommodations and restaurant facilities solely for use of truck crews.

Truck terminal or yard, commercial. Any land use with or without buildings for, but not limited to: parking, storage, maintenance, or transfer station for commercial trucks, tractors, truck trailers, and other commercial vehicles.

Section 31.22 Definitions "U"

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

Use (of property). The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained. This includes any manner of performance of activity or operation with respect to the performance standards of this title. Uses are classified under the following major categories:

(1) ***Residential,*** which includes single-family, two-family, multiple-family and manufactured homes.

(2) ***Agriculture,*** which includes all farming, livestock and forestry.

(3) ***Commercial,*** which includes all retail trade uses, motor vehicle service, lodging accommodation, food services, other services and entertainment/recreational businesses.

(4) ***Office,*** which includes administrative offices and buildings, used for finance, insurance, legal, real estate, professional, scientific, technical, health care, and social assistance uses.

(5) ***Institutional,*** which includes all religious, civic, social, and similar organizations, educational services and public uses.

(6) ***Industrial,*** which includes all manufacturing, transportation, warehousing, utilities (generation/treatment plants), waste processing/disposal, construction contractors and mining/mineral extraction uses.

Use, permitted. A use which may be lawfully established in a particular district or districts, provided that it conforms with all requirements, regulations, and performance standards, if any, of the district.

Use, principal. The main use of land or buildings, as distinguished from a subordinate or accessory use. May be either a permitted use or a special exception use.

Use, special exception. See "***special exception.***"

Section 31.23 Definitions "V"

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

Variance. A deviation, authorized by the board of zoning appeals, from the strict application of the specific requirements of zoning as it pertains to use, building, frontages, access, lot size, setbacks, or other developments as it pertains to specific property.

Veterinary clinic. An institution which is licensed to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic may include customary pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services, and offices.

Section 31.24 Definitions "W"

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

Warehouse. A building used for long-term and short-term storage and wholesale of manufactured products, supplies, and equipment related to the operation of a single business and material for "just in time" delivery to a manufacturing facility. The use will include truck loading and unloading, provided the area dedicated to the outdoor storage of trucks and trailers is no more than the area of the warehouse building.

Waste.

(1) ***Hazardous waste.*** Regulated by the Resources Conservation and Recovery Act (RCRA, 1976) (42 USC 6901) and its amendments; any waste that is "corrosive, ignitable, reactive, or toxic" or poses a substantial threat to human health and environment when improperly managed.

(2) ***Industrial solid waste.*** Generally consists of materials such as wastewater treatment sludge (waste with most of the water removed; semi-liquid), agricultural wastes, plastics, oil, paint, metal, or coal ash, and is managed on-site in landfills, surface impoundments, land application units, and waste piles and/or off-site land facilities, discharged to wastewater treatment plants and to surface waters.

(3) ***Municipal solid waste.*** The refuse discarded by households, institutions, and commercial establishments (as distinguished from hazardous wastes and sludge), and which is disposed of in landfills, by incineration, or is composted, recycled, or reused.

(4) ***Yard waste.*** Plant clippings, pruning, and other discarded materials from yards and gardens; also called yard rubbish.

Waste disposal management and reduction. Techniques which include but are not limited to:

(1) ***Collection center or inter- mediate processing facility.*** A light industrial facility for collecting secondary materials, usually from the public, and reselling to brokers, processing centers, or manufacturing. Collection centers may or may not buy material, can be permanent or mobile, and do no processing of materials for resale.

(2) ***Composting.*** The controlled decay of organic matter, producing a nutrient-rich mulch or organic soil, thus removing part of the waste going to landfills and incinerator.

(3) ***Incineration.*** A process technology which reduces the amount (particularly by volume) of wastes, the residues of which must then be managed and disposed of properly.

(4) ***Landfill, sanitary.*** An engineering project for refuse disposal in which the waste is dumped in accordance with a preconceived plan, compacted, and covered during and at the end of each day.

(5) ***Processing center.*** A heavy industrial facility that buys secondary material, usually from brokers, collection centers, and various post- consumer waste facilities, to use on-site for the remanufacturing of products.

(6) ***Recycling.*** The process by which materials otherwise destined for disposal are retrieved and remanufactured into new products. Recycling involves four steps:

a. Separating recyclable material from the waste stream;

b. Processing recyclable materials so that they can substitute for virgin materials in the manufacture of products;

c. Producing a marketable commodity using the recycled material; and

d. Consumer purchase and use of recycled products.

(7) ***Transfer station.*** An inter- mediate facility where collected refuse is deposited for transfer to the final disposal site.

Watershed. All land and water within the confines of a drainage divide (a ridge separating two drainage basins).

Wetland. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. Any area meeting the official wetland definition of the US Army Corps of Engineers, the US Environmental Protection Agency, or the Indiana Department of Natural Resources, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of a wetland conflicts between any of these agencies, the more restrictive definition shall apply.

Wetland delineation. The determination as to whether an area is a wetland. Reference shall be made to and guided by, and field observations shall be conducted in accordance with, the methods set forth and described in the most recent legislation for: Federal Interagency Committee for Wetlands Delineation, and subsequent amendments; Federal Manual for Identifying and Delineating Jurisdictional Wetlands; U.S. Army Corps of Engineers; U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service; and U.S.D.A. Soil Conservation Service, Washington D.C. (Cooperative technical publication, 76 pages, plus appendices.)

Wetland maps.

(1) The portion of the National Wetlands Inventory which includes the county and cities, and which shows wetlands and lakes located within the county's geographic area.

(2) The National Wetlands Inventory, as periodically updated, is incorporated herein by reference. These maps are intended as a preliminary guide, as only the general location of wetlands may be shown. Copies of these maps are on file at the office of the plan commission.

Wholesale establishment. A business establishment engaged in selling to retailers or jobbers rather than consumers.

Wireless communications. The technology by which communications or radio signals are transmitted or received from one communication source to another, which may include mobile units, land-based units, or satellite, whether radio, digital, telephone, or television not otherwise exempted by federal regulation.

Wireless communications antenna. The physical device through which wireless communications signals are transmitted or received.

Wireless communications facility. A facility consisting of the equipment and structures involved in receiving and transmitting wireless communications signals.

Wireless communications tower. A structure intended to support equipment used to transmit and/or receive wireless communications signals, including monopoles and self-supporting lattice towers.

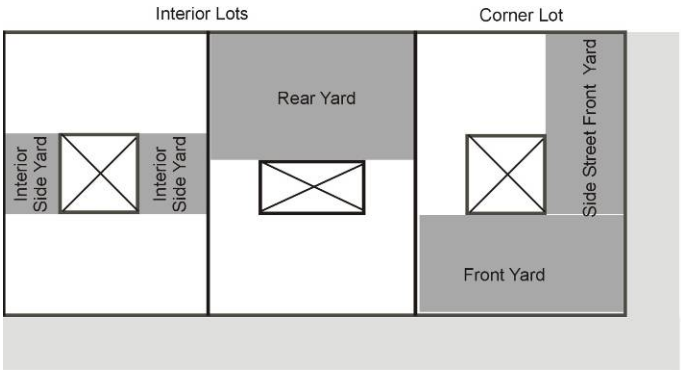
Section 31.25 Definitions "Y"

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

Yard. An open space on the same lot with a building or structure unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted. A yard extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which the lot is located, and shall not include that part in use as or to be used as a street.

(1) ***Front yard.*** A yard between the front line of the building and the street right-of-way, extending along the full length of the front lot line between the side lot lines, which shall not include that part in use or to be used as a street. On a corner lot, the front yard shall be along the street right of way that the front of the building faces or the shorter of the two front lot lines. The side street front yard shall also be considered a front lot line, but may be distinguished with separate requirements in the district.

(2) ***Interior side yard.*** A side yard which is located immediately adjacent to another lot or to an alley separating the side yard from another lot.



(3) ***Rear yard.*** A yard between the rear line of the building and the rear lot line, extending along the full length of the rear lot line between the side lot lines. In the case of a corner lot, the rear yard will be opposite the street frontage that the building faces or the shorter of the two front lot lines, but there shall be only one (1) rear yard.

(4) ***Required yard.*** That portion of a lot that meets the required minimum front, side, or rear setback of the zoning district in which the property is located.

(5) ***Side yard.*** A yard extending along a side lot line from the front yard to the rear yard.

Section 31.26 Definitions "Z"

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

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

Zoning. The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

Zoning district(s). A section or sections of the territory of the county and cities, for which the regulations and requirements governing use, lot, bulk of buildings, and premises are uniform.

Zoning map. The map or maps that are a part of the zoning ordinance and delineate the boundaries of zoning districts.

Zoning Ordinance. The part of the Comprehensive Plan or County Land Development Plan, now or hereafter adopted, which includes an ordinance and zoning maps which divide the jurisdiction of the plan commission into districts, with regulations, requirements, and procedures for the establishment of the land use controls.

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Article 32
Enactment Provisions

Section 32.01 Severability

The provisions and sections of this Ordinance shall be deemed separable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

Section 32.02 Adoption

(a) The amendments to the Joint Zoning Ordinance shall be in full force and effect starting October 13, 2016 upon enactment by the LaPorte County Plan Commission and Commissioners of the County of LaPorte, Indiana and two (2) weeks after having been published according to law.

(b) Passed and adopted by LaPorte County Plan Commission and Commissioners of the County of LaPorte, Indiana on this 21st day of September, 2016.

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