

**ARTICLE I**  
**District**  
**Districts and Boundaries**

1.01 Establishment of Districts

For the purposes of this Ordinance, Randolph County is hereby divided into the zoning districts as listed in Table 1.01.1 below:

<b>TABLE 1.01.1</b> <b>Zoning District Classifications and Symbols</b>	
A-I	Agricultural, Intensive
A-L	Agricultural, Limited
A-R	Residential, Low Density
R-1	Residential, Medium Density
R-2	Residential, High Density, Urban
R-3	Residential, High Density
C-1	Commercial, Neighborhood
C-2	Commercial, Community
C-3	Commercial, Regional
M-1	Industrial, Light
M-2	Industrial, General
FW	Floodway
FF	Floodway Fringe
PD <sup>1</sup>	Planned Development

<sup>1</sup>Refer to Article 7.03 for the four symbols used to indicate the nature of PD zoning districts.

<b>TABLE 1.01.2</b> <b>Wind Energy Conversion Systems (WECS)</b>	
<b><u>WECS</u></b>	Article XVI, Wind Energy Conversion Systems, <b><u>Appendix A</u></b> , sets forth for each Zoning District Classification which Zoning Districts permit and which prohibit WECS. If WECS is a permitted use, the type of use a WECS is for such Zoning District and what is required to permit a WECS.

1.02 Establishment of Boundaries

The Zoning District Classifications and Symbols listed in Table 1.01.1 are hereby adopted and established as designated on the “Zoning Map of Randolph County, Indiana, its two cities and seven towns”, together with all notations, references and other information shown thereon, which map is hereby made a part of this Ordinance and shall remain on file in the Office of the Area Planning Commission of Randolph County, Indiana.

1.03 District Boundaries

The Zoning District boundary lines delineated on the Zoning Map shall be deemed to follow lot or property lines with the following exceptions:

- a. Where the lot or property line coincides with the right-of-way line of a street, alley or railroad, the Zoning District boundary shall be deemed to follow the center line of such right-of-way.
- b. Where the lot or property line coincides with the right-of-way line of a state-owned limited access or interstate highway, the Zoning District boundary shall be deemed to follow such right-of-way.

1.04 Lot Divided - Extension of District

Except as provided in Article III-I, Agricultural Intensive District, where Zoning District boundary lines divide a lot which was a single ownership at the time of the adoption of this Ordinance, the use authorized thereon and the requirements applying to the least restricted portion of said lot shall be considered as extending to the entire lot and the use so extended shall be deemed to be conforming

1.05 Interpretation of Boundaries

All questions concerning the exact location of Zoning District boundary lines shall be determined by the Board of Zoning Appeals of Randolph County, Indiana, by decision, after notice and hearing.

1.06 Annexation and Property Not Included

Except for property designated as limited-access or interstate highway right-of-way, in every case where property has not been specifically included within a district, the same is hereby declared to be in the 'A-L' district. Territory detached from an incorporated city or town subsequent to the effective date of this Ordinance, upon the effective date of such disannexation, shall be declared to be in the A-L district until otherwise changed by the Area Planning Commission, and approved by the legislative body having jurisdiction.

**ARTICLE II**  
**Effects of Districting and General Regulations**

2.01 Conformance Required

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

2.02 Permit Required

Unless otherwise specifically provided, no land, building, structure, swimming pool, lake or pond, premises or use shall be hereafter located, erected, moved, reconstructed, extended, enlarged or altered unless and until an Improvement Location Permit has been approved and issued by the Area Planning Commission. Provided, however, and notwithstanding the regulations contained herein, an Improvement Location Permit shall not be required for the construction or erection of a fence or to change the use of land, buildings or structures to another use which is permitted in that zoning district and similar in character and intensity as the previous use. An Improvement Location Permit shall be required in the event of a dispute as to the applicability of this section.

2.03 Nonconforming Structures

Where a legally established structure exists at the effective date of adoption or amendment of the ordinance that could not be built under the terms of the ordinance by reason of restrictions on area, lot width, height, setbacks or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such legally established nonconforming structure may be enlarged or altered in a way which increased its nonconformity but any structure or portions thereof may be altered to decrease its nonconformity. A single-family dwelling may be enlarged and an Improvement Location Permit shall be issued without a variance hearing provided that setbacks and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such a lot is located.
- b. Legally established nonconforming structures may be restored to their original dimensions and conditions if damaged or partially destroyed by fire or other disaster provided the damage or destruction does not exceed sixty percent (60%) of the gross floor area of the building, structure or facilities affected.
- c. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

2.04 Nonconforming Lot Size

No yard or lot existing at the effective date of adoption or amendment of the ordinance shall be reduced in a dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

2.05 Nonconformity and Discontinuation

The legally established nonconforming use or occupancy of any lot, building or structure existing at the time of the effective date of this Ordinance may be continued as a legally

established nonconforming use as such use, building or structure existed before the effective date of this ordinance. Provided, however, if such legally established nonconforming use is discontinued for one year, any future use or occupancy of said land shall be in conformity with the provisions of this Ordinance. As provided by IC 36-7-4-616, any legally established nonconforming agricultural use of land may continue as long as the land is used for agricultural purposes for any three year period in a five year period.

2.06 Substitution and Extension of Nonconforming Uses

A legally established nonconforming use of any lot, building or structure may be substituted with another similar nonconforming use provided such substituted similar nonconforming use is not more objectionable, is operated within the same confines, and does not increase parking and traffic. An existing nonconforming use may be extended consistent with the provisions of this Zoning Ordinance and Indiana law. In all cases involving the substitution of a nonconforming use or the extension of a nonconforming use, the person seeking to substitute or extend the nonconforming use shall file a petition with the Board of Zoning Appeals which shall hold a hearing upon such petition after proper notice of such hearing has been given.

2.07 Nonconforming Use Changed to Conforming Use

Any nonconforming use of a lot, building or structure which changes to a conforming use, the use of such lot, building or structure shall not thereafter be changed to a nonconforming use.

2.08 Nonconformance with Performance Standards

Any use of a lot, building or structure which does not comply with Article IX (Performance Standards) shall adopt necessary measures to conform therewith within three years of the effective date of this Ordinance.

2.09 Nonconforming Use Repair and Alteration

The maintenance and repair of any legally established nonconforming building or building occupied by a legally established nonconforming use may be completed provided no structural alterations or additions may be made except as required by law.

2.10 Nonconforming Lots of Record

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record, which was conforming prior to the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership or under control of the same owner. These provisions shall apply even though such lots fail to meet the requirements of area or width, or both, that are generally applicable in the district, provided that setbacks and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of setbacks shall be obtained only through action of the Board of Zoning Appeals. If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership or under the control of single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots do not meet the requirements established for lot width and area,

the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

2.11 Additional Permitted Uses

Uses other than those specifically mentioned in this Ordinance as permitted uses in each of the Zoning Districts may also be allowed therein, except for uses prohibited in a less restrictive district and provided that, if such other uses are of similar character to those mentioned and will have no adverse influence or no more adverse influence on adjacent properties or the neighborhood or community than permitted uses specifically mentioned for the district. Disputes regarding uses not specifically mentioned as permitted shall be settled by the Board of Zoning Appeals as evidenced by resolution of record.

2.12 Storing of Manufactured Housing

Unless otherwise authorized as a permitted use, the parking, storing or otherwise placing of manufactured housing in any zoning district shall be limited to a total of one hundred twenty (120) days within any twelve-month period.

2.13 Additional Requirements for Swimming Pools

If located in any R-District, swimming pools shall be intended and used solely for the enjoyment of the occupants of the principal building of the property on which it is located and their guests or for the enjoyment of bona fide members of a club and their guests. Pools may be located anywhere on the premises except in required front yards; provided they shall not be located closer than five feet to any property line of the property on which located. The swimming pool, or the entire property on which located, shall be walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties. Any lighting used to illuminate the pool area shall be so arranged as to deflect the light from adjoining properties. No person, firm or corporation shall construct or install a swimming pool or make any alterations thereon or in the appurtenances thereof without first having obtained an Improvement Location Permit for such construction, installation or alteration.



**ARTICLE III**  
**Agricultural *Limited* District**

3.01.A Agricultural Limited District

An **Agricultural Limited District** is hereby created. The **Agricultural Limited District** is an agricultural district which permits Agricultural Primary Uses, Agricultural Accessory Uses, Agricultural Conditional Uses, and Agricultural Special Exception Uses as hereafter provided in tables 3.01.1, 3.01.2, 3.01.3 and 3.01.4, respectively. **Confinement Operations** are prohibited within an **Agricultural Limited District**.

3.01.B The geographical area of the **Agricultural Limited District** shall be as follows, to-wit:

- (1) A distance extended one-mile from the existing corporation limits of any incorporated town or city;
- (2) Those areas which are within a one-half (1/2) mile radii of the existing center of any unincorporated area of Randolph County, Indiana, and those areas which are within the one-half (1/2) mile radii of areas which are designated in the Zoning Map that is incorporated into this Zoning Ordinance by reference, which areas within the above designated one-half (1/2) mile radii were formerly in the **Agricultural Zoning District**. Provided, however, any parts of the areas within such one-half (1/2) mile radii, which were in another zoning classification district other than the Agricultural Zoning District as of the date of this Amendment to the Zoning Ordinance shall remain in such other zoning classification district.
- (3) An area one-half (1/2) mile in width on each side of the following federal highway or state roads:
  - (a) State Road 28 commencing at the Delaware County line traveling east on said road and terminating at the center of the intersection of State Road 28 and State Road 1 in Randolph County, Indiana.
  - (b) State Road 28 commencing at the center of the intersection of Randolph County Road 100 West traveling east on said State Road 28 and terminating (1/2) mile from the center of the unincorporated area of Deerfield, Indiana.
  - (c) State Road 28 commencing at the center of Randolph County Road 600 East and traveling east on said State Road 28 and terminating one (1) mile west of the current existing corporation limit of Union City, Indiana.
  - (d) State Road Highway 227 commencing at the center of Randolph County Road 100 South and traveling north on said State Road 227 and terminating one (1) mile south of the current existing corporation limit of Union City, Indiana.
  - (e) State Road 32 commencing at the center of County Road 300 East and traveling west on said State Road 32 and terminating at the center of the intersection of State Road 32 and Randolph County Road 200 East.
  - (f) State Road Highway 32 commencing one (1) mile west of the current corporation limit of Farmland, Indiana, continuing west on said Road and terminating one (1) mile east of the current corporation limit of Parker City, Indiana.
  - (g) Commencing one-half (1/2) mile from the center of the unincorporated area of Deerfield, Randolph County, Indiana, and traveling south on U.S. Highway 27 and terminating at the center line of the intersection of Randolph County Road 600 North and U.S. Highway 27.

3.01.C Permitted Uses

Permitted uses in the **Agricultural Limited District** shall be according to the following tables. Activities or enterprises not specifically listed thereon may also be permitted if it is of similar character and have no greater adverse influence on adjacent properties, the neighborhood or community than the uses specifically listed. A person who seeks to commence an enterprise or activity not specifically listed in Tables 3.01.1, 3.01.2, 3.01.3, or 3.01.4 may file a Petition with the Board of Zoning Appeals. The Executive Director of the Area Planning Commission, prior to the time of filing of such Petition, shall determine if the same may be within an **Agricultural Limited District** Use Table, and if so which **Agricultural Limited District** Use Table such activity or enterprise is subject, i.e., Table 3.01.1, 3.01.2, 3.01.3, or 3.01.4. In the event the Executive Director determines such activity or enterprise may be within an **Agricultural Limited District** Use Table, the person may file a petition seeking the Board of Zoning Appeals approval for such activity or enterprise as provided by law, Unified Zoning Ordinance of Randolph County, Indiana and Rules of the Board of Zoning Appeals. If the Executive Director determines such activity or enterprise is not within an **Agricultural Limited District** Use Table, the person may appeal the requirement, decision or determination of the Executive Director in the manner prescribed by applicable Rules of the Board of Zoning Appeals, Zoning Ordinance and statute(s).

<b>TABLE 3.01.1</b> <b>Agricultural Limited Primary Uses</b>
Barns, sheds, storage buildings and similar structures utilized in an agricultural enterprise
Commercial greenhouses and plant nurseries, including retail sales of products grown on the site
Commercial WECS (Wind Energy Conversion System) <sup>2</sup>
Fish hatcheries, lakes and ponds
Forests, forest propagation nurseries, arboretums
Granaries, grain process and milling for seed or feed
Grazing or feeding of livestock <sup>3</sup>
Micro WECS
Production of grains, grasses, plants, vines and orchards
Single family residence, manufactured homes, modular homes and mobile homes
Stands for the sale of agricultural products
Towers and antennas under 300 feet <sup>1</sup>
Truck gardens and related field crops, mushroom cellars, general gardening and apiaries

<sup>1</sup>All such towers and antennas shall comply with the requirements found in Article XVII

<sup>2</sup>All WECS shall comply with the requirements found in Article XVI and are not subject to setback, or height, or lot area and dimensions requirements in this Article

<sup>3</sup>Livestock raised on lots less than five (5) acres is regulated by 3.12

The following accessory uses shall be permitted in an **Agricultural Limited District**, subject to the standards and limitations contained herein:

<b>TABLE 3.01.2</b> <b>Agricultural Limited Accessory Uses</b>
Amateur radio sending and receiving antennas and amateur radio antenna support structures
Barns, silos, granaries and similar agricultural storage buildings
Child care home
Common recreational facilities

Foster family care
Game courts
Grazing or feeding of livestock <sup>1</sup>
Home occupation
Off-street parking areas
Private garages and carports as defined for single family dwelling, porches, decks, awnings, canopies, storage buildings, patios, outdoor fireplaces, porte-cocheres, bathhouses, cabanas, children’s playhouses, swings and other play structures or equipment
Private swimming pools
Residential occupancy by domestic employees whose primary duties are performed on the premises
Satellite dish antennas
Signs (See Sign Code)
Storage or parking of accessory vehicles only within enclosed buildings or roofed structures
Underground storage rooms

<sup>1</sup>Regulated by Section 3.12

Unless essential to an agricultural enterprise, accessory uses in an **Agricultural Limited District** shall be customarily incidental, accessory and subordinate to and commonly associated with the operation of the residential use of the lot, shall be operated and maintained under the same ownership and on the same building lot as the residential use, and shall be subordinate in area, build, extent, and purpose to the residential use of the building served. The height of an accessory structure not essential to an agricultural enterprise shall be less than, or equal to, that of the primary structure. When a residence or the proposed accessory structure is located within five hundred (500) feet of a neighboring residence the accessory structure, not essential to an agricultural enterprise, shall be located no closer to the front lot line than the primary structure unless attached to said primary structure. See Table 3.04.1. Any “Lots”, whose primary use are residential and which are under the same ownership, which would be contiguous, excepting separation by an alley, shall be considered the same building lot for purposes of determining permitted accessory uses, subject to the following: the accessory use must be approved by the Zoning Administrator. All performance/building standards and above restrictions must be followed for such accessory uses. Both lots will be considered as one building lot and remain so unless both lots can concurrently meet the standards of this ordinance at a future time. A Restrictive Transfer Form must be recorded with both deeds and remain in effect until said time the aforementioned standards can be met allowing the two properties to be considered separate.

The following uses shall be permitted in an **Agricultural Limited District** upon approval of a Conditional Use Permit approved by the Board of Zoning Appeals of Randolph County:

<b>TABLE 3.01.3</b>	
<b>Agricultural Limited Conditional Uses</b>	
Agricultural equipment sales and services	
Athletic fields and courts, public and private	
Cemetery, crematory, mausoleum	
Church, convent, monastery, rectory, parish hall, synagogue	
Country club, golf course, including commercially operated driving range and miniature golf	

Fraternal or religious institution – building and grounds
Municipal sewage disposal facilities and water reservoir, excluding accessory lakes and ponds
Non-Commercial WECS (Wind Energy Conversion System) <sup>1</sup>
Parking, off-site for business or industrial uses
Private recreational development
Public park, public playground and public community center
School

<sup>1</sup>All WECS shall comply with the requirements found in Article XVI and are not subject to setback, or height, or lot area and dimensions requirements in this Article.

The following uses shall be permitted in an **Agricultural Limited District** upon approval of a Petition for Special Exception by the Board of Zoning Appeals of Randolph County:

<b>TABLE 3.01.4</b> <b>Agricultural Limited Special Exception Uses</b>
Advertising or billboard signs <sup>1</sup>
Airports or aircraft landing field and heliports
Art gallery, museum
C-SES (XIX Appendix A)
Child Care Center
Hospital, sanitarium
Institution for children
Land fill
Mobile home park <sup>3</sup>
NC-SES Over 10 kW (XIX Appendix A)
Nursing home, senior citizen living facilities and center, assisted living center
Private club or lodge
Public library
Public utility or service use, including, but limited to, bus turn-around, fire station, police station, railroad, telephone mechanical or exchange building, water filtration plant, water pumping station
Sand and gravel mining
Towers and antennas 300 feet and over <sup>2</sup>

<sup>1</sup>Unless otherwise authorized by and then subject to the provisions of the federal Highway Beautification Act of 1965, Public Law 89-285, and the Acts of the General Assembly of the State of Indiana, along limited access and interstate highways.

<sup>2</sup>All such towers and antennas shall comply with the requirements found in Article XVII

<sup>3</sup>The minimum lot area for a Mobile home park shall be five (5) acres. There shall be no variance granted to reduce said five (5) acres requirement.

### 3.02 Appurtenances

Appurtenant features, such as walks, drainage installations, mailboxes, lamp posts, bird baths and feeders, central air conditioning units, and improvements similar and comparable in nature and purpose, shall be permitted on any agricultural lot and shall be exempt from the standards set forth in Tables 3.04 and 3.05.

### 3.03 Lot Area and Dimensions

A lot meeting the requirements contained in the following table shall be provided for each residence constructed in an **Agricultural Limited District**. In addition, certain

agricultural uses shall provide minimum areas and dimensions according to the following table:

<b>TABLE 3.03.1 Minimum Lot Area and Dimensions</b>			
<b>Use</b>	<b>Lot Area</b>	<b>Street Frontage</b>	<b>Lot Width<sup>1</sup></b>
Residence Barns, sheds for agriculture Stands for agriculture products	2 Buildable acres <sup>2</sup>	40 feet	100 feet
All other uses provided in Table 3.01.1	5 acres	40 feet	100 feet
All other uses provided in Table 3.01.2	2 Buildable acres	40 feet	100 feet
All other uses provided in Tables 3.01.3 and 3.01.4	Determined by BZA	40 feet	100 feet

<sup>1</sup>As measured at the front building line.

<sup>2</sup>The minimum lot area for listed use shall be two (2) buildable acres. There shall be no variance granted to reduce said two (2) buildable acres requirement.

3.04 Minimum Front Setbacks

Minimum front setbacks shall be provided for all buildings or structures, except decks and patios the surface of which measure eighteen inches or less from grade level, in an **Agricultural Limited District** according to the following table:

<b>TABLE 3.04.1 Minimum Front Setbacks</b>	
Limited Access or Interstate Highway	100 feet
Primary Arterial HWY 27, 32, 35, 36	50 feet
Secondary Arterial HWY 1, 28, 227	40 feet
Collector Street County Rds. Columbia, Chestnut, Washington	30 feet
Local Street City Streets, (20-30 mph)	25 feet
Cul-de-sac Street	20 feet

3.05 Minimum Side and Rear Setbacks

Minimum side and rear setbacks shall be provided for all buildings or structures, except decks and patios the surface of which measure eighteen inches or less from grade level, in an **Agricultural Limited District** in accordance with the following table:

<b>TABLE 3.05.1 Minimum Side and Rear Setbacks</b>		
<b>Use</b>	<b>Side Setback</b>	<b>Rear Setback</b>
Residence	15 feet	35 feet
Storage building, residential and agricultural	15 feet	15 feet
Livestock and poultry buildings (excluding confinement buildings of any type)	15 feet <sup>1</sup>	15 feet <sup>1</sup>
Lakes and ponds <sup>2</sup>	50 feet	50 feet

Structures and Buildings for Conditional and Special Exception Uses	As determined by the BZA
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<sup>1</sup>The side and rear setback shall be 100 feet if adjacent to a residential zoning district. A lot with an area less than five (5) acres is regulated by 3.12

<sup>2</sup>The setback shall be measured from and perpendicular to the property line to the nearest top of the bank.

3.06 Minimum Floor Area

A minimum ground floor living area of 950 square feet shall be provided for each one-story residence and 600 square feet for each residence of two or more stories constructed within an **Agricultural Limited District**. In the case of residences with two or more stories, the total finished living area of all floors shall equal no less than 950 square feet.

3.07 Maximum Height

The maximum height of buildings shall be in accordance with the following table:

<b>TABLE 3.07.1 Maximum Height<sup>1</sup></b>	
Residences	35 feet
Detached garages and storage buildings <sup>2</sup>	20 feet
Structures and Buildings for Conditional and Special Exception Uses	As determined by the BZA

<sup>1</sup>The height of buildings and structures essential to an agricultural enterprise shall be limited to the height necessary to serve their intended purpose.

<sup>2</sup>Excluding storage buildings used in an agricultural enterprise.

3.08 Parking

Off-street parking, which may include garages and carports, shall be provided in all agricultural zoning districts according to the following table:

<b>TABLE 3.08.1 Agricultural Parking</b>	
<b>Use</b>	<b>Requirement</b>
Residence	2 per dwelling unit
Truck Gardens and open produce stands	3
Covered and Enclosed or partially enclosed produce stands	The greater of three (3) or one (1) for each 100 square feet covered, enclosed or partially covered or partially enclosed area
Conditional and Special Exception Uses	As determined by the BZA

3.09 Landscaping

In agricultural zoning districts, at least one tree and three shrubs shall be provided for each dwelling unit on the lot. Trees and shrubs may be either deciduous or coniferous. Trees shall measure at least one and one-half inches in caliper, as measured at six inches above the root ball, at the time of planting and have a characteristic mature height of at least twenty feet. Shrubs shall measure at least twelve inches in height at the time of planting and have a characteristic mature height of at least three feet. Existing trees and shrubs, meeting the criteria above-stated for trees and shrubs, whether growing naturally or planted prior to development, shall be counted to comply with this section.

3.10 Fencing

Fencing shall be permitted in an **Agricultural Limited District** provided it is not located within any clear-sight triangle, for the premises or adjacent properties. Fencing on the lot of any residence shall be limited to a maximum height of four feet if located in front of the established front building line for the lot; or, six feet in height if located behind the established front building line. Said maximum heights may be reasonably exceeded by up to two feet in additional height for a maximum lineal distance of eight feet to accommodate variations in grade elevations. Height issues, disputes, and other matter regarding fencing shall be resolved by the Board of Zoning Appeals by decision, after notice and hearing, which decision shall apply only to the fencing issue, dispute, other matters and premises involved in such hearing. A decision of the Board of Zoning Appeals shall be binding and enforceable by the provisions of the Unified Zoning Ordinance of Randolph County as now provided or as the same may from time to time be amended. For agricultural uses and activities, fences shall be limited in height to that which is necessary and essential to such use or activity, provided no fencing shall exceed the provisions of this subsection.

3.11 Signs (See Sign Code)

3.12 Restrictions on the Keeping of Farm Animals

3.12.1 Restriction on the Keeping of Farm Animals below the threshold numbers defined for a MFO on lot sizes less than five (5) acres (required for a “farm”).

3.12.A Purpose. The regulations of this section are established to permit the keeping of farm animals in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

1) In an A-L district, on lots less than five (5) acres, animal numbers per “pasture/animal housing” lot size shall follow the regulations in the following Table:

<p style="text-align: center;"><b>TABLE 3.12.1</b>  <b>ANIMAL HOUSING AND REQUIRED LOT SIZE</b>  <b>(less than 5 acres)</b></p>						
Animal	Horse	Bovine	Pig <sup>2</sup>	Goat/Sheep	Chicken <sup>1</sup>	Turkey/Geese <sup>1</sup>
Unit	1	1	1	1	1	1
Pasture/Animal Housing (acres)	1	1	.0045 (200 ft <sup>2</sup> )	.3 (13,068 ft <sup>2</sup> )	.0092 (400 ft <sup>2</sup> )	.0138 (600 ft <sup>2</sup> )
Additional Pasture size need for each additional animal	.5 acre	.5 acre	200 ft <sup>2</sup>	1,200 ft <sup>2</sup> (.0275 acre)	10 ft <sup>2</sup>	100 ft <sup>2</sup>
On lot < 5 acres Maximum #	5	5	3/acre	15	50	25

<sup>1</sup> May be free ranged on owners property and bantams are counted as ½ a standard breed.

<sup>2</sup> Pigs raised as a project for a youth organization is exempt from the 3 pigs per acre limit. Pigsties are prohibited closer than 300' from a property line.

- 2) Setback to animal housing shall be the greater of 50' from the property line or 100' from the nearest residence. The owners residence is excluded from this requirement. Animal housing shall be closer to the owner/operator residence than to neighboring residences. A pigsty is prohibited any closer than 300' to a property line.
- 3) Lots without a Residence. Farm animals may be kept on a lot that is vacant or has no occupied residence but only if the operator of such demonstrates that the use will be managed in a manner that prevents the creation of nuisances or unsanitary or unsafe conditions and is contiguous to the operator's residence.
- 4) Sanitation and Nuisances: Farm animals shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties and not to cause health hazards. Furthermore, farm animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.

### 3.13 Miscellaneous Provisions

- (a) The Executive Director of the Area Planning Commission shall prescribe and prepare form(s) which shall become part of petitioner's application information packet or the appeal packet from any order, requirement, decision, or determination of the Executive Director of the Area Planning Commission for all matters subject to a hearing before the Area Planning Commission of Randolph County, Indiana or the Board of Zoning Appeals of Randolph County, Indiana, when the property, in whole or in part, subject to such hearing is situated in or adjoining or adjacent to an **Agricultural Limited District, the Agricultural Intensive District, or both.** such form(s) shall include any information deemed necessary and appropriate by the Executive Director of the Area Planning Commission to place the petitioner, person appealing action, as above set forth, of said Executive Director and any interested person as defined by the Unified Zoning Ordinance of Randolph County, Indiana, or by rule of said Area Planning Commission or by rule of said Board of Zoning Appeals that the provisions of **Article III Agricultural Limited District** and/or **Article III.I. Agricultural Intensive District** is/are or may be applicable to the property or a part of such property or related to the issue(s) subject to the hearing. Said form(s) shall include, but not be limited to, a statement that the **Agricultural Intensive District** permits **Confinement Operations: Confined Feeding Operations (CFO) and Concentrated Animal Feeding Operations (CAFO)** to exist, may permit expansion, enlargement or intensification of a **CFO or CAFO**, or other **CFOs and CAFOs** may come to exist. The form(s) prescribed by the Executive Director pursuant to this subsection shall be included as part of the notice which is mailed to each interested person, as above defined. It shall be the duty and responsibility of the person required to give notice to see that each interested person is provided with proper notice of hearing.

**The form(s) prescribed by said Executive Director may be amended as deemed necessary or appropriate from time to time as determined by the Executive Director, the Area Planning Commission of Randolph County, Indiana or the Board of Zoning Appeals of Randolph County, Indiana.**

(b) The Area Planning Commission of Randolph County, Indiana, its Executive Director, employees, and members, and members of the Board of Zoning Appeals of Randolph County, Indiana shall have no duty nor responsibility to determine that any person who receives notice of hearing, described in part (a), above, reads any information furnished to such person or reads the Unified Zoning Ordinance of Randolph County, Indiana.



**ARTICLE III-I**  
**Agricultural Intensive District**

**3.I-01.A Agricultural Intensive District**

An **Agricultural Intensive District** is hereby created. The **Agricultural Intensive District** is an Agricultural District which permits Agricultural Primary Uses, Agricultural Accessory Uses, Agricultural Conditional Uses and Agricultural Special Exception Uses as hereafter provided in Tables 3.I-01.1., 3.I-01.2., 3.I-01.3.and 3.I-01.4., respectively. **Confinement Operations** are permitted within the **Agricultural Intensive District**.

**3.I-01.B Geographic Area**

The geographical area of the **Agricultural Intensive District** in Randolph County, Indiana is any area not otherwise within another zoning district classification as provided by the Zoning Map which is incorporated into this Zoning Ordinance by reference.

**3.I-01.C General Setbacks**

All setbacks of this Article shall be subject to the one hundred (100') foot general setback provided by Section 3.I-13. (j) when applicable.

**3.I-01.D Permitted Uses**

Permitted uses in the **Agricultural Intensive District** shall be according to the following tables. An activity or enterprise not specifically listed thereon may also be permitted if it is of similar character and has no greater adverse influence on adjacent properties, the neighborhood or community than the uses specifically listed. A person who seeks to commence an enterprise or activity not specifically listed in Tables **3.I-01, 3.I-01-2, 3.I-01-3, or, 3.I-01-4** may file a Petition with the Board of Zoning Appeals. The Executive Director of the Area Planning Commission, prior to the time of filing such petition, shall determine if the activity or enterprise may be within the **Agricultural Intensive District**, and if so which **Agricultural Intensive District** Use Table such activity or enterprise is subject, i.e. Table **3.I-01-1, 3.I-01-2,3.I-01-3, or, 3.I-01-4**. In the event the Executive Director determines such activity or enterprise may be within the **Agricultural Intensive District**, the person may file a petition seeking the Board of Zoning Appeals approval for such activity or enterprise as provided by law, the Unified Zoning Ordinance of Randolph County, Indiana and Rules of the Board of Zoning Appeals. If the Executive Director determines such activity or enterprise is not within the **Agricultural Intensive District**, the person may appeal the requirement, decision or determination of the Executive Director in the manner prescribed by applicable Rules of the Board of Zoning Appeals, the Unified Zoning Ordinance and statute(s).

<b>TABLE 3.I-01.1</b>
<b>Agricultural Intensive Primary Uses</b>
Single-family residence, modular homes, manufactured homes and mobile homes
Barns, sheds, storage buildings and similar structures utilized in an agricultural enterprise
Commercial greenhouses and plant nurseries, including retail sales of products grown on site fish hatcheries, lakes and ponds
Commercial WECS (Wind Energy Conversion System) <sup>2</sup>
Confinement Operations: Moderate Feeding Operation, Confined Feeding Operations & Concentrated Animal Feeding Operations (as defined by the Zoning Ordinance)
Forests, forest propagation nurseries, arboretums
Granaries, grain process and milling for seed or feed
Grazing or feeding of livestock <sup>3</sup>
Micro WECS (Wind Energy Conversion System)
C-SES (Article XIX)
NC-SES =/ 10 kW (Article XIX)
Production of grains, grasses, plants, vines and orchards
Satellite Manure Storage Structure
Stands for the sale of agricultural products
Towers and antennas under 300 feet <sup>1</sup>
Truck gardens and related field crops, mushroom cellars, general gardening and apiaries

<sup>1</sup>All such towers and antennas shall comply with the requirements found in Article XVII.  
<sup>2</sup>All WECS shall comply with the requirements found in Article XVI and are not subject to setback, or height, or lot area and dimensions requirements in this Article.  
<sup>3</sup>Livestock raised on lots less than five (5) acres is regulated by 3.I-12

The following accessory uses shall be permitted in the Agricultural Intensive Zoning District, subject to the standards and limitations contained herein:

<b>TABLE 3.I-01.2</b>
<b>Agricultural Intensive Accessory Uses</b>
Amateur radio sending and receiving antennas and amateur radio antenna support structures
Barns, silos, granaries and similar agricultural storage buildings
Child care home
Foster family care
Game courts
Grazing or feeding of livestock <sup>1</sup>
Home occupation
Off-street parking areas
Private swimming pools
Private garages and carports as defined for single-family dwelling, porches, decks, awnings, canopies, storage buildings, patios, outdoor fireplaces, porte-cocheres, bathhouses, cabanas, children’s playhouses, swings and other play structures or equipment.
Residential occupancy by domestic employees whose primary duties are performed on the premises
Satellite dish antennas
Signs (See Sign Code)
Storage or parking of accessory vehicles only within enclosed buildings or roofed structures
Underground storage rooms

<sup>1</sup>Regulated by Section 3.I-12

Unless essential to an agricultural enterprise, accessory uses in the **Agricultural Intensive** Zoning District shall be customarily incidental, accessory and subordinate to and commonly associated with the operation of the residential use of the lot, shall be operated and maintained under the same ownership and on the same building lot as the residential use, and shall be subordinate in area, build, extent, and purpose to the residential use of the building served. When a residence or the proposed accessory structure is located within five hundred (500) feet of a neighboring residence the accessory structure, not essential to an agricultural enterprise, shall be located no closer to the front lot line than the primary structure unless attached to said primary structure. Any “Lots”, whose primary use are residential and which are under the same ownership, which would be contiguous, excepting separation by an alley, shall be considered the same building lot for purposes of determining permitted accessory uses, subject to the following: the accessory use must be approved by the Zoning Administrator. All performance/building standards and above restrictions must be followed for such accessory uses. Both lots will be considered as one building lot and remain so unless both lots can concurrently meet the standards of this ordinance at a future time. A Restrictive Transfer Form must be recorded with both deeds and remain in effect until said time the aforementioned standards can be met allowing the two properties to be considered separate. See Table 3.I-04.1

The following uses shall be permitted in the **Agricultural Intensive District** upon approval of a Conditional Use Permit approved by the Board of Zoning Appeals of Randolph County:

<b>TABLE 3.I-01.3 Agricultural Intensive Conditional Uses</b>
Agricultural equipment sales and service
Athletic fields and courts, public or private
Cemetery, crematory, mausoleum
Church, convent, monastery, rectory, parish hall, synagogue
Common recreational facility, private recreational development
Country club, golf course, including commercially operated driving range and miniature golf
Fraternal or religious institution – buildings and grounds
Municipal sewage disposal facilities and water reservoir, excluding accessory lakes and ponds
Non-Commercial WECS (Wind Energy Conversion System) <sup>1</sup>
Parking, off-site for business or industrial uses
Public park, public playground and public community center
School

<sup>1</sup>All WECS shall comply with the requirements found in Article XVI and are not subject to setback, or height, or lot area and dimensions requirements in this Article.

The following uses shall be permitted in the Agricultural Intensive Zoning Districts upon approval of a Petition for Special Exception by the Board of Zoning Appeals of Randolph County:

<b>TABLE 3.I-01.4 Agricultural Special Exception Uses</b>
Advertising or billboard signs <sup>1</sup> (See Sign Code)
Airports or aircraft landing field and heliports
Art Gallery, museum
Child Care Center
Hospital, sanitarium
Institution for children
Land fill
Public Library
Mobile home park <sup>3</sup>
NC-SES Over 10 kW (See Article XIX Appendix A:)
Nursing home, senior citizen living center or facility, assisted living center
Private club or lodge
Public utility or service use, including but not limited to, bus turn-around, fire station, police station, railroad, telephone mechanical or exchange building, water filtration plant, water pumping station
Sand and gravel mining
Towers and antennas 300 feet and over <sup>2</sup>

<sup>1</sup>Unless otherwise authorized by and then subject to the provisions of the federal Highway Beautification Act of 1965, Public Law 89-285, and the Acts of the General Assembly of the State of Indiana, along limited access and interstate highways.

<sup>2</sup>All such towers and antennas shall comply with the requirements found in Article XVII.

<sup>3</sup>The minimum lot area for a Mobile Home Park shall be five (5) acres. There shall be no variance granted to reduce said five (5) acres requirement.

### 3.I-02 Appurtenances

Appurtenant features, including, but not limited to, walks, drainage installations, mailboxes, lamp posts, bird baths and feeders, central air conditioning units, and improvements similar and comparable in nature and purpose, shall be permitted on any agricultural lot and shall be exempt from the standards set forth in Tables 3.I-04. and 3.I-05.

### 3.I-03 Lot Area and Dimensions

A lot meeting the requirements contained in the following table shall be provided for each residence in the Agricultural Intensive District. In addition, certain agricultural uses shall provide minimum areas and dimensions according to the following table:

<b>TABLE 3.I-03.1 Minimum Lot Area and Dimensions</b>			
Use	Lot Area	Street Frontage	Lot Width <sup>1</sup>
Residence <sup>2</sup> Barns, sheds for agriculture, Stands for agriculture products	2 Buildable acres <sup>2</sup>	40 feet	100 feet
<b>Moderate Feeding Operation<sup>3</sup> or Confined Feeding Operation<sup>3</sup> or Concentrated Animal Feeding Operation<sup>3</sup> Satellite Manure Storage Structure<sup>3</sup></b>	40 acres	40 feet	100 feet
All other uses provided by Tables 3.I-01.1 <sup>5</sup>	5 acres	40 feet	100 feet
All other uses provided by Table 3.I-01.2 <sup>5</sup>	2 Buildable acres	40 feet	100 feet
All other uses provided by Table 3.I-01.3 and Table 3.I-01.4 <sup>2,4</sup>	Determined by BZA	40 feet	100 feet

<sup>1</sup>As measured at the front building line.

<sup>2</sup>The minimum lot area for residence use shall be two (2) acres. There shall be no variance granted to reduce said two (2) buildable acres requirement.

<sup>3</sup>The minimum lot area allowed to be granted by variance by the Board of Zoning Appeals for a Moderate Feeding Operation, **Confined Feeding Operation or Concentrated Animal Feeding Operation or Satellite Manure Storage Structure shall be no less than ten (10) acres. There shall be no variance granted to reduce said ten (10) acres requirement.**

<sup>4</sup>The minimum lot size, except as otherwise provided herein, allowed to be granted for all other uses provided in Table 3.I-01.3 and 3.I-01.4 shall be determined by the Board of Zoning Appeals consistent with all provisions of Article III-I.

**3.I-04 Minimum Front Setbacks**

Minimum front setbacks shall be provided for all buildings or structures, except decks and patios the surface of which measure eighteen inches or less from grade level, in agricultural zoning districts according to the following table:

<b>TABLE 3.I-04.1</b>		
<b>Minimum Front Setbacks</b>		
Limited Access or Interstate Highway		100 feet
Primary Arterial	<i>HWY 27, 32, 35, 36</i>	50 feet
Secondary Arterial	<i>HWY 1, 28, 227</i>	40 feet
Collector Street	<i>County Rds. Columbia, Chestnut, Washington</i>	30 feet
Local Street	<i>City Streets, (20-30 mph)</i>	25 feet
Cul-de-sac Street		20 feet

**3.I-05 Minimum Side and Rear Setbacks**

Minimum side and rear setbacks shall be provided for all buildings or structures, except decks and patios the surface of which measure eighteen inches or less from grade level, in the **Agricultural Intensive District** in accordance with the following table:

<b>TABLE 3.I-05.1</b>		
<b>Minimum Side and Rear Setbacks<sup>1</sup></b>		
<b>Use</b>	<b>Side Setback</b>	<b>Rear Setback</b>
Residence	15 feet	35 feet
Storage building, residential and agricultural	15 feet	15 feet
Non-Moderate Feeding, Non-Confined Feeding or Non-Concentrated Animal Feeding Livestock and poultry buildings	15 feet	15 feet <sup>2</sup>
Lakes and ponds <sup>1</sup>	50 feet	50 feet
Structures and Buildings for Conditional and Special Exception Uses	As determined by the Board of Zoning Appeals	

<sup>1</sup>The setback shall be measured from and perpendicular to the property line to the nearest top of the bank.  
<sup>2</sup>The side and rear setback shall be one hundred (100) feet if adjacent to a residential zoning district. A lot with an area less than five (5) acres is regulated by 3.I-12

**3.I-06 Minimum Floor Area**

A minimum ground floor living area of 950 square feet shall be provided for each one-story residence and 600 square feet for each residence of two or more stories constructed within the **Agricultural Intensive District**. In the case of a residence with two or more stories, the living area of all floors shall equal at no less than 950 square feet.

### 3.I-07 Maximum Height

The maximum height of buildings shall be in accordance with the following table:

<b>TABLE 3.I-07.1 Maximum Height<sup>1</sup></b>	
Residences	35 feet
Detached garages and storage buildings <sup>2</sup>	20 feet
Structures and Buildings for Conditional and Special Exception Uses	As determined by the Board of Zoning Appeals

<sup>1</sup>The height of buildings and structures essential to an agricultural enterprise shall be limited to the height necessary to serve their intended purpose.

<sup>2</sup>Excluding storage buildings used in an agricultural enterprise.

### 3.I-08 Parking

Off-street parking, which may include garages and carports, shall be provided in all agricultural zoning districts:

<b>TABLE 3.I.08.1 Agricultural Parking</b>	
Use	Requirement
Residence	2 per dwelling unit
Truck Gardens and open produce stands	3
Covered and Enclosed or partially covered or partially enclosed produce stands	The greater of three (3) or one (1) for each 100 square feet covered or enclosed or partially covered or partially enclosed area
Conditional and Special Exception Uses	As determined by the Board of Zoning Appeals

### 3.I-09 Landscaping

In all agricultural zoning districts, at least one tree and three shrubs shall be provided for each dwelling unit on the lot. Trees and shrubs may be either deciduous or coniferous. Trees shall measure at least one and one-half inches in caliper, as measured at six inches above the root ball, at the time of planting and have a characteristic mature height of at least twenty feet. Shrubs shall measure at least twelve inches in height at the time of planting and have a characteristic mature height of at least three feet. Existing trees and shrubs, meeting the criteria above-stated for trees and shrubs, whether growing naturally or planted prior to development, shall be counted to comply with this section.

### 3.I-10 Fencing

Fencing shall be permitted in the Agricultural Intensive Zoning District provided it is not located within any clear-sight triangle for the premises or adjacent properties. Fencing on the lot of any residence shall be limited to a maximum height of four feet if located in front of the established front building line for the lot, or, six feet in height if located behind the established front building line. Said maximum heights may be reasonably exceeded by up to two feet in additional height for a maximum lineal height of eight feet to accommodate variations in grade elevations. For Agricultural uses and activities,

fences shall be limited in height to that which is necessary and essential to such use or activity. Height issues, disputes, and other matters regarding fencing shall be resolved by the Board of Zoning Appeals by decision, after notice and hearing, which decision shall apply only to the fencing issue, disputes, other matters and premises involved in such hearing. A decision of the Board of Zoning Appeals shall be binding and enforceable by the provisions of the Unified Zoning Ordinance of Randolph County as now provided or as the same may from time to time be amended. For agricultural uses and activities, fences shall be limited in height to that which is necessary and essential to such use or activity.

**3.I-11 Signs** (See Sign Code)

**3.I-12 Restrictions on the keeping of farm animals**

**3.I-12.1** Restriction on the keeping of farm animals below the threshold numbers defined for an MFO on lot sizes under five (5) acres (required for a “farm”).

**A. Purpose.** The regulations of this section are established to permit the keeping of farm animals in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

1. In an A-I district, on lots less than five (5) acres, animal numbers per “pasture/animal housing” lot size shall follow the regulations in the following Table:

<b>TABLE 3.I-12.1 ANIMAL HOUSING AND REQUIRED LOT SIZE (less than 5 acres)</b>						
<b>Animal</b>	<b>Horse</b>	<b>Bovine</b>	<b>Pig<sup>2</sup></b>	<b>Goat/Sheep</b>	<b>Chicken<sup>1</sup></b>	<b>Turkey/Geese<sup>1</sup></b>
<b>Unit</b>	1	1	1	1	1	1
<b>Pasture/Animal Housing (acres)</b>	1	1	.0045 (200 ft <sup>2</sup> )	.3 (13,068 ft <sup>2</sup> )	.0092 (400 ft <sup>2</sup> )	.0138 (600 ft <sup>2</sup> )
<b>Additional Pasture size need for each additional animal</b>	.5 acre	.5 acre	200 ft <sup>2</sup>	1,200 ft <sup>2</sup> (.0275 acre)	10 ft <sup>2</sup>	100 ft <sup>2</sup>
<b>On lot &lt; 5 acres Maximum #</b>	5	5	3/acre	15	50	25

<sup>1</sup>May be free ranged on owners property and bantams are counted as 1/2 a standard breed.

<sup>2</sup>Pigs raised as a project for a youth organization is exempt from the 3 pigs per acre limit. Pigsties are prohibited closer than 300’ from a property line.

2. Setback to animal housing shall be the greater of 50’ from the property line or 100’ from the nearest residence. The owners residence is excluded from this requirement. Animal housing shall be closer to the owner/operator residence than to neighboring residences. A pigsty is prohibited any closer than 300’ to a property line.

3. Lots Without a Residence. Farm animals may be kept on a lot that is vacant or has no occupied residence but only if the operator of such demonstrates that the use will be managed in a manner that prevents the creation of nuisances or unsanitary or unsafe conditions and is contiguous to the operator's residence.
4. Sanitation and Nuisances: Farm animals shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties and not to cause health hazards. Furthermore, farm animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.

**3.I-13 Local Permitting Standards for Satellite Manure Storage Structures (SMSS) and Confinement Operations: Moderate Feeding Operation (MFO), Confined Feeding Operation (CFO) and Concentrated Animal Feeding Operation (CAFO)**

1. Local Standards

The local permitting standards for SMSSs, MFOs, CFOs and CAFOs shall include provisions of Article III.I, including, but not limited to, the following:

- (a) **Confinement Operations** with deep pit manure storage and/or any silage storage that is not within an enclosed structure shall have a setback requirement that such deep pit manure storage, together with any improvement or structure, not fully enclosed, in any way utilized in conjunction with, or to house, said manure pit or silage structure(s) shall be a minimum setback of 1320 feet from the property line upon which such pit or silage is situated and the property line of the property upon which a public gathering place or a protected use is situated
- (b) No **Confinement Operation** is allowed to be sited within one mile of the existing incorporated areas of Randolph County, Indiana.
- (c) The primary residence of the owner of a confined operation is exempt from the residence setbacks in 1. (d), 1. (e), 1. (f), 1. (g), 1. (h) and 1. (i).
- (d) No Moderate Feeding Operation (MFO) is allowed to be sited within seven hundred fifty (750) feet of a residence. If this setback is in conflict with the Animal Unit calculation and corresponding setback the greater setback shall apply.
- (e) No **Confinement Operation** of 340 to 519 animal units is allowed to be sited within 870 feet of a residence.
- (f) No **Confinement Operation** of 520 to 699 animal units is allowed to be sited within 1000 feet of a residence.
- (g) No **Confinement Operation** of 700 to 1400 animal units is allowed to be sited within 1500 feet of a residence.
- (h) No **Confinement Operation** of 1401 or more animal units is allowed to be sited within 2000 feet of a residence.
- (i) No **Confinement Operation** using an open lagoon for manure storage is allowed to be sited within 1.5 times the setback distance provided hereinabove in subsections 1.(d), 1.(e), 1.(f),1.(g) and 1.(h).
- (j) No **Confinement Operation** for finishers and gilts, according to the (see: Animal Unit Calculation Table), which utilizes naturally ventilated barn(s) is allowed to be sited within 1.5 times the setback distance provided hereinabove

in subsections 1.(d), 1(e), 1.(f), 1.(g) and 1.(h). A naturally ventilated barn is defined as a barn for finishers and gilts in which the barn's fan(s) move less than 25,000 cubic feet per minute of air per 300 animal units.

- (k) A **Confinement Operation** with a lagoon, open manure storage, deep pit manure storage and/or any silage storage that is not within an enclosed structure shall have a minimum setback requirement for such lagoon, open manure storage, deep pit manure storage and/or any silage storage that is not within an enclosed structure of 2640 feet from any school. For purposes of this subsection i.e. (k), school shall mean the structure(s) which is the improvement situated upon school property and is the primary structure utilized for classroom academic pursuits. This part of the definition of "school" shall apply only to **Article III.I** and is to apply only for the determination of what structure of a school shall be used to determine the setback and reciprocal setback requirements. "School" as otherwise defined in **Article XIII** shall have its meaning set forth therein.
- (l) General Setback Requirement for Confinement Operations: A **Confinement Operation** shall have a general setback of one hundred (100') feet from the property line of any adjoining or adjacent property regardless of the zoning classification in which such adjoining or adjacent property is situated. This setback requirement includes any structure or improvement utilized in carrying on of a **Confinement Operation**, together with any lagoon, open manure storage area, deep pit manure storage structure, silage storage area, silage storage building or structure and deep pit manure storage area. This setback requirement shall be applied in conjunction with all other setback requirements provided by this Zoning Ordinance.
- (m) No Satellite Manure Storage Structure which is under 1 million gallon capacity, or 5,000 cubic yards, is permitted to be sited within 1,000 feet of a residence.
- (n) No Satellite Manure Storage Structure with a capacity in excess of 1 million gallons or 5,000 cubic yards is permitted to be sited within 1,500 feet of a residence.
- (o) No Satellite Manure Storage Structure using an open lagoon is permitted to be sited within 1.5 times the setback distance provided herein in subsections 1. (m) and 1.

## 2. Reciprocal Setbacks

- (a) The setback requirements for a public gathering place and a protected use shall be the same setback requirements for a **Confinement Operation** which operates in the manner described in subsection 3.I-13.1. (a).
- (b) The setback requirements for a residence shall be the same as the setback requirements for a **Confinement Operation** which operates with the number of animal units provided by subsection 3.I-13.1.(d), 1.(e), 1.(f), 1.(g), and 1.(h) respectively.
- (c) The setback requirements for a residence shall be the same setback requirements for a **Confinement Operation** which operates in the manner described in subsection 3.I-13.1.(i).
- (d) The setback requirements for a residence shall be the same setback requirements for a **Confinement Operation** which operates in the manner described in subsection 3.I-13.1.(j).

- (e) The setback requirements for any school shall be the same setback requirements for a **Confinement Operation** which is operated in the manner described in 3.I-13.1.(k).
3. Setback/Setback Line/Setback Requirement And Reciprocal Setback/Reciprocal Setback Line/Reciprocal Setback Requirement For Agricultural Intensive District
- (a) Mean all setback requirements and reciprocal setback requirements which may be applicable to the **Agricultural Intensive District**, each separate or individual **Confinement Operation** within the **Agricultural Intensive District** and a use or property in any other zoning classification district by which the provisions of this Ordinance make such use or property subject to the setback requirement(s) or reciprocal setback requirement(s). In the application of the setback requirement(s) and reciprocal setback requirement(s) if one or more setback requirement(s) or reciprocal setback requirement(s) applies to, or by reason of, the use of the property, including, but not limited to, a particular **Confinement Operation**, such use or **Confinement Operation** shall comply with all applicable setback requirements and all applicable reciprocal setback requirements.
- (b) Setback requirement(s) and reciprocal setback requirement(s) for any use, including, but not limited to, a **Confinement Operation**, except as otherwise provided in this Zoning Ordinance, include, but are not limited to, any structure or improvement utilized in the carrying on of the **Confinement Operation**, together with any lagoon, open manure storage area, deep pit manure storage structure, silage storage area, silage storage area, silage storage building or structure and deep pit manure storage area.
- (c) Property in the **Agricultural Intensive District** shall be subject to the **Agricultural Intensive District** setback requirements and reciprocal setback requirements notwithstanding that some or all of the adjoining or adjacent property(ies) is in the **Agricultural Intensive District**. A use and property within any other zoning classification district adjoining or adjacent to property within the **Agricultural Intensive District** or by reason of any other provision of the Ordinance shall be subject to all applicable setback requirements and reciprocal setback requirements.
- (d) Setback, setback line and setback requirement shall have the same meaning; and, reciprocal setback, reciprocal setback line and reciprocal setback requirement shall have the same meaning.
4. Where a **Confinement Operation** is situated on property with frontage on more than one road, the **Confinement Operation** shall be designed so that the primary access to the **Confinement Operation** structure(s) is onto the road that will link it most directly with a Rural Local Road (as defined in the Comprehensive Plan of Randolph County, Indiana, see p. 32 of said Plan).
5. Any driveway cut to serve a **Confinement Operation** shall be located no less than 250 feet from any existing residential driveway, provided, however, if the existing residential driveway serves a residence upon which a **Confinement Operation** is situated and the distance from the existing driveway is less than 250 feet and more than 50 feet, then the driveway to be cut may be cut no less than 50 feet from the existing driveway. In all cases, except as above provided, when a

driveway to be cut to serve a **Confinement Operation** is less than 250 feet from an existing residential driveway, the person seeking to cut the driveway or to have the driveway cut shall file a petition with the Board of Zoning Appeals of Randolph County, Indiana seeking a variance as provided by Article XVIII of this Ordinance.

6. A **Confinement Operation** shall be designed to allow trucks to leave the premises without backing onto any public way of any description whatsoever. Any proposed turn-around which contemplates T-turns or has a turn-around with a diameter of less than 120 feet shall be shown by the applicant to be adequate to comply with the requirements of this Zoning Ordinance. Driveway, truck turn-around and truck parking must have an all weather surface. An applicant shall take all reasonable steps to prevent mud, manure, gravel and other foreign substances from trucks and other equipment being deposited on any public road. The burden shall be on the applicant to demonstrate that the proposed turn-around and egress complies with the requirements herein.
7. Manure applied on the soil in accordance with the conditions of the **Confinement Operation** operator's permit shall be incorporated into the soil within 24 hours of application.
8. The applicant shall obtain County Drainage Board approval of applicant's storm water management plan before the land-use permit is issued.
9. Miscellaneous Provisions
  - (a) No **Confinement Operation** is permitted in an **Agricultural Limited District**. In the event that property owned by a person is partially situated in an **Agricultural Limited District** and the **Agricultural Intensive District**, that portion within the **Agricultural Limited District** shall be subject to **Article III** of this Ordinance; and, that portion within the **Agricultural Intensive District** shall be subject to **Article III-I** of this ordinance. In the event that the part of such person's property which is situated in the **Agricultural Intensive District** is less than ten (10) acres such acreage shall be subject to **Article III** as no **Confinement Operation** shall exist on less than ten (10) acres and no variance shall be granted for operation of the same on less than ten (10) acres. (See **Article III-I**, Table 3-I.03. Footnote 3) In the event such person acquires additional acreage so as to increase the person's property or property interest within the **Agricultural Intensive District** to ten (10) acres or more, such property or property interest shall be subject to **Article III-I**. In the event the property or property interest is subsequently reduced to less than ten (10) acres, notwithstanding the type, value or use of any improvements thereon, no **Confinement Operation** shall be operated thereon. Any continued use as a **Confinement Operation** after such reduction to less than ten (10) acres shall be subject to any and all legal and equitable remedies, including, but not limited to, injunctive relief, fines and all other remedies under federal state or local laws, regulations and ordinances.
  - (b) The Executive Director of the Area Planning Commission shall prescribe and prepare form(s) which shall become part of petitioner's application information packet or the appeal packet from any order, requirement,

decision, or determination of the Executive Director of the Area Planning Commission for all matters subject to a hearing before the Area Planning Commission of Randolph County, Indiana or the Board of Zoning Appeals of Randolph County, Indiana, when the property, in whole or in part, subject to such hearing is situated in, or adjoining or adjacent to, an **Agricultural Limited District**, the **Agricultural Intensive District**, or **both**. Such form(s) shall include any information deemed necessary and appropriate by the Executive Director of the Area Planning Commission to place the petitioner, person appealing action, as above set forth, of said Executive Director and any interested person as defined by the Unified Zoning Ordinance of Randolph County, Indiana, or by rule of said Area Planning Commission or by rule of said Board of Zoning Appeals that the provisions of **Article III Agricultural Limited District** and/or **Article III-I. Agricultural Intensive District** is/are or may be applicable to the property or a part of such property as related to the issue(s) subject to the hearing. Said form(s) shall include, but not be limited to, a statement that the **Agricultural Intensive District** permits **Confinement Operations: Moderate Feeding Operation (MFO), Confined Feeding Operations (CFO) and Concentrated Animal Feeding Operations (CAFO)** to exist, may permit expansion, enlargement or intensification of a MFO, CFO or CAFO, or other MFOs, CFOs and CAFOs may come to exist. The form(s) prescribed by the Executive Director pursuant to this subsection shall be included as part of the notice which is mailed to each interested person, as above defined. It shall be the duty and responsibility of the person required to give notice to see that each interested person is provided with proper notice of hearing. The form prescribed by said Executive Director may be amended as deemed necessary or appropriate from time to time as determined by the Executive Director, the Area Planning Commission of Randolph County, Indiana or the Board of Zoning Appeals of Randolph County, Indiana.

- (c) The Area Planning Commission of Randolph County, Indiana, its Executive Director, employees, and members, and members of the Board of Zoning Appeals of Randolph County, Indiana shall have no duty nor responsibility to determine that any person who receives notice of hearing described in part (b) above, reads any information furnished to such person or reads the Unified Zoning Ordinance of Randolph County, Indiana.

**ARTICLE III-I**  
**APPENDIX AU**

- A.
1. Determine the total number of animals by type (column one) and record that number in column two.
  2. Multiply the number in column two by the “animal unit factor” in column three to give the number of animal units by animal type. Record this number in column four.
  3. If more than one animal type is maintained at a single **Confinement Operation**, all animal units are combined to obtain total animal units for such **Confinement Operation**.
  4. Add all the numbers from column four to get the total number of animal units for your facility.

**DEFINITION (from Article XIII): Confinement Operation**

The confined feeding of animals for foods, fur, or pleasure purposes on lots, pens, ponds, sheds, or buildings where:

1. Animals are confined, fed and maintained for at least 45 days (does not have to be consecutive days) during any 12 month period (does not have to be a calendar year); and
2. Ground cover or vegetation is not sustained over at least 50% of the animal confinement area.

**DEFINITION (from Article XIII): Moderate Feeding Operation (MFO)**

Any existing or proposed Confinement Operation or an expansion of an existing Confinement Operation on which there are livestock numbers exceeding:

1. 100 Cattle or Horses
2. 300 Swine or Sheep
3. 500 Fowl or Ducks

Where a Confinement Operation involves less than one hundred (100) cattle or horses, three hundred (300) swine or sheep, five hundred (500) fowl or duck, but if there is more than one species of animal, the total number of animals in each category shall be divided by 100 in the case of cattle or horses, 300 in the case of swine or sheep, 500 in the case of fowl or ducks, then multiplied by 100 to get percentages for each. The resulting percentages shall be added together. If the total of such percentages equals or exceeds 100, then the operation is a Moderate Feeding Operation.

**DEFINITION (from Article XIII): Confined Feeding Operation (CFO)**

Any existing or proposed Confinement Operation or an expansion of an existing Confinement Operation on which there are livestock numbers exceeding:

1. Three hundred (300) mature cow under 1000 pounds, whether milked or dry;
2. Six hundred (600) swine
3. Six hundred (600) sheep;
4. Thirty thousand (30,000)

**DEFINITION (from Article XIII): Concentrated Animal Feeding Operation (CAFO)**

Any existing or proposed Confinement Operation or an expansion of an existing Confinement Operation with any of the following:

1. Seven hundred (700) mature dairy cow, over 1000 pounds, whether milked or dry;
2. One thousand (1,000) calves;
3. One thousand (1,000) cattle other than mature dairy cows over 1,000 pounds or calves. Cattle includes but is not limited to heifers, steers, slaughter or other; bulls; feeder cattle; stock cows; mature dairy cows under 1,000 pounds, whether milked or dry; and cow/calf pairs;
4. Two thousand five hundred (2,500) swine each weighing 55 pounds or more;
5. Ten thousand (10,000) swine each weighing less than 55 pounds;
6. Five hundred (500) horses;
7. Ten thousand (10,000) sheep or lambs;
8. Fifty-five thousand (55,000) turkeys;
9. Thirty thousand (30,000) laying hens or broilers, if the CAFO uses a liquid manure handling system;
10. One hundred twenty-five thousand (125,000) chickens (other than laying hens), if the CAFO uses other than a liquid manure handling system;
11. Eighty-two thousand (82,000) laying hens, if the CAFO uses other than a liquid manure handling system;
12. Thirty thousand (30,000) ducks if the CAFO uses other than a liquid manure handling system;
13. Five thousand (5,000) ducks if the CAFO uses a liquid manure handling system.

**B. Animal Unit Calculation Table:**

1. ANIMAL TYPE	2. # OF ANIMALS	3. ANIMAL UNIT FACTOR	4. # OF ANIMAL UNITS
<b>A. Dairy Cattle</b>			
1. Mature cow or bull		1.27	
2. Heifer		0.7	
3. Calf		0.2	
<b>B. Beef Cattle</b>			
1. Slaughter steer or stock cow		1.1	
2. Feeder cattle or heifer		0.7	
3. Cow and calf pair		1.3	
4. Calf		0.2	
<b>C. Swine</b>			
1. Boars or Sows, including litters		0.34	
2. Finishers or Gilts		0.136	
3. Nursery pigs		0.0273	
<b>D. Horse</b>			
		1	
<b>E. Sheep and lambs</b>			
		0.1	
<b>F. Chickens</b>			
1. Laying Hen or broiler (liquid manure system)		0.011	
2. Laying Hen or broiler (dry manure system)		0.005	
<b>G. Turkeys</b>			
1. Over 5 pounds (Finishers)		0.018	
2. Under 5 pounds (Starters)		0.005	
<b>H. Ducks</b>			
		0.01	
<b>I. Animal not listed in item A to H</b>			
		Avg. weight of animal in lbs. divided by 1,100 lbs.	
<b>Total # of Animal Units (Add all in column 4)</b>			Animal Units =

C. Application Of Appendix AU To Determine Animal Units

For the purposes of determining the number of animal units for animals not specifically listed *in the definition of CFO or CAFO*, as defined in this Ordinance, reference shall first be made to the most similar animal type set forth in parts A. through H. of **Appendix AU**; and, if no part thereof is applicable, animal units shall be determined under part I.

It shall be the responsibility of the Executive Director of the Area Planning Commission of Randolph County, Indiana to determine the number of animal units and the applicable part or parts of **Appendix AU**, parts A. through I., as the same apply to a **Confinement Operation** and any issue regarding animal type and animal units.

Any person aggrieved by a determination of said Executive Director under **Appendix AU** may file a petition with the Board of Zoning Appeals of Randolph County, Indiana, which shall resolve the issue or issues after proper notice of hearing and a hearing before said Board.

**ARTICLE IV**  
**Residential Districts**

4.01 Permitted Uses

Primary uses shall be permitted in residential zoning districts according to the following table. Uses not specifically listed may also be permitted as primary uses if they are of similar character and have no adverse influence or no more adverse influence on adjacent properties, the neighborhood or community than those specifically listed. Disputes regarding uses not specifically listed as permitted shall be settled by the Board of Zoning Appeals, after notice, hearing and decision.

<b>TABLE 4.01.1</b>	
<b>Residential Primary Uses and Districts</b>	
<b>District</b>	<b>Primary Uses</b>
A-R	One-family residences, manufactured homes, mobile homes, Micro WECS, Commercial WECS (Wind Energy Conversion System) <sup>1</sup>
R-1	One-family residences <sup>2</sup>
R-2	One-family residences <sup>2</sup> Two-family residences <sup>2</sup>
R-3	One-family residences <sup>2</sup> Two-family residences <sup>2</sup> Multiple-family residences (Apartments) <sup>2</sup>
All	Manufactured housing as defined by Article XIII NC-SES =/under 10 kW

<sup>1</sup>All such towers and antennas shall comply with the requirements found in Article XVI.I

<sup>2</sup>All Types of WECS will not be allowed in R-1, R-2 or R-3.

The following accessory uses shall be permitted in all residential zoning districts, subject to the standards and limitations contained herein:

<b>TABLE 4.01.2 Residential Accessory Uses</b>
Amateur radio sending and receiving antennas
Child care home
Common recreational facilities
Foster family care
Furniture upholstery, as a home occupation
Game courts
Garages, carports, porches, decks, awnings, canopies, storage buildings, patios, outdoor fireplaces, porte-cocheres, bathhouses, cabanas, children’s playhouses, swings and other play structures or equipment
Home occupations, as defined herein
Lakes and ponds
Livestock in Unincorporated Randolph County <sup>1</sup>
Locksmith, as a home occupation
Management office for multiple-family and manufactured housing developments only
Off-street parking areas
Private swimming pools, hot tubs, spas and Jacuzzis
Residential occupancy by domestic employees whose primary duties are performed on the premises
Satellite dish antennas
Signs (See Sign Code)
Storage or parking of accessory vehicles
Towers and antennas under 300 feet
Travel agent, as a home occupation
Underground storage rooms

<sup>1</sup>Livestock is regulated by Section 4.12

Accessory uses in all residential zoning districts shall be customarily incidental, accessory and subordinate to and commonly associated with the operation of the residential use of the lot, shall be operated and maintained under the same ownership and on the same building lot as the residential use, and shall be subordinate in area, build, extent, and purpose to the residential use of the building served. The height of accessory buildings and structures shall be less than or equal to that of the primary structure and shall be located no closer to the front lot line than the primary structure.

Any “lots”, whose primary use are residential and which are under the same ownership, which would be contiguous, excepting separation by an alley, shall be considered the same building lot for purposes of determining permitted accessory uses, subject to the following: the accessory use must be approved by the Zoning Administrator. All performance/building standards and above restrictions must be followed for such accessory uses. Both lots will be considered as one building lot and remain so unless both lots can concurrently meet the standards of this ordinance at a future time. A Restrictive Transfer Form must be recorded with both deeds and remain in effect until said time the aforementioned standards can be met allowing the two properties to be considered separate.

The following uses shall be permitted in residential zoning districts upon approval of a Conditional Use Permit approved by the Board of Zoning Appeals of Randolph County:

<b>TABLE 4.01.3 Residential Conditional Uses</b>
Cemetery, crematory, mausoleum
Church, convent, monastery, rectory, parish house
Country club, golf course, excluding commercially operated driving range and miniature golf
Fraternal or religious institution
Non-Commercial WECS (Wind Energy Conversion System) <sup>1</sup>
Park, playground and community center, public only
Parking, off-site for business or industrial uses
School, college, university
Water reservoir, excluding accessory lakes and ponds

<sup>1</sup>Non-Commercial Wind Energy Conversion Systems permitted in AR only.

The following uses shall be permitted in residential zoning districts upon approval of a Petition for Special Exception by the Board of Zoning Appeals of Randolph County:

<b>TABLE 4.01.4 Residential Special Exception Uses</b>
Airports or aircraft landing field and heliports
Athletic fields and courts, public or private
Hospital, sanitarium
Institutions for children, except child care homes as permitted herein
Library, public
Mobile home, excluding mobile home park
<b>NC-SES Over 10 kW Article XIX)</b>
Nursery and day school
Nursing home
Private club or lodge, except those whose chief activity is customarily carried on as a business
Public utility or service use, including bus turn-around, fire station, police station, art gallery, museum, railroad, sewage treatment plant, telephone exchange, water filtration plant, water pumping station
Sand and gravel mining
Towers and antennas 300 feet and over <sup>1</sup>

<sup>1</sup>All such towers and antennas shall comply with the requirements found in Article XVII.

- 4.02 Appurtenances  
Appurtenant features, such as walks, drainage installations, mailboxes, lamp posts, bird baths and feeders, central air conditioning units, and improvements similar and comparable in nature and purpose, shall be permitted on any residential lot and shall be exempt from the standards provided herein.
  
- 4.03 Lot Area and Dimensions  
Residential lots shall comply with the standards applicable to the zoning district according to the following table:

<b>TABLE 4.03.1 Minimum Lot Area and Dimensions</b>				
<b>District</b>	<b>Lot Area Sanitary Sewers</b>	<b>Lot Area Septic System</b>	<b>Street Frontage</b>	<b>Lot Width<sup>1</sup></b>
A-R	2 acres	2 acres	40 feet	100 feet
R-1	10,000 square feet <sup>2</sup>	12,000 square feet <sup>2</sup>	35 feet	75 feet
R-2	6,000 square feet <sup>2</sup>	7,000 square feet <sup>2</sup>	35 feet	50 feet
R-3	5,000 square feet <sup>2</sup>	6,000 square feet <sup>2</sup>	30 feet	40 feet

<sup>1</sup>As measured at the building setback line.

<sup>2</sup>Per dwelling unit.

4.04 Minimum Front Setbacks

Minimum front setbacks shall be provided for all buildings or structures, except decks and patios the surface of which measure eighteen inches or less from grade level, in all zoning districts according to the following table:

<b>TABLE 4.04.1 Minimum Front Setbacks<sup>1</sup></b>	
Limited Access or Interstate Highway	100 feet
Primary Arterial HWY 27, 32, 35, 36	50 feet
Secondary Arterial HWY 1, 28, 227	40 feet
Collector Street County Rds. Columbia, Chestnut, Washington	30 feet
Local Street City Streets, (20-30 mph)	25 feet
Cul-de-sac Street	20 feet
Private Street	10 feet

<sup>1</sup>Off-street parking for multiple-family development may be located within the minimum required front setback subject to the provision of a landscaped yard measuring at least ten feet in width from the street right-of-way line.

4.05 Minimum Side and Rear Setbacks

Minimum side and rear setbacks shall be provided for all buildings or structures, except decks and patios the surface of which measure eighteen inches or less from grade level, applicable to the zoning district in accordance with the following table:

<b>TABLE 4.05.1 Minimum Side and Rear Setbacks<sup>1</sup></b>		
<b>District</b>	<b>Side Setback<sup>5, 6</sup></b>	<b>Rear Setback<sup>5</sup></b>
A-R	15 feet	15 feet
R-1	10 feet <sup>2</sup>	20 feet
R-2	6 feet <sup>2</sup>	20 feet
R-3 <sup>3</sup>	6 feet	20 feet
R-3 <sup>4</sup>	20 feet	20 feet

<sup>1</sup>Off-street parking for multiple-family development may be located within the minimum required side and rear setbacks subject to the provision of a landscaped yard measuring at least ten feet in width from the property line.

<sup>2</sup>Or ten percent of the lot width, whichever is the lesser

<sup>3</sup>For one- and two-family residences only.

<sup>4</sup>From the project boundaries of multiple-family and manufactured housing developments only. A minimum distance of ten feet shall be maintained between buildings.

<sup>5</sup>The side and rear setbacks of detached accessory structures located wholly within the rear yard shall be a minimum of five feet from any side or rear property line.

<sup>6</sup>Detached accessory buildings in side yards shall be located the same minimum distance as a primary building

<sup>7</sup>For existing cul-de-sacs, with a lot depth that is less than one hundred feet (100'), the rear setback shall be twelve feet (12') (This does not include Winchester.).

4.06 Minimum Floor Area

Minimum ground floor living areas shall be provided for all buildings or structures applicable to the zoning districts according to the following table:

<b>TABLE 4.06.1</b>		
<b>Minimum Ground Floor Living Area</b>		
<b>District</b>	<b>One Story</b>	<b>Two or More Stories<sup>1</sup></b>
A-R	950 square feet	720 square feet
R-1 <sup>2</sup>	950 square feet	600 square feet
R-2 <sup>2</sup>	950 square feet	400 square feet
R-3 <sup>2</sup>	720 square feet	400 square feet
R-3 <sup>3</sup>	600 square feet	300 square feet
R-3 <sup>4</sup>	950 square feet	350 square feet

<sup>1</sup>The total living area shall equal the minimum ground floor area for a one-story residence.

<sup>2</sup>Minimum requirements apply to each living unit of one- and two-family residences.

<sup>3</sup>Minimum requirements apply to each living unit of multiple-family residences.

<sup>4</sup>Minimum requirements apply to each manufactured dwelling.

4.07 Maximum Height

The maximum height of buildings shall be in accordance with the following table:

<b>TABLE 4.07.1</b>	
<b>Maximum Height<sup>1</sup></b>	
Residences	35 feet
Detached garages and storage buildings	20 feet
Buildings for Conditional and Special Exception Uses	As determined by the BZA

4.08 Parking

Off-street parking, which may include garages and carports, shall be provided in all residential zoning districts according to the following table:

**TABLE 4.08.1  
Residential Parking**

<b>District</b>	<b>Requirement</b>
A-R	2 per dwelling unit
R-1	2 per dwelling unit
R-2	1 per dwelling unit
R-3	1 per dwelling unit
R-3 <sup>1</sup>	1 per 300 gross square feet

<sup>1</sup>For club houses and similar facilities only. Such parking shall be located in the immediate vicinity of the facility served.

Off-street parking for multiple-family housing developments shall be hard surfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one year after the commencement of the use served. Each parking stall shall be lined or striped and maintained with a durable paint or tape and open directly upon an aisle of sufficient width and design to provide safe and efficient access thereto. Dimensions of parking stalls and access aisles therefor shall adhere to the recommended specifications contained in the most current published version Architectural Graphic Standards, Ramsey Sleeper, John Wiley and Sons, Inc., a copy of which is on file in the office of the Area Planning Commission and incorporated herein and made a part hereof by reference. Parking stalls adjacent to a property line or required yard shall include wheel stops or other methods to prevent vehicles from extending or rolling over such property line or required yard.

4.09 Landscaping

In all residential zoning districts, at least one tree and three shrubs shall be provided for each living unit on the lot. Trees and shrubs may be either deciduous or coniferous. Trees should measure at least one and one-half inches in caliper, as measured at six inches above the root ball, at the time of planting and have a characteristic mature height of at least twenty feet. Shrubs should measure at least twelve inches in height at the time of planting and have a characteristic mature height of at least three feet. Existing trees and shrubs, whether growing naturally or planted prior to development, may be counted to comply with this section.

4.10 Fencing

Fencing shall be permitted in all residential zoning districts provided it is not located within any clear-sight triangle, as defined herein, for the premises or adjacent properties. Fencing shall be limited to a maximum height of four feet if located in front of the established front building line for the lot or six feet if located behind the established front building line. Said maximum heights may be reasonably exceeded by up to two feet in additional height for a maximum lineal distance of eight feet to accommodate variations in grade elevations. Additionally, fences and walls along the boundaries of an entire subdivision or multiple-family developments shall be limited to a maximum height of six feet provided they are ornamental in character and a component of a landscaping scheme along such boundaries. Disputes regarding fence height shall be resolved by the Board of Zoning Appeals decision after notice and hearing, which shall apply only to the disputed fence and related issues and premises. In no case shall barbed wire, razor wire or similar fencing materials be permitted.

4.11 Signs (See Sign Code)

4.12 Restrictions on the Keeping of Farm Animals

4.12.1 **Conflict** This Section does not intend to interfere with, abrogate or alter the meaning, interpretation or authority of any existing covenant or legal restriction on said lots. Where this Section imposes a greater restriction upon the use of buildings or premises than is imposed by covenants or legal restrictions, the provisions of this Section shall control; but where a covenant or legal restriction imposes a greater restriction, the provisions of covenants or other legal restrictions shall control.

4.12.2 Restriction on the Keeping of Farm Animals on lots in unincorporated **residential districts** of Randolph County. This includes but is not limited to lots in the following areas: Fairview, Deerfield, Randolph, New Pittsburg, Harrisville, Spartanburg, Arba, Bloomingport, Carlos, Huntsville and Windsor.

**A. Purpose.** The regulations of this section are established to permit the keeping of farm animals in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

**B. Chickens, Ducks, Rabbits and Similar Animals.** The keeping of chickens, ducks, rabbits and similar farm animals, and cages, coops and enclosures for the keeping of such animals shall be governed by the following regulations.

1. Number. The minimum lot size for farm animals is five thousand (5,000) square feet. No more than one such animal shall be kept on a parcel of land for each eight hundred (800) square feet of parcel or lot area. For a residential lot of 5000 square feet this regulation would permit no more than a total of six (6) such animals.
2. Coops and Cages. All animals shall be provided with a cage or other shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals, exclusive of areas used for storage of materials or vehicles. The total area of all coops or cages on a lot shall not be greater than thirty-two (32) square feet for up to six (6) animals. Coops and cages, singly or in combination, shall not exceed fifteen (15) feet in height.
3. Setbacks. The coops or cages housing such animals may not be located in front yard or side street yard areas and shall not be located within five (5) feet of a side or rear yard line. Animal housing shall be located a minimum of 20' from all neighboring residences or from the permitted placement of a dwelling on an adjoining vacant parcel and closer to the operator/owners residence than the neighboring residence. No animals shall be kept in required front yard or side street yard areas. Screening of coops, cages or enclosures shall be required if they visually have a negative impact on the nature of the community.
4. Prohibitions. No geese or turkeys may be kept in a residential district except on a parcel that is at least one (1) acre in area and only if the coop or cage

housing the bird(s) is at least fifty (50) feet from all property lines. For parcels greater than one (1) acre in area, one (1) additional such bird may be kept for each twenty-one thousand (21,000) square feet in excess of one (1) acre. No roosters may be kept unless they are housed in a closed coop from dusk to dawn and located a minimum of 40' to all neighboring residences. No peafowl or guinea fowl may be kept in a residential district.

5. Enclosures. Chickens and all other birds shall have access to an outdoor enclosure adequately fenced or otherwise bounded to contain the birds on the property and to prevent access by dogs and other predators and providing at least ten (10) square feet of area for each chicken and twenty (20) square feet of area for each turkey or geese.

**C. Goats, Pigs, Sheep, and Similar Animals.** The keeping of goats, pigs, sheep and similar farm animals, and stables and enclosures for the keeping of such animals, shall be governed by the following regulations.

1. Number. No goats, pigs, sheep or similar farm animal shall be kept on a parcel of land less than one half (1/2) acres in area. For a parcel that is at least one half acre in area, a maximum of two (2) such animals may be kept on the property, with one additional animal permitted for each additional twenty-one thousand (21,000) square feet of area.
2. Shelter. All animals shall be provided with shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals. The total area of such animal shelter shall not exceed the greater of two hundred (200) square feet or twenty-five (25) square feet per allowed animal.
3. Setback. Animal housing shall not be permitted in front yards or in side street yards and shall be set back at least forty (40) feet from any street right-of-way and from any property lines and shall be set back at least fifty (50) feet from a residence on another parcel or from the permitted placement of a dwelling on an adjoining vacant parcel and closer to the operator/owner residence than the neighboring residence.
4. Prohibitions. No Horses, cows, alpacas, llamas or similar animals shall be kept on a property zoned residential unless the pasture/animal housing area provided for in 3.12 (A-L) can be met and the total residential lot size is a minimum of two (2) acres. A pigsty is prohibited in all residential districts.
5. Enclosures. Goats, sheep and similar animals shall have access to an outdoor enclosure adequately fenced or otherwise bounded to contain the animals on the property and to prevent access by dogs and other predators and providing at least fifty (50) square feet for each animal.

**D. Lots without a Residence.** Farm animals may be kept on a lot that is vacant or has no occupied residence but only if the operator of such demonstrates that the use will be

managed in a manner that prevents the creation of nuisances or unsanitary or unsafe conditions and is contiguous to the lot of the operator's residence.

- E. **Sanitation and Nuisances.** Farm animals shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties and not to cause health hazards. Furthermore, farm animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.

**ARTICLE V**  
**Commercial Districts**

5.01 Permitted Uses

Primary uses shall be permitted in commercial zoning districts according to the following table. Uses not specifically listed may also be permitted as primary uses if they are of similar character and have no adverse influence or no more adverse influence on adjacent properties, the neighborhood or community than those specifically listed. Disputes regarding uses not specifically listed as permitted shall be settled by the Board of Zoning Appeals, after notice, hearing and decision.

<b>TABLE 5.01.1</b>	
<b>Commercial Primary Uses and Districts</b>	
<b>District</b>	<b>Primary Uses</b>
C-1 (Neighborhood)	All uses permitted in residential zoning districts, excepting therefrom manufactured & mobile homes less than twenty-three (23') feet in height Antique Shop, sales and display Art Gallery Bank, savings and loan association, credit union, including drive-through Bar or tavern, excluding live entertainment <sup>1</sup> Barber and beauty shops and salons, with accessory sales and service Book stores, including art and school supplies China and glassware stores Coin and philatelic stores Drug store Dry cleaning and laundry receiving stations, excluding processing Employment agency Florist shop and conservatory Food store, including grocery store, meat market, bakery, candy, ice cream Funeral home Gift shop, Jewelry shop Hobby shop, for retail of items to be assembled or used elsewhere Laundry and dry cleaning, automatic or self-service with maximum machine capacity of ten pounds Loan office, Locksmith shop Medical office Musical instrument store, including minor repairs NC-SES=/Under 10 kW Pawn shop Picture framing shop Photograph developing and processing shop Schools, commercial, including music, dance or business Telegraph office Ticket agency Towers and antennas under 300 feet <sup>4</sup> Travel bureau and transportation ticket office And other similar uses

<p>C-2 (Community)</p>	<p>All uses permitted in C-1  Ambulance service, public and private  Amusement establishment, including bowling alley, billiard room, dance hall, skating rink, swimming pool, and other similar recreational facilities  Appliance store, including radio and television  Automobile accessory store  Automobile repair, minor  Automobile service and repair, excluding painting and body repair  Bar or tavern, with live entertainment<sup>1</sup>  Bicycle store, including sales, rental and repair  Blueprinting and copying establishment  Camera and photographic processing and supply stores  Carpet, rug and linoleum store  Catering establishment  Clothing and costume rental shop  Coffee shop  Costume, dress making and millinery shops, tailoring  Currency exchange  Department store, with or without catalog departments  Golf driving range, miniature golf  Furrier shop, including incidental storage and conditioning of furs  Furniture store, including upholstering incidental to the retail operations  Hardware store  Hotel, Motel  Industrial machinery sales room with accessory repair or servicing  Interior decorating shop, including upholstering and making of draperies, slip covers and other similar articles incidental to the retail operations  Leather goods and luggage store  Liquor store, packaged goods only  Medical and dental clinic  Micro-brewery<sup>1</sup>  NC-SES=/Under 10 kW  Night club<sup>1</sup>  Office supply store  Optician shop, including machining of glasses and lenses  Orthopedic, medical and surgical appliance store, excluding assembly or manufacture  Paint and wallpaper shop  Pet shop  Physical culture and health services, including gymnasium, swimming pool, reducing salon, masseur, and public bath  Restaurant, including live entertainment and dancing and serving of alcohol therewith<sup>1</sup>  Second hand store, Variety Store, Shoe Store  Sporting goods store  Toy shop  Vehicle wash and detailing  Veterinary Clinic—Household pets only<sup>3</sup>  And other similar uses</p>
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<p>C-3 (Regional)</p>	<p>All uses permitted in C-1 and C-2, provided that residential uses are not allowed.<sup>5</sup></p> <p>Animal hospital<sup>2</sup></p> <p>Art needle-work and hand weaving production with two or more employees</p> <p>Auction room</p> <p>Automobile repair, major</p> <p>Automobile, truck, trailer, and farm equipment sales, display, rental, repair and storage, except salvage</p> <p>Battery and tire sale and installation</p> <p>Building material sales</p> <p>Commercial greenhouses</p> <p>Denture production and prosthetic fitting</p> <p>Dry-cleaning establishments</p> <p>Equipment and machinery, household or office, sales and repair</p> <p>Manufactured housing display, sales and service</p> <p>Laboratory, medical, dental, research, experimental and testing</p> <p>Laundries</p> <p>Linen, towel, diaper and similar supply services</p> <p>Machinery sales</p> <p>Mail order warehouse</p> <p>Mini-warehouse, self-storage facility</p> <p>Monument sales</p> <p>Motorcycle sales, including service and repair</p> <p>NC-SES=/Under 10 kW</p> <p>Optical lens production</p> <p>Parking garages and lots, commercial</p> <p>Plumbing and electrical showroom and repair shop</p> <p>Printing and engraving</p> <p>Printing establishment for letter presses, business cards, mimeographing and other similar custom services</p> <p>Recreational vehicles display, sales and service</p> <p>Restaurant, hotel or bar equipment store</p> <p>Self-storage warehouse, mini-warehouse</p> <p>Taxidermists shop</p> <p>Trailer sales and rental</p> <p>Veterinary clinic<sup>2</sup></p> <p>And other similar uses</p>
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<sup>1</sup>Bars, taverns, night clubs and similar establishments shall not be permitted within 100 feet of a residential zoning district, church, school or park. The method of measurement shall be from the parking lot of the facility to the property line of the use protected hereby, or from the tenant space if the restricted use is situated within a multiple-tenant building or where parking is shared with other uses.

<sup>2</sup>Animal hospitals and veterinary clinics shall not be located within 100 feet of any residential zoning district or within 50 feet of C-1 and C-2 zoning districts.

<sup>3</sup>Veterinary clinic for household pets provided that all animal runs are located within an enclosed building and all odors are confined to the interior of the building.

<sup>4</sup>All such towers and antennas shall comply with the requirements found in Article XVII.

<sup>5</sup>Any residential use which has been established as a legally nonconforming use upon a lot located in a C-3 zoning district as of January 1, 2018, shall be granted "permitted use" status, the same as a C-1 District, allowing expansion and residential uses. A residential use in a commercial zoning district shall follow

*the general restrictions and requirements of residential zoning districts, at the discretion of the Executive Director.*

The following uses shall be permitted in commercial zoning districts upon approval of a Conditional Use Permit approved by the Board of Zoning Appeals of Randolph County:

<b>TABLE 5.01.2 Commercial Conditional Uses</b>
Adult entertainment business
Advertising or billboard signs <sup>1</sup> (See Sign Code)
Airport or aircraft landing field and heliport
Cemetery, crematory, mausoleum
Church, convent, monastery, rectory, parish house
Commercial WECS (Wind Energy Conversion System) <sup>2</sup>
Country club, golf course, excluding permitted commercially operated driving range and miniature golf
Fraternal or religious institution
Hospital, sanitarium
Library, public
Micro WECS (Wind Energy Conversion System) <sup>2</sup>
Non-Commercial WECS (Wind Energy Conversion System) <sup>2</sup>
Park, playground and community center, public only
Parking, off-site for industrial uses
School, college, university
Water reservoir, excluding lakes and ponds

<sup>1</sup>*Unless otherwise authorized by and then subject to the provisions of the federal Highway Beautification Act of 1965, Public Law 89-285, and the Acts of the General Assembly of the State of Indiana, along limited access and interstate highways.*

<sup>2</sup>*All types of Wind Energy Conversion Systems will not be allowed in C-1.*

The following uses shall be permitted in commercial zoning districts upon approval of a Petition for Special Exception by the Board of Zoning Appeals of Randolph County:

<b>TABLE 5.01.3 Commercial Special Exception Uses</b>
Athletic Fields and courts, public or private
Landfill
NC-SES Over 10 kW
C-SES
Private club or lodge, except those whose chief activity is customarily carried on as a business
Public utility or service use, including bus turn-around, fire station, police station, art gallery, museum, railroad, sewage treatment plant, telephone exchange, water filtration plant, water pumping station
Sand and gravel mining
Sheltered living facility
Stadiums, arenas
Towers and antennas 300 feet and over <sup>1</sup>

<sup>1</sup>*All such towers and antennas shall comply with the requirements found in Article XVII.*

5.02 Appurtenances

Appurtenant features, such as walks, drainage installations, mailboxes, lamp posts, bird baths and feeders, central air conditioning units, and improvements similar and comparable in nature and purpose, shall be permitted on any commercial lot and shall be exempt from the standards provided herein.

5.03 Lot Area and Dimensions

No minimum lot area or width shall be required for commercial development so long as the minimum requirements of this ordinance are met. All commercial uses and development shall be connected to a sanitary sewer system. Any commercial use with fifty feet or less of frontage on a public street shall be considered a shopping center with the properties to both of its sides along the same street frontage. Commercial uses situated on a corner lot may include both street frontages in meeting the minimum requirement.

5.04 Minimum Front Setbacks

Minimum front setbacks shall be provided for all buildings or structures, except decks and patios the surface of which measure eighteen inches or less from grade level, in all zoning districts according to the following table:

<b>TABLE 5.04.1 Minimum Front Setbacks<sup>1</sup></b>		
<b>Street Type</b>	<b>Buildings/Structures</b>	<b>Parking</b>
Limited Access or Interstate Highway	75 feet	20 feet
Primary Arterial <i>HWY 27, 32, 35, 36</i>	50 feet	10 feet
Secondary Arterial <i>HWY 1, 28, 227</i>	40 feet	10 feet
Collector Street <i>Co. Rds. Columbia, Chestnut, Washington</i>	30 feet	6 feet
Local Street <i>City Streets, (20-30 mph)</i>	25 feet	6 feet
Cul-de-sac Street	20 feet	6 feet
Private Street	10 feet	4 feet

<sup>1</sup>Subject to Articles 5.07 and 5.12, Transitional Yards

5.05 Minimum Side and Rear Setbacks

No minimum side or rear setback shall be required in commercial zoning districts unless adjacent to a residential zoning district, church, school or park, in which case a minimum setback for all improvements, except screening and landscaping shall be provided in accordance with Articles 5.07 and 5.12, Transitional Yards, unless a commercial or industrial use has been legally established on such adjacent property.

5.06 Maximum Height

The maximum height of buildings shall be in accordance with the following table:

<b>TABLE 5.06.1 Maximum Height</b>	
<b>Zoning District</b>	<b>Height</b>
C-1	35 feet
C-2	50 feet
C-3	75 feet

5.07 Transitional Yards

Wherever a residential zoning district, church, school or park property line adjoins a commercial zoning district, transitional yards and setbacks shall be provided for all improvements, except screening and landscaping, unless a commercial or industrial use has been legally established on such adjoining property. Side and rear transitional yard setbacks shall measure at least twenty feet in width. Front transitional yards shall be provided in accordance with the following table:

<b>TABLE 5.07.1 Front Transitional Yards</b>	
<b>Street Type</b>	<b>Transitional Front Yard Setback</b>
Limited Access or Interstate Highway	20 feet
Primary Arterial <i>HWY 27, 32, 35, 36</i>	10 feet
Secondary Arterial <i>HWY 1, 28, 227</i>	15 feet
Collector Street <i>County Rds. Columbia, Chestnut, Washington</i>	20 feet
Local Street <i>City Streets, (20-30 mph)</i>	20 feet
Cul-de-sac Street	20 feet
Private Street	20 feet
Alley	20 feet

5.08 Parking

Off-street parking, which may include garages and carports, shall be provided in all commercial zoning districts according to the following table:

<b>TABLE 5.08.1 Commercial Parking</b>	
<b>Use</b>	<b>Requirement<sup>1</sup></b>
Amusement establishment, indoor	1 per 250 square feet
Amusement establishment, outdoor	1 per 200 square feet plus 1 per 400 square feet of the site accessible to the public, exclusive of parking
Automobile, truck, or motorcycle sales and repair	1 per employee plus 1 per service bay, 1 per 200 square feet of interior sales and display, and 1 per 7000 square feet of outdoor sales and display
Banking, savings and loan, credit union	1 per 250 square feet
Bar, tavern, night club	1 per employee plus one per 100 square feet
Bowling alley	4 per alley or lane <sup>2</sup>
Auditorium, assembly and recital halls	1 per 4 seats
Community centers, museums, civic clubs, and eleemosynary	1 per 400 square feet
Convenience market with or without gasoline	1 per 300 square feet <sup>3,4</sup>
Day nurseries, day care centers, kindergartens and nursery schools	1 per employee plus 1 per 500 square feet
Furniture, floor and wall covering sales	1 per 400 square feet

Gasoline service station, tire and automobile service station	1 per employee plus 2 per service bay <sup>5</sup> , 3 per customer spaces, and 1 per 300 square feet of retail sales and display <sup>3</sup>
Grocery store or supermarket	1 per 150 square feet <sup>4</sup>
Hardware, paint, home improvement store	1 per 200 square feet plus 1 per employee and 1 per 300 square feet of retail sales and display
Health spa or sports club	1 per 200 square feet <sup>2</sup>
Hotels and motels	1 per rental sleeping unit <sup>2</sup>
Medical, dental and optometrist clinics and offices	1 per 200 square feet
Miniature golf	2 per each golf hole plus 1 per employee and 1 per 300 square feet of retail sales and display <sup>2</sup>
Mortuary, funeral home and crematories	1 per 50 square feet in parlors and assembly rooms
Nursing and convalescent homes, homes for the aged, sanitariums and rehabilitation centers	1 per 3 patient beds plus 1 per 2 employees and staff doctors
General offices (business, professional or otherwise) and research centers or laboratories	3 spaces per 1000 square feet
Racquet ball, tennis courts and similar sport facilities	1 space per employee plus 4 spaces per game court and 1 per 200 square feet of sales and display area <sup>2</sup>
Restaurant, family sit-down	1 per employee plus 1 per 4 customer seats
Restaurant, fast food, with or without drive-up	1 per employee plus 1 per 3 customer seats
Restaurant, drive-up only, no seating	3 plus one per employee
Retail and service commercial uses not specifically listed herein	3 per 1000 square feet
Shopping centers, less than 400,000 square feet	4 per 1000 square feet
Shopping centers, 400,000 to 600,000 square feet	4.5 per 1000 square feet
Shopping centers, more than 600,000 square feet	5 per 1000 square feet
Roller or ice skating rink	1 per 200 square feet
Schools, business, technical, trade, etc.	1 per 100 square feet
Theaters	1 per 3 seats

<sup>1</sup>Square feet calculations are based on the gross floor area of the building unless otherwise specified.

Employee calculations are based on the largest work shift.

<sup>2</sup>Additional parking shall be provided for accessory uses, such as restaurants and lounges, in accordance with the requirements for such uses.

<sup>3</sup>Spaces at gasoline pumps may be included in calculating required parking.

<sup>4</sup>If seating is provided for the consumption of foods or beverages, additional parking shall be provided in accordance with the requirements for fast-food restaurants.

<sup>5</sup>Service bays may not be considered parking spaces; however, parking spaces required for service bays may be used for the temporary storage of vehicles awaiting repair or customer pickup.

Uses not specifically listed in Table 5.08, Commercial Parking, shall be provided in accordance with the requirement for the most similar listed use. Disputes regarding the calculation used for required parking may be resolved by the Board of Zoning Appeals by resolution, which resolution shall thereafter apply to the disputed use.

Off-street parking for all commercial development shall be hard surfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one year after the commencement of the use served. Each parking stall shall be lined or striped and maintained with a durable paint or tape and open directly upon an aisle of sufficient width and design to provide safe and efficient access thereto. Dimensions of parking stalls and access aisles therefor shall adhere to the recommended specifications contained in the most current published version Architectural Graphic Standards, Ramsey Sleeper, John Wiley and Sons, Inc., a copy of which is on file in the office of the Area Planning Commission and incorporated herein and made a part hereof by reference. Parking stalls adjacent to a property line or required yard shall include wheel stops or other methods to prevent vehicles from extending or rolling over such property line or required yard.

#### 5.09 Loading

Commercial uses and development shall not be required to provide a minimum number of loading spaces. However, if loading is provided, it shall be designed so that no loading activity and no parking or maneuvering are conducted within a public or private street right-of-way or required off-street parking area. No loading berth or door shall be located on the front of the building. All loading berth, parking and maneuvering areas shall be hard surfaced to provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one year after the commencement of the use served.

#### 5.10 Landscaping

In all commercial zoning districts, at least one tree and three shrubs shall be provided per ten off-street parking spaces on the lot, in addition to the requirements of Article 5.12, Transitional Yard Screening. Trees and shrubs may be either deciduous or coniferous. Trees should measure at least one and one-half inches in caliper, as measured at six inches above the root ball, at the time of planting and have a characteristic mature height of at least twenty feet. Shrubs should measure at least twelve inches in height at the time of planting and have a characteristic mature height of at least three feet. Existing trees and shrubs, whether growing naturally or planted prior to development, may be counted to comply with this section.

#### 5.11 Fencing

Fencing shall be permitted in all commercial zoning districts provided it is not located within any clear-sight triangle, as defined herein, for the premises or adjacent properties. Fencing on the lot of any residence shall be limited to a maximum height of four feet if located in front of the established front building line for the lot or six feet if located behind the established front building line. Said maximum heights may be reasonably exceeded by up to two feet in additional height for a maximum lineal distance of eight feet to accommodate variations in grade elevations. For agricultural uses and activities, fences shall be limited in height to that which is necessary and essential to such use or activity. The use of barbed wire, razor wire or similar fencing materials shall be permitted only if absolutely necessary and essential to a permitted use or activity and shall be

removed when such use or activity ceases for one year. Disputes and issues regarding fence height and/or type of fencing, i.e. barbed wire, razor wire or similar fencing, shall be resolved by the Board of Zoning Appeals by decision after notice and hearing, which decision shall apply only to the fencing issues, disputes and premises involved in such hearing.

5.12 Transitional Yard Screening

Any combination of landscaping, fencing and earth mounding may be used as screening within a required transitional yard. However, such screening in side and rear transitional yards shall be sufficient to provide a barrier for sight, sound and light. In front transitional yards, such barrier screening shall be required only if off-street parking or drives for internal traffic circulation are located between the building and the front property line. Disputes regarding the sufficiency and type of screening shall be resolved by the Board of Zoning Appeals by decision after notice and hearing, which decision shall apply only to the disputed issues and premises involved in such hearing.

5.13 Signs See Sign Code

5.14 Additional Requirements and Standards

All commercial uses and development shall comply with the following requirements and standards:

1. Trash containers shall be located behind the established front building line and shall be screened by a fence or wall, with gates, sufficient to block the visibility thereof.
2. Exterior vending machines shall be located immediately adjacent to the building wall.
3. Exterior sales and display area shall not be located within any required parking, building setback or transitional yard, except the outdoor display and sale of motor vehicles may be located within the front setback subject to the provision of a landscaped yard measuring not less than ten feet from the street right-of-way line, unless subject to the provisions of Article 5.12, Transitional Yards.



**ARTICLE VI**  
**Industrial Districts**

6.01 Permitted Uses

Primary uses shall be permitted in industrial zoning districts according to the following table. Uses not specifically listed may also be permitted as primary uses if they are of similar character and have no adverse influence or no more adverse influence on adjacent properties, the neighborhood or community than those specifically listed. Disputes regarding uses not specifically listed as permitted shall be settled by the Board of Zoning Appeals by decision, after notice, hearing.

<b>TABLE 6.01.1</b>	
<b>Industrial Primary Uses and Districts</b>	
<b>District</b>	<b>Primary Uses</b>
M-1	All uses permitted in C-3 Bakery, industrial with accessory retail sales Blacksmith Bottling of alcoholic or non-alcoholic beverages Brewing and distillation of liquor and spirits and other malt products Canning Coffee roasting Contractors: construction, building trades, and signs, etc. Creamery Distribution center Food and tobacco preparation and packaging Electrical transmission distribution Exterminating Engineering and research laboratories Granaries, grain processing and milling Industrial schools and training facilities Machine shop, wood, metal, plastic and nonferrous metals Manufacturing or assembly of: appliances, bicycles, biological products, cabinets, ceramic or clay products, clocks, cloth and clothing products, communication equipment, electrical components, electrical lights and wiring equipment, electronics, furniture, jewelry, leather products, light component parts of products, musical instruments, office equipment, optical and ophthalmic goods, sporting goods, tools and implements, toys and games Motor truck terminal NC-SES=/Under 10 kW Publishing Railroad and other mass transportation terminals and facilities Tool and die shop Upholstery shop Warehouses Water towers and storage tanks <sup>1</sup> Welding shop Wholesaling

M-2	<p>Any use permitted in M-1</p> <p>Animal, fish and fowl slaughtering</p> <p>Building material and lumber yards and mills</p> <p>Coal yards, Coke ovens</p> <p>Electroplating operations</p> <p>Foundry, any type</p> <p>Heavy equipment storage</p> <p>Manufacture or assembly of: automobiles, boats, boiler tanks, glass, metal and plastic cans and containers, construction equipment and machinery, dyes, engines and turbines, elevators, fabricated structural metal products, farm equipment and machinery, gelatin, glue, ink, lacquers, linoleum, motor vehicles, oleomargarine, paints, paper, plaster, railroad equipment, rubber and rubber products, soaps and detergents, tires and inner tubes, trailers, trucks, varnishes</p> <p>Metal stamping and fabricating</p> <p>Natural gas storage, transmission and distribution</p> <p>NC-SES=/Under 10 kW</p> <p>Pharmaceuticals</p> <p>Power plant, electrical, steam and thermal</p> <p>Propane gas storage</p> <p>Recycling facility, Scrap metal and junk salvage and storage</p> <p>Rolling or extruding of metal</p> <p>Salvage yard: motor vehicle without vehicle crushing or shredding, tire recapping</p> <p>Textile mills</p> <p>Utility pole and pipe yards</p> <p>Wrecker or towing service</p>
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<sup>1</sup>Storage tanks of any kind shall be subject to and comply with all other governmental regulations.

The following uses shall be permitted in industrial zoning districts upon approval of a Conditional Use Permit approved by the Board of Zoning Appeals of Randolph County:

<b>TABLE 6.01.2</b>
<b>Industrial Conditional Uses</b>
Adult entertainment business
Advertising or billboard signs <sup>1</sup> (See Sign Code)
Airport or aircraft landing field and heliport
Cemetery, crematory, mausoleum
Church, convent, monastery, rectory, parish house
Commercial WECS (Wind Energy Conversion System)
Country club, golf course, including commercially operated driving range and miniature golf
Fraternal or religious institution
Hospital, sanitarium
Library, public
Micro WECS (Wind Energy Conversion System)
Park, playground and community center, public only
Parking, off-site for industrial uses
School, college, university
Water reservoir, excluding lakes and ponds

<sup>1</sup>Unless otherwise authorized by and then subject to the provisions of the federal Highway Beautification Act of 1965, Public Law 89-285, and the Acts of the General Assembly of the State of Indiana, along limited access and interstate highway height.

The following uses shall be permitted in industrial zoning districts upon approval of a Petition for Special Exception by the Board of Zoning Appeals of Randolph County:

<b>TABLE 6.01.3 Industrial Special Exception Uses</b>
Athletic fields and courts, public or private
Blast furnaces
Bulk storage of petroleum products
Carbon Capture and Sequestration (CCS)
Fat rendering
Landfill
Leather curing and tanning
Manufacture or assembly of: acid, batteries, cement, chemicals, creosote including treatment, dextrin, disinfectants, explosives, fertilizer, fireworks, glucose, gypsum, insecticides, lime, matches, perfume, plastics, poisons, starch, synthetic resins, vinegar
Mining, any type
NC-SES over 10 kW
C-SES
Nuclear power plant
Private club or lodge, except those whose chief activity is customarily carried on as a business
Public utility or service use, including bus turn-around, fire station, police station, art gallery, museum, railroad, sewage treatment plant, telephone exchange, water filtration plant, water pumping station
Radium extraction
Sand and gravel mining
Stadiums, arenas
Towers and antennas 300 feet and over <sup>1</sup>

<sup>1</sup>All such towers and antennas shall comply with the requirements found in Article XVII.

6.02 Appurtenances

Appurtenant features, such as walks, drainage installations, mailboxes, lamp posts, bird baths and feeders, central air conditioning units, and improvements similar and comparable in nature and purpose, shall be permitted on any industrial lot and shall be exempt from the standards provided herein.

6.03 Minimum Lot Area and Dimensions

No minimum lot area or width shall be required for industrial development so long as the minimum requirements of this ordinance are met. All industrial uses and development shall be connected to a sanitary sewer system. Any industrial use with fifty feet or less of frontage on a public street shall be considered an industrial park with the properties to both sides along the same street frontage. Industrial development situated on a corner lot may include both street frontages in meeting such minimum requirement to be considered free-standing development.

6.04 Minimum Front Setbacks

Minimum front setbacks shall be provided for all improvements, except decks and patios the surface of which measures eighteen inches or less from grade level, in all industrial zoning districts according to the following table:

<b>TABLE 6.04.1 Minimum Front Setbacks<sup>1,2</sup></b>		
<b>Street Type</b>	<b>Buildings/Structures</b>	<b>Parking</b>
Limited Access or Interstate Highway	100 feet	20 feet
Primary Arterial <i>HWY 27, 32, 35, 36</i>	50 feet	10 feet
Secondary Arterial <i>HWY 1, 28, 227</i>	40 feet	10 feet
Collector Street <i>Co. Rds. Columbia, Chestnut, Washington</i>	30 feet	6 feet
Local Street <i>City Streets, (20-30 mph)</i>	25 feet	6 feet
Cul-de-sac Street	20 feet	6 feet
Private Street	20 feet	4 feet

<sup>1</sup>Subject to Articles 6.07 and 6.12, Transitional Yards.

<sup>2</sup>Off-street parking may be located within the required front setback subject to the provision of a landscaped yard measuring at least six feet in width from the street right-of-way line unless subject to the provisions of Articles 6.07 and 6.12, Transitional Yards.

6.05 Minimum Side and Rear Setbacks

No minimum side and rear setbacks of twenty feet shall be required in industrial zoning districts unless adjacent to a residential zoning district, church, school or park, in which case a minimum setback for all improvements, except screening and landscaping, shall comply with Articles 6.07 and 6.12, Transitional Yards, unless a commercial or industrial use has been legally established on such adjacent property.

6.06 Maximum Height

The maximum height of buildings shall be in accordance with the following table:

<b>TABLE 6.06.1 Maximum Height</b>	
<b>Zoning District</b>	<b>Height</b>
M-1	35 feet
M-2	50 feet

6.07 Transitional Yards

Wherever a residential zoning district, church, school or park property line adjoins an industrial zoning district, transitional yards and setbacks shall be provided for all improvements, except screening and landscaping, unless a commercial or industrial use has been legally established on such adjoining property. Side and rear transitional yard setbacks shall measure at least twenty feet in width. Front transitional yards shall be provided in accordance with the following table:

**TABLE 6.07.1  
Front Transitional Yards**

<b>Street Type</b>	<b>Transitional Yard Setback</b>
Limited Access or Interstate Highway	20 feet
Primary Arterial <i>HWY 27, 32, 35, 36</i>	20 feet
Secondary Arterial <i>HWY 1, 28, 227</i>	20 feet
Collector Street <i>Co. Rds. Columbia, Chestnut, Washington</i>	30 feet
Local Street <i>City Streets, (20-30 mph)</i>	50 feet
Cul-de-sac Street	50 feet
Private Street	50 feet
Alley	50 feet

**6.08    Parking**

In all industrial zoning districts, a minimum of one off-street parking space shall be provided for each two employees on the largest work shift plus one space per two hundred square feet of gross floor area devoted to office activities. Accessory retail uses shall provide additional parking as required by Table 5.08.

Off-street parking for all commercial development shall be hard surfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one year after the commencement of the use served. Each parking stall shall be lined or striped and maintained with a durable paint or tape and open directly upon an aisle of sufficient width and design to provide safe and efficient access thereto. Dimensions of parking stalls and access aisles therefor shall adhere to the recommended specifications contained in the most current published version Architectural Graphic Standards, Ramsey Sleeper, John Wiley and Sons, Inc., a copy of which is on file in the office of the Area Planning Commission and incorporated herein and made a part hereof by reference. Parking stalls adjacent to a property line or required yard shall include wheel stops or other methods to prevent vehicles from extending or rolling over such property line or required yard.

**6.09    Loading**

Industrial uses and development shall not be required to provide a minimum number of loading spaces. However, if loading is provided, it shall be designed so that no loading activity and no parking or maneuvering are conducted within a public or private street right-of-way or required off-street parking area. No loading berth or loading door shall be located on the front of the building. All loading berth, parking and maneuvering areas shall be hard surfaced to provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one year after the commencement of the use served.

**6.10    Landscaping**

In all industrial zoning districts, at least three trees and nine shrubs shall be provided for each acre or portion of an acre of the lot, in addition to the requirements of Articles 6.06 and 6.11, Transitional Yard Screening. Trees and shrubs may be either deciduous or coniferous. Trees should measure at least one and one-half inches in caliper, as measured at six inches above the root ball, at the time of planting and have a characteristic mature

height of at least twenty feet. Shrubs should measure at least twelve inches in height at the time of planting and have a characteristic mature height of at least three feet.

6.11 Fencing

Fencing shall be permitted in all industrial zoning districts provided it is not located within any clear-sight triangle, as defined herein, for the premises or adjacent properties. Fencing on the lot of any industrial use shall be limited to a maximum height of four feet if located in front of the established front building line for the lot or six feet if located behind the established front building line. Said maximum heights may be reasonably exceeded by up to two feet in additional height for a maximum lineal distance of eight feet to accommodate variations in grade elevations. Disputes regarding fence height may be resolved by the Board of Zoning Appeals by resolution, which resolution shall apply only to the disputed fence and premises. For industrial uses and activities, fences shall be limited in height to that which is necessary and essential to such use or activity. The use of barbed wire, razor wire or similar fencing materials shall be permitted only if absolutely necessary and essential to a permitted use or activity and shall be removed when such use or activity ceases for one year. Disputes and issues regarding fence height and/or type of fencing, i.e. barbed wire, razor wire or similar fencing, shall be resolved by the Board of Zoning Appeals by decision after notice and hearing, which decision shall apply only to the fencing issues, disputes and premises involved in such hearing.

6.12 Transitional Yard Screening

Any combination of landscaping, fencing and earth mounding may be used as screening within a required transitional yard. However, such screening in side and rear transitional yards shall be sufficient to provide a barrier for sight, sound and light. In front transitional yards, such barrier screening shall be required only if off-street parking or drives for internal traffic circulation are located between the building and the front property line. Disputes regarding the sufficiency and type of screening shall be resolved by the Board of Zoning Appeals by decision after notice and hearing, which decision shall apply only to the disputed issues and premises involved in such hearing.

6.13 Signs See Sign Code

6.14 Additional Requirements and Standards

All industrial uses and development shall comply with the following requirements and standards:

1. Trash containers shall be located behind the established front building line and shall be screened by a fence or wall, with gates, sufficient to block the visibility thereof.
2. Outdoor storage of any products or materials and outdoor operations, except parking and loading, shall be effectively screened on all sides so that no such storage or activities is visible from adjoining streets or properties. No such products, materials or activities shall exceed the height of the required screening. No such outdoor storage or activities shall occur within a required yard and setback or in front of the established front building line. Such screening may be accomplished with one or a combination of landscaping, fencing and earth mounding.

**ARTICLE VII**  
**Planned Development District**

7.01 Intent

- (A) PD zoning may be used to foster innovative and diverse design in land development that is still consistent with both the adopted Comprehensive Plan and the intent of the Unified Zoning and Subdivision Ordinances. To achieve this, the Plan Commission does not apply any other provisions of this Chapter. Instead, the Plan Commission negotiates a specific development plan with the petitioner for PD zoning and representatives of the checkpoint agencies. The combined elements of this negotiated plan, rather than the zoning regulations, then become the subject of the rezoning process. All restrictions and regulations for a specific Planned Development are thus contained within the approved and recorded plan itself, having been arrived at prior to rezoning. PD zoning may be applied to existing development or to open land, on small or larger tracts.
- (B) The Plan Commission's goal is to provide a widening variety of environmentally appropriate residential, nonresidential and mixed use developments to meet the needs of the community. To help create attractive, healthful, efficient and stable places to live, shop and work, the Plan Commission encourages use of PD zoning within the following contexts:
- (1) to accommodate compatible development in environmentally sensitive locations;
  - (2) to enhance compatibility with surrounding land uses;
  - (3) to permit a harmonious variety of uses within a single development;
  - (4) to promote efficiency and thus economy by clustering structures and/or by using shared facilities or services;
  - (5) to foster new site treatments not contemplated in other kinds of zones.

7.02 Origination of Proposals

- (A) A request to rezone from any other zoning classification to PD zoning may be initiated by:
- (1) all owners of the property in question; or
  - (2) any group of owners united in interest, acting jointly in pursuance to an agreement to carry out the proposal in separate ownership.
- (B) Because of the unified design of a planned development and because the combined elements of the negotiated plan are the substance of the zone itself, this ordinance requires that a request to reclassify from PD to PD shall include amongst the petitioners either:
- (1) all owners of the property within the current planned development; or
  - (2) the owner's association acting on behalf of a majority of the property owners in the current planned development, as constituted in the recorded bylaws.
- (C) Also, in keeping with the provisions contained herein, PD zoning is mandatory for any new condominium or condominium conversion.

7.03 Classification of Planned Development

- (A) To identify the nature of planned development on zoning maps, they shall be classified as one of these four zones:

- (1) PDRS, in which all buildings and land are developed for residential use and those activities customarily accessory to residential use;
- (2) PDNR, in which no buildings and land are developed for residential use, but rather for commercial and/or industrial and/or recreational and/or some other nonresidential use;
- (3) PDMX, in which buildings and land are developed as a mix of both residential and nonresidential uses;
- (4) PDCC, in which the only change proposed involves either:
  - (a) the conversion to condominium ownership of a development which has received occupancy permits for all parts no less than three years prior; or
  - (b) the conversion to condominium ownership of an existing building in any zone; where there is no further division of land involved.

7.04 Pre-Submission Conference

- (A) No pre-submission conference is required before submitting a rezoning request to PDCC.
- (B) Before submitting any of the materials required for a rezoning request to either PDRS, PDNR or PDMX, the petitioner shall arrange a meeting with staff and the appropriate Administrative Officer.
- (C) The petitioner shall bring to this meeting a drawing or sketch of the proposed planned development that:
  - (1) is at least approximately scaled;
  - (2) includes the entire tract;
  - (3) shows, in at least schematic detail, location of proposed uses and major buildings, layout and classification of roads, all entrances and exits, any environmentally sensitive areas;
  - (4) proposes treatment of environmentally sensitive areas;
  - (5) indicates phasing and a time frame for development.
- (D) Discussion at this meeting shall include:
  - (1) the intent and requirements of PD zoning;
  - (2) the petitioner's intentions and objectives regarding land use, street improvements, utilities and similar matters;
  - (3) the petitioner's intentions assuring compatibility between uses proposed for the perimeter of the PD and surrounding land uses and zoning classifications;
  - (4) general availability of utilities to the site;
  - (5) the area's current zoning pattern and all elements of the Comprehensive Plan;
  - (6) specific materials and documents required herein to be included with the submission, and a list of checkpoint agencies to be involved;
  - (7) classification of the proposed rezoning as either PDRS, PDNR, or PDMX; and
  - (8) a proposed schedule for the rezoning process.

7.05 Filing Requirements for a PD Rezoning Request with Draft Plan

- (A) After a pre-submission meeting, or to initiate a PDCC action, the petitioner may file a rezoning request to one of the PD classifications. The last working day of each month is the deadline for a petitioner to make a complete submission intended to be heard as a rezoning request no sooner than the Plan Commission's public meeting about 1 ½ months later.
- (B) This submission shall contain the following:

- (1) a non-refundable processing fee as set by the Plan Commission;
  - (2) a signed and notarized Petition to Rezone with metes and bounds legal description, indicating the PD classification being sought, signed by the owner or owners of all property involved, or with a notarized Affidavit of Consent of all owners attached;
  - (3) a list of names, addresses and auditor's key numbers of all property owners located adjacent to and directly across the street, alley or rail-road right-of-way from the property involved;
  - (4) two Notices of Public Hearing, each with a metes and bounds or other proper legal description and the common address or location of the property;
  - (5) a typed original and three copies of the proposed ordinance to rezone the property, using the sample format provided by staff;
  - (6) three sets of drawings, labeled Draft Plan, using the format prescribed by the Plan Commission, to include a published and recorded boundary survey meeting the requirements of IAC Title 865 Article 1 Rule 12 or its successor, plus a full and detailed site analysis and proposed site plan, utilities plan and landscape plan;
  - (7) if dividing land, three copies of the preliminary plan, prepared by a Registered Land Surveyor or Engineer;
  - (8) three copies of any proposed covenants and horizontal property ownership and owner's association documents, each of which shall include a Table of Contents and be written in plain language easily understood by most readers; and
  - (9) signatures of all required checkpoint agencies, or post office receipts of certified mailing, indicating receipt of one set of each of the items listed as (7) through (9)
- (C) Checkpoint agencies to be provided with sets of plans and other documents will have been determined at the pre-submission meeting. They include those agencies having jurisdiction in areas potentially affected by the proposed development. The list may be drawn from the agencies listed Table 7.05.1, Checkpoint Agencies:

<b>TABLE 7.05.1</b>	
<b>Checkpoint Agencies</b>	
<b>City of Winchester</b>	
Waste Water Treatment Superintendent	Board of Works
Streets & Parks Superintendent	Police Chief
Fire Chief	Randolph County Health Department
United Water Company	AEP - American Electric Power
Ohio Valley Gas Corporation	Indiana Department of Transportation
IDNR - Soil & Water Conservation	Randolph Central School Corp. - Transportation
Randolph Co. Community & Economic Development Foundation	Randolph County Building Commission
Randolph County Surveyor	
<b>City of Union City</b>	
Waste Water Treatment Superintendent	Board of Works
Streets & Parks Superintendent	Police Chief
Fire Chief	Randolph County Health Department
Municipal Water Company	AEP - American Electric Power
Ohio Valley Gas Corporation	Indiana Department of Transportation
IDNR - Soil & Water Conservation	Randolph Eastern School Corp. - Transportation
Randolph Co. Community & Economic Development Foundation	Randolph County Building Commission
Randolph County Surveyor	
<b>Towns of Randolph County</b>	
Town Marshall	Randolph County Building Commission
Town Clerk	Randolph County Health Department
Town Fire Chief	Appropriate School Corp. - Transportation
Appropriate electric, gas, telephone utility	IDNR - Soil & Water Conservation
Indiana Department of Transportation	Randolph County Surveyor
Randolph Co. Community & Economic Development Foundation	
<b>Randolph County Officials</b>	
Sheriff Department	County Highway Superintendent
Sanitation Department	County Surveyor
County Solid Waste Management District	Township Fire Chief
Indiana Department of Transportation	IDNR - Soil & Water Conservation
County Health Department	

(D) If the petitioner fails to meet the filing requirements contained herein within six months of the pre-submission meeting date, the petitioner shall schedule a new pre-submission meeting in order to continue the project.

**7.06 Required Review Meeting**

(A) The Plan Commission’s staff shall determine if the petitioner’s submission is complete. If it is, written notices shall be sent to the petitioner, the petitioner’s representatives, the checkpoint agencies and the staff, scheduling a Required Review Meeting to be held on or before the third Wednesday of that month. If the submission is found to be incomplete, the staff shall provide the petitioner with a written

statement detailing its deficiencies regarding items contained herein. The last day of that month will then be the next filing deadline for a complete submission.

- (B) At the Required Review Meeting, the staff and checkpoint agency representatives will have an opportunity to recommend revisions to the Draft Plan submission and discuss them with the petitioner and petitioner's representatives. Checkpoint agencies may provide written comments to the Executive Director instead of being present.

7.07 Preliminary Plan Submission Requirements

- (A) Following the Required Review Meeting, the petitioner shall submit a Preliminary Plan no later than the last Wednesday of the month preceding the intended public hearing. A complete Preliminary Plan submission shall contain the following:
  - (1) eight sets of drawings, labeled Preliminary Plan, containing all the elements of the Draft Plan reflecting changes resulting from the Required Review Meeting;
  - (2) if dividing land, eight copies of the Preliminary Plat, prepared by a Registered Land Surveyor or Engineer; and
  - (3) eight copies of any covenants and horizontal property ownership and owners' association documents, which shall include a Table of Contents and be written in plain language easily understood by most readers.
- (B) If the petitioner fails to meet the Preliminary Plan submission requirements within six months of the date of the Required Review Meeting, the rezoning petition shall be void. If the petitioner wishes to continue with the project, he shall schedule a new pre-submission meeting.

7.08 Preliminary Plan Hearing and Disposition

- (A) The petition and Preliminary Plan shall then be heard by the Plan Commission as a Petition for Zoning Ordinance Amendment, subject to the procedures that apply to such an amendment. Upon hearing the request, the Plan Commission may recommend either approval, amendment, or disapproval of the Preliminary Plan, or may vote no recommendation pursuant to APC bylaws.
- (B) The Plan Commission may impose reasonable conditions with its recommendation. These conditions shall only involve the inclusion of additional items unrelated to the project's design. Such items include being granted additional approval by another governmental agency such as the Drainage Board, or obtaining permission to attach to an existing utility.
- (C) If the Plan Commission requires changes in design, regarding the proposed site, utilities or landscape plans, then the Plan Commission shall vote to recommend amendment. Should this happen, the petitioner may resubmit a second Preliminary Plan for a later rehearing by the Plan Commission.
- (D) If the Plan Commission recommends approval, disapproval or no recommendation, the eight sets of Preliminary Plans (including drawings, plats and covenants) shall be stamped with that recommendation and signed by the President and Secretary of the Plan Commission. The distribution of these sets shall be as follows:
  - (1) one set shall be permanently retained in the Office of the Plan Commission;
  - (2) two sets shall be returned to the petitioner;
  - (3) four sets shall be distributed by staff, with one set going to each of the appropriate gas, electric, telephone, cable television utilities; and
  - (4) one set shall be certified to the appropriate legislative body for adoption as a Planned Development Zone pursuant to the laws governing zoning ordinance amendments.

- (E) The legislative body may adopt or defeat the certified Preliminary Planned Development, but shall not amend it. If it is adopted by the legislative body, the petitioner may prepare Final Detailed Plans.

7.09 Approval of Final Detailed Plans for PDCC Zones

- (A) Following rezoning to PDCC by the legislative body, the petitioner may submit Final Detailed Plans. The petitioner cannot file required condominium documents with the County Recorder until the staff approves the Final Detailed Plans.
- (B) A complete PDCC Final Detailed Plans submission shall contain the following:
  - (1) evidence that any conditions imposed by the Plan Commission at the time of its hearing have been met;
  - (2) a minimum of eight sets of drawings, labeled Final Detailed Plans – Condominium Conversion, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate Administrative Officer. The number of sets shall be determined by staff;
  - (3) a minimum of eight signed copies of any covenants and horizontal ownership and owners' association documents. These shall include a Table of Contents and be written in plain language easily understood by most readers. The number of copies shall be determined by staff.
- (C) The staff shall review these Final Detailed Plans within five working days of the petitioner's submission. If the staff finds they comply with the above, the staff shall approve them by attaching a Certificate of Approval, signed and dated by the Executive Director, stating its finding of compliance. If the staff finds them incomplete, the staff shall notify the petitioner of the deficiencies. After this Certificate of Approval is attached, the petitioner shall not submit an alternate or revised set of Final Detailed Plans for the same legal description, except under circumstances described herein.

7.10 Approval of Final Detailed Plans for PDRS, PDNR and PDMX Zones

- (A) Following rezoning to PDRS, PRNR or PDMX, the petitioner may file Final Detailed Plans. The petitioner can neither seek Improvement Location Permits nor begin any development activity until the Plan Commission approves these Final Detailed Plans and the petitioner records them. To be complete, the Final Detailed Plans shall have already been approved and signed by the appropriate Administrative Officer, any applicable sanitary sewer and water provider, public or private; and if outside the Cities of Winchester and Union City, the County Highway Department and the County Surveyor on behalf of the Drainage Board. Final Detailed Plans may be submitted for the entire project or any part of it.
- (B) A complete PDRS, PDNR or PDMX Final Detailed Plans submission shall contain the following:
  - (1) evidence that any conditions imposed by the Plan Commission at the time of its hearing have been met. If Final Detailed Plans for only part of the project are being submitted, only those conditions bearing on that part need be met;
  - (2) ten sets of drawings, labeled Final Detailed Plans, consisting of all the elements of the Approved Preliminary Plan, plus full construction plans for all public improvements to be installed by the developer.
  - (3) ten signed copies of any covenants and horizontal property ownership and owners' association documents. These shall include a Table of Contents and be

written in plain language easily understood by most readers. The number of copies shall be determined by staff.

- (4) a release from the mortgage company, if any, covering the necessary right-of-way, where right-of-way is to be dedicated.
  - (5) if one or more lots are being created, the petitioner shall provide ten copies and a reproducible Mylar of the signed final plat, prepared by a registered land surveyor or engineer, with a Planned Development Dedication Certificate appended. The petitioner may either submit this final plat along with items (1) through (4) above or at a later time. In either event, the final plat is a part of the Final Detailed Plans, and as such, no Improvement Location Permit shall be issued until the plat is approved and recorded.
- (C) If public improvements or improvements for common usage are to be installed by the petitioner, he or she shall either:
- (1) complete the improvement upon approval of the construction plans portion of the Final Detailed Plans; or
  - (2) ask the Plan Commission's approval at the time the plat is approved (whether submitted with construction plans or at a later time), to post bond for these improvements, or submit a certified check, or irrevocable letter of credit or certificate of deposit. No Improvement Location Permit for a dwelling unit shall be issued until surety has been provided.
- (D) If the Plan Commission finds the submission of the Final Detailed Plans (with final plat, or final plat alone after previous portions of Final Detailed Plans have been approved) to conform to the Approved Preliminary Plan as adopted by the legislative body at the time of rezoning, the Plan Commission shall adopt a resolution. After this resolution is adopted, the petitioner shall not submit an alternative or revised set of Final Detailed Plans for the same legal description, except under circumstances described herein.
- (E) The adopted resolution shall be signed and dated by the President and Secretary of the Plan Commission, and a copy shall be attached to the front of each set of approved Final Detailed Plans.
- (F) Adoption of a resolution shall neither constitute nor imply a participating jurisdiction's acceptance of any street, easement or park shown in Final Detailed Plans. Acceptance is only that of real property itself. The Plan Commission may require notes to this effect.

#### 7.11 Recording Approved Detailed Plans

- (A) Before performing any development, construction or earth moving activity, or applying for Improvement Location Permits, or filing any required condominium documents, the petitioner shall record the Approved Final Detailed Plans in the Office of the Recorder of Randolph County.
- (B) The staff shall accompany the petitioner in the recording process. Final Detailed Plans shall first be stamped and dated in the County Auditor's Office, with one set of plans given the County Auditor. The remaining sets of Final Detailed Plans shall then be stamped, numbered and recorded at the County Recorder's Office, and then distributed by the petitioner. The staff shall provide the petitioner a list of agencies to which the petitioner shall distribute sets of approved and recorded plans. The petitioner shall keep at least one set.

- (C) If the petitioner fails to record the Final Detailed Plans for all or any part of the entire project within thirty days of the date of their approval, that approval expires. In order to continue, the petitioner shall resubmit Final Detailed Plans for approval.
- (D) Any construction that does not fully comply with recorded Final Detailed Plans will be subject to appropriate enforcement action.

7.12 Amending Recorded Final Detailed Plans

- (A) A property owner may wish to make changes to a PDRS, PDNR or PDMX project after Final Detailed Plans have been recorded. If these changes are determined to conform to the Approved Preliminary Planned Development as adopted by the legislative body, and to constitute a minor modification only, then changes shall be recorded as an Amended Final Detailed Plans.
  - (1) this written determination of conformance and minor modification shall be made and signed by the appropriate Administrative Officer and attached to each copy of the Amended Final Detailed Plans before recording
  - (2) a minor modification cannot include: any increase in residential density; any change in building dimension or location unless all other development standards set forth are met; any change in lot lines; any change in landscaping other than substitution of species or redesign with the same materials; any alteration in the size and/or location of signs; any change in type of land use; any change in the alignment or intersection of streets unless requested or required by the appropriate governmental agency; or any change in restrictive covenants, or horizontal ownership and owners' association documents regarding these items;
  - (3) submission requirements and a timetable for seeking a determination of conformance and minor modification shall be set by each Administrative Officer;
  - (4) changes beyond the scope of minor modification require rezoning.
- (B) For any newly constructed condominium project or attached zero-lot-line project, the property owners shall provide exact measurements locating buildings and common lot lines after foundations have been put in place. The revised plat reflecting exact locations needs to be approved and signed by the appropriate Administrative Officer as Amended Final Detailed Plans and recorded.

7.13 Lapsed and Abandoned Planned Developments

- (A) An intended condominium conversion has lapsed if two years have passed since the date on which rezoning to PDCC was granted, and no Final Detailed Plans have been approved and recorded. Following such lapse, the Plan Commission shall initiate a petition to rezone the property to its previous classification(s).
- (B) A planned development has been abandoned if two years have passed since the date on which rezoning to PDRS, PDNR or PDMX was granted, and no Final Detailed Plans have been approved and recorded for the project or any part or phase of it; or
- (C) Parts or phases of a planned development have been abandoned if ten years have passed since the date on which rezoning to PDRS, PDNR or PDMX was granted, and only Final Detailed Plans for other parts or phases have been approved and recorded.
- (D) An Administrative Officer cannot issue an Improvement Location Permit for an abandoned planned development or an abandoned part or phase of a planned

development. An abandoned planned or abandoned part or phase shall be rezoned (and if to a PD classification, comply with the provisions contained herein) before the property's owner once more becomes eligible to receive an Improvement Location Permit at that location.

- (E) Neither the Plan Commission nor any legislative body shall initiate a petition to rezone any PD-zoned property unless it has either lapsed or been abandoned.

7.14 Covenants and Maintenance

- (A) To assure property owners that all aspects of a planned development remain in conformance with plans adopted by the legislative body at the time of rezoning, restrictive covenants and any horizontal property ownership and owners' association documents can only be changed through the procedures contained herein.
- (B) These changes may be initiated only by a majority of property owners within the planned development. Multiple owners of a single property shall be considered a single owner. The developer shall be considered a single owner until all property is sold.
- (C) The Administrative Officer may determine that these changes constitute a minor modification if they meet the requirements contained herein. Changes to these documents which would alter design aspects of the project, or which are determined by the Administrative Officer to be beyond the scope of minor modification require rezoning. Covenants and any horizontal property ownership and owners' association documents shall reflect the provisions of this section.
- (D) A planned development containing common facilities shall be provided with an owners' association or other private organization responsible to and controlled by the property owners. This organization's purpose is to ensure adequate operation and maintenance of these common facilities, which may include but are not limited to private streets, common areas, landscaping, and amenities such as a clubhouse, pool or tennis courts. Recorded legal assurances shall be provided which show this organization to be self-perpetuating.
- (E) All streets and roadways not dedicated to nor accepted by a public agency, and all other common facilities not dedicated to the public, shall be operated and maintained at no expense to any governmental unit.



**ARTICLE VIII  
FLOOD DAMAGE PREVENTION ORDINANCE**

**8.01 Statutory Authorization, Findings of Fact, Purpose, and Methods**

**8.01.1 Statutory Authorization**

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the Board of Commissioners of Randolph County does hereby adopt the following floodplain management regulations.

**8.01.2 Findings of Fact**

The flood hazard areas of Randolph 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. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

**8.01.3 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) Protect human life and health.
- 2) Minimize expenditure of public money for costly flood control projects.
- 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- 4) Minimize prolonged business interruptions.
- 5) 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) 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 area.
- 7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- 8) Minimize the impact of development on adjacent properties within and near flood prone areas.
- 9) Ensure that the flood storage and conveyance functions of the floodplain are maintained.
- 10) Minimize the impact of development on the natural, beneficial values of the floodplain.
- 11) Prevent floodplain uses that are either hazardous or environmentally incompatible.
- 12) Meet community participation requirements of the National Flood Insurance Program.

**8.01.4 Methods of Reducing Flood Loss**

In order to accomplish its purposes, these regulations include methods and provisions for:

- 1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities.
- 2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction.

- 3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.
- 4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage.
- 5) Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

## **8.02 Definitions**

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

**Accessory Structure** means a structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

- 1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- 2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.
- 3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
  - a) Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence.
  - b) Structures used by the public, such as a place of employment or entertainment.
  - c) Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

**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.

**Alteration of a watercourse** means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard, or change the direction and/or velocity of the flow of water during conditions of the base flood.

**Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

**Area of special flood hazard** is the land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.

**Base flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

**Base Flood Elevation (BFE)** means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

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

**Best Available Flood Layer (BAFL)** means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

**Building** – See "Structure."

**Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

**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, and installations which produce, use, or store hazardous materials or hazardous waste.

**Development** means, for floodplain management purposes, 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 boat lifts, docks, piers, and seawalls;
- 7) construction and/or reconstruction of bridges or culverts;
- 8) storage of materials; or
- 9) 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.

**Elevation Certificate** means a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

**Enclosed area** (enclosure) is an area of a structure enclosed by walls on all sides.

**Enclosure below the lowest floor.** See “Lowest Floor” and “Enclosed Area.”

**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.

**Fill** for floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

**Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) The overflow of inland or tidal waters.
- 2) The unusual and rapid accumulation or runoff of surface waters from any source.
- 3) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

**Flood hazard area** means areas subject to the one percent (1%) annual chance flood. (See “Special Flood Hazard Area”)

**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. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS)** means the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM 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 “Floodplain”)

**Floodplain** or **flood prone area** means any land area susceptible to being inundated by water from any source. (See “Flood”)

**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 zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**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.

**Floodway** is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**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** or **Flood Fringe** is the portion of the floodplain lying outside the floodway.

**Functionally dependent use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Hardship** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. Randolph County 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 that is:

- 1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

**Hydrologic and hydraulic engineering analysis** means analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

**International Code Council-Evaluation Service (ICC-ES) Report** means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

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

**Letter of Map Change (LOMC)** is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

- 1) **Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
- 2) **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- 3) **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or area of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

- 4) **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
- 5) **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.
- 6) **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

**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, for floodplain management purposes, the lowest elevation described among the following:

- 1) The lowest floor of a building.
- 2) The basement floor.
- 3) The garage floor if the garage is connected to the building.
- 4) The first floor of a structure elevated on pilings or pillars.
- 5) 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 floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
  - a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
  - b) At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) 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. Doorways and windows do not qualify as openings.
- 6) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

**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.

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

**Natural grade** for floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

**New construction** for floodplain management purposes means any structure for which the “start of construction” commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**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-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See “Regulatory Flood”.

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

**Prefabricated Building** is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

**Principally above ground** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**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 temporary living quarters for recreational camping, travel, or seasonal use.

**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 8.03.2 of this Ordinance. The "Regulatory Flood" is also known by the term "Base Flood", “One-Percent Annual Chance Flood”, and “100-Year Flood”.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Solid waste disposal facility** means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

**Special Flood Hazard Area (SFHA)**, synonymous with “areas of special flood hazard” and floodplain, means those lands within the jurisdiction of Randolph County subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

**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 walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

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

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred “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 which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

**Variance** is a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.

**Violation** means the failure of a structure or other development to be fully compliant with this ordinance.

**Walled and roofed** means a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

**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.

### **8.03 General Provisions**

#### **8.03.1 Lands to Which This Ordinance Applies**

This ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of Randolph County, Indiana as identified in 8.03.2, including any additional areas of special flood hazard annexed by Randolph County, Indiana.

#### **8.03.2 Basis for Establishing the Areas of Special Flood Hazard**

- 1) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Randolph County, delineated as an "A Zone" on the Randolph County and Incorporated Areas Flood Insurance Rate Map, dated 03/04/2013, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- 2) 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 available flood layer 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) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

#### **8.03.3 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.

#### **8.03.4 Compliance**

- 1) 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.
- 2) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- 3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

#### **8.03.5 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.

#### **8.03.6 Discrepancy between Mapped Floodplain and Actual Ground Elevations**

- 1) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations 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 natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

#### **8.03.7 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.

#### **8.03.8 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 Randolph 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.

#### **8.03.9 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 Randolph County. All violations shall be punishable by a fine not exceeding \$300.00.

- 1) A separate offense shall be deemed to occur for each day the violation continues to exist.

- 2) The Randolph County Area Planning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- 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.

## **8.04 Administration**

### **8.04.1 Designation of Administrator**

The Board of Commissioners of Randolph County hereby appoints the Area Planning Commission Director hereafter referred to as the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

### **8.04.2 Floodplain Development Permit and Certification Requirements**

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- 1) Application Stage.
  - a) A description of the proposed development.
  - b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
  - c) A legal description of the property site.
  - d) For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure.
  - e) A site development plan showing existing and proposed development locations and existing and proposed land grades.
  - f) A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met.
  - g) Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
  - h) Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AH, and AE. Elevation should be in NAVD 88.
  - i) Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed.
  - j) Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.

- k) Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.
  - l) Plans showing how any proposed structure will be anchored to resist flotation or collapse.
  - m) Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88.
  - n) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. (8.04.3 (8) and 8.04.5 for additional information.)
  - o) Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
- 2) Finished Construction.
- a) Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the “as-built” lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.
  - b) Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
  - c) Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

#### **8.04.3 Duties and Responsibilities of the Floodplain Administrator**

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

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

- 1) Enforce the provisions of this ordinance.
- 2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
- 3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- 4) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- 5) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.

- 6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas, must meet the development standards of these regulations.
- 7) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
  - a) Verify and document the market value of the pre-damaged or pre-improved structure.
  - b) Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community.
  - c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of “substantial improvement” for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage.
  - d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in 8.05 of this Ordinance are required.
- 8) 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.
- 9) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to 8.05.1 (1), 8.05.1 (3) (a) and 8.05.1 (4) of this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- 10) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if 8.04.3 (9) is applicable.
- 11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- 12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with 8.04.2.
- 13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with 8.04.2.
- 14) Make on-site inspections of projects in accordance with 8.04.4.
- 15) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (substantially damaged structure) to ensure eligibility for ICC funds.
- 16) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- 17) Provide information, testimony, or other evidence as needed during variance hearings.

- 18) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with 8.04.4.
- 19) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance in accordance with 8.04.4.
- 20) Coordinate map maintenance activities and associated FEMA follow-up in accordance with 8.04.5.
- 21) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- 22) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this Ordinance.

#### **8.04.4 Administrative Procedures**

- 1) Inspections of Work in Progress. As the work pursuant to a permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- 2) 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.
- 3) 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.
- 4) Floodplain Management Records.
  - a. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and

- variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
- b. These records shall be available for public inspection at the Area Planning Commission, 325 S. Oak St., STE 204, Winchester, IN 47394.
- 5) Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

#### **8.04.5 Map Maintenance Activities**

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that Randolph County flood maps, studies and other data identified in 8.03.2 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

- 1) Requirement to Submit New Technical Data
  - a) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
    - (i) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.
    - (ii) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area.
    - (iii) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
  - b) It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
  - c) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
  - d) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.
- 2) Right to Submit New Technical Data  
The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the President of the County Commissioners of Randolph County and may be submitted to FEMA at any time.
- 3) Annexation / Detachment  
Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of Randolph County have been modified by annexation or the community

has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Randolph County and Incorporated Areas Flood Insurance Rate Map accurately represent the Randolph County boundaries, include within such notification a copy of a map of Randolph County suitable for reproduction, clearly showing the new corporate limits or the new area for which Randolph County has assumed or relinquished floodplain management regulatory authority.

#### **8.04.6 Variance Procedures**

- 1) The Board of Zoning Appeals (the board) as established by Area Planning Commission of Randolph County shall hear and decide appeals and requests for variances from requirements of this ordinance.
- 2) 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 Randolph County Circuit Court.
- 3) In considering such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - a) the danger to life and property due to flooding or erosion damage.
  - b) the danger that materials may be swept onto other lands to the injury of others.
  - c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - d) the importance of the services provided by the proposed facility to the community.
  - e) the necessity to the facility of a waterfront location, where applicable.
  - f) the compatibility of the proposed use with existing and anticipated development.
  - g) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  - h) the safety of access to the property in times of flood for ordinary and emergency vehicles.
  - i) the expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters at the site.
  - j) 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.
- 4) A written report addressing each of the above factors shall be submitted with the application for a variance.
- 5) Variances from the provisions of this ordinance shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
  - a) A showing of good and sufficient cause.
  - b) A determination that failure to grant the variance would result in exceptional hardship as defined in 8.02.
  - 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.
- 6) No variance for a residential use within a floodway subject to 8.05.1 (1), 8.05.1 (3) (a) or 8.05.1 (4) of this ordinance may be granted.
- 7) Any variance granted in a floodway subject to 8.05.1 (1), 8.05.1 A (3) (a) or 8.05.1 (4) will require a permit from the Indiana Department of Natural Resources. Variances shall not be

issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

- 8) Variances to the Provisions for Flood Hazard Reduction of 8.05 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.
- 9) 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 a “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
- 10) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- 11) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 12) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- 13) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- 14) 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.

## **8.05 Provisions for Flood Hazard Reduction**

### **8.05.1 Floodplain Status Standards**

#### **1) Floodways (Riverine)**

Located within SFHAs, established in 8.03.2, 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. Under the provisions of the Flood Control Act (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 undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

- a) If the site is in a regulatory floodway as established in 8.03.2, 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 approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).
- b) No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood

Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.

- c) The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.
- d) In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of 8.04.5 (1). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
- e) In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
- f) For all projects involving channel modifications or fill (including levees) Randolph County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

2) **Fringe (Riverine)**

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in 8.05 have been met.

3) **SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)**

- a) 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 written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) 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 written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving

the proposed development from the Indiana Department of Natural Resources, 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 this section have been met.

- b) 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 8.05 have been met.

**4) SFHAs not Identified on a Map**

- a) If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- b) No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
- c) Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, 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 this Article have been met.

**8.05.2 General Standards**

In all areas of special flood hazard, the following provisions are required:

- 1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- 2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- 3) New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
- 4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, 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 for non-residential structures. Water

and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

- 5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- 6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- 7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- 8) 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.
- 9) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than fifty (50) lots or five (5) acres, whichever is less.
- 10) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- 11) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3’ horizontal to 1’ vertical.
- 12) Non-conversion agreements shall be required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
- 13) Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard.

### **8.05.3 Specific Standards**

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in 8.03.2, the following provisions are required:

- 1) **Building Protection Requirement.** In addition to the general standards described in 8.05.2, 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 a residential structure.
  - b) Construction or placement of a non-residential structure.
  - c) Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.
  - d) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
  - e) Installing a manufactured home on a new site or a new manufactured home on an existing site.
  - f) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

## 2) Residential Construction.

- a) New construction or substantial improvement of any residential structures shall meet provisions described in 8.05.1 and applicable general standards described in 8.05.2.
- b) In **Zone A and Zone AE**, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at 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 8.05.3 (2) (c). Should fill be used to elevate a structure, the standards of 8.05.3 (2) (d) must be met.
- c) **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
  - (i) Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
    - A. Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in 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 higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
    - C. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
    - D. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
    - E. Doors and windows do not qualify as openings.
    - F. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
    - G. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
  - (ii) The floor of such enclosed area must be at or above grade on at least one side.
- d) A residential structure may be constructed on a fill in accordance with the following:
  - (i) 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. The results of the test showing compliance shall be retained in the permit file.
  - (ii) Fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE.

- (iii) Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
- (iv) Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- (v) Fill shall be composed of clean granular or earthen material.
- e) A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

**3) Non-Residential Construction.**

- a) New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in 8.05.1 and applicable general standards described in 8.05.2.
- b) In **Zone A and Zone AE**, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement, elevated to or above the FPG 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 8.05.3 (3) (c). Should fill be used to elevate a structure, the standards of 8.05.3 (3) (d) must be met.
- c) **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
  - (i) Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
    - A. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on 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 higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
    - C. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
    - D. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
    - E. Doors and windows do not qualify as openings.
    - F. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
    - G. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

- (ii) The floor of such enclosed area must be at or above grade on at least one side.
- d) A nonresidential structure may be constructed on fill in accordance with the following:
  - (i) 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. The results of the test showing compliance shall be retained in the permit file.  
Shall extend ten feet beyond the foundation of the structure before sloping below the BFE.
  - (ii) Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
  - (iii) Shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - (iv) Shall be composed of clean granular or earthen material.
- e) A nonresidential structure may be floodproofed in accordance with the following:
  - (i) 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 Floodplain Administrator.
- f) A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

**4) Manufactured Homes and Recreational Vehicles.**

- a. These requirements apply to all manufactured homes to be placed on a site in the SFHA:
  - i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 8.05.3 (2) (c).
  - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- b. Recreational vehicles placed on a site in the SFHA shall either:
  - i. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (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
  - ii. Meet the requirements for “manufactured homes” as stated earlier in this section.

**5) Accessory Structures**

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- a. Shall have a floor area of 400 square feet or less.

- b. Use shall be limited to parking of vehicles and limited storage.
- c. Shall not be used for human habitation.
- d. Shall be constructed of flood resistant materials.
- e. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- f. Shall be firmly anchored to prevent flotation.
- g. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
- h. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 8.05.3 (3) (c).
- i. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

**6) Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.**

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- a) Shall have open sides (having not more than one rigid wall).
- b) Shall be anchored to prevent flotation or lateral movement.
- c) Shall be constructed of flood resistant materials below the FPG.
- d) Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG.
- e) Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

**7) Above Ground Gas or Liquid Storage Tanks.**

Within SFHAs, all newly placed aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in 8.05.3 (3).

**8.05.4 Standards for Subdivision and Other New Developments**

- 1) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.
- 2) All subdivision proposals and all other proposed new development 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 and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.
- 4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than fifty (50) lots or five (5) acres, whichever is less.
- 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).
- 7) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

### **8.05.5 Standards for Critical Facilities**

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.

### **8.06 Legal Status Provisions**

#### **8.06.1 Severability.**

If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

#### **8.06.2 Effective Date. 8/21/2024**

**ARTICLE IX**  
**Performance Standards**

9.01 Adherence to Performance Standards

All uses established or placed into operation after the effective date of this ordinance shall comply with the following performance standards. No use in existence on the effective date of this ordinance shall be so altered or modified as to conflict with these standards.

1) Vibration

No use shall cause earth vibration or concussions detectable beyond the lot lines without the aid of instruments.

2) Smoke, Dust and Particulate Matter

Smoke, dust, particulate matter and any other airborne material shall be subject to the standards and regulations the Indiana Department of Environmental Management.

3) Noxious Matter

No use shall discharge across the lot lines noxious, toxic or corrosive matter, fumes or gases in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.

4) Odor

No use shall emit across the lot lines odor in such quantities as to be detectable at any point along the lot lines and as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.

5) Sound

No use shall produce sound in such a manner as to endanger the public health, safety or welfare, or cause injury to property. Sound shall be muffled so as not to become detrimental due to intermittence, beat frequency, shrillness or vibration.

6) Heat and Glare

No use shall produce heat or glare creating a hazard perceptible from any point beyond the lot lines.

7) Waste Matter

No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Randolph County Health Department, the Indiana State Board of Health, the Stream Pollution Control Board of the State of Indiana, or in such a manner as to endanger the public health, safety and welfare or cause injury to property.



## **ARTICLE X Enforcement**

### 10.01 Enforcement by Zoning Inspector

The Executive Director, as defined herein, or an appointee, is hereby designated as the Zoning Inspector of Randolph County, Indiana, whose duties shall include the enforcement of the provisions of this Ordinance and of any conditions or commitments relative to any zoning petition or approval, in accordance with the administrative procedures of Randolph County. All departments, officials and employees of the County vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance and shall issue no permit or license for any use, building, structure, improvement or purpose in conflict with this Ordinance. Any permit or license issued in conflict with the provisions of this Ordinance shall be null and void.

### 10.02 Filing Plans

Every application for an Improvement Location Permit or approval required by the terms of this Ordinance shall be on forms provided by the Area Planning Commission and accompanied by site plans, in duplicate and drawn to a standard architectural or engineer scale in black line or blue print, as may be necessary to determine compliance with the provisions and requirements contained herein. Any required site plan shall show the actual shape and dimensions of the lot or property included in the permit or approval; the use, shape, dimensions and setbacks of all existing improvements and activities on the included property, if any; and the use, shape, dimensions and setbacks of all proposed improvements and activities. Any required building floor, structural or elevation plans shall show all dimensions and information necessary to determine compliance with the provisions and requirements contained herein. One copy of such plans shall be returned to the applicant upon approval along with a copy of such permit or approval which may be granted. One copy of the plans shall remain in the possession of the Executive Director with the accompanying application for permit or approval which may or may not be granted. All dimensions shown on required plans shall be based on an actual survey or other professionally prepared or collected information. No construction of approved improvements or activities shall begin until the lot and location thereof has been staked out on the ground by a land surveyor registered with the State of Indiana.

### 10.03 County Legal Drain Right-of-way Clearance Certificate

No Improvement Location Permit or approval shall be granted by the Area Planning Commission until a Randolph County Legal Drain Right-of-way Clearance Certificate has been approved by the Randolph County Drainage Board.

### 10.04 Sewage/Septic System Permit

No Improvement Location Permit or approval shall be granted by the Area Planning Commission until approval of the installation of the sewage/septic system is given by the municipal clerk's office and/or the Randolph County Health Department on the proper form provided by said office. This approval is required for all primary buildings and structures. Accessory buildings and structures also shall be required to show approval if such building or structure will have sanitation facilities installed.

### 10.05 Aeronautics Commission Action

No permit or approval shall be issued by the Area Planning Commission to individual, companies or corporations, etc., who fall under the provisions of the Tall Structures Act of 1957, as amended, until approved by the Director of the Aeronautics Commission of Indiana.

#### 10.06 Improvement Location Permit

##### 10.06.01 Permit Required Prior to Construction

No excavation, construction, reconstruction, extension, conversion or alteration of any building or structure shall be started by any owner, lessee or tenant thereof until an Improvement Location Permit has been granted by the Area Planning Commission. Such permit shall indicate, and shall be granted only upon the determination by the Area Planning Commission, that such buildings or premises or part thereof, and the proposed use thereof, are in conformity with the provisions and requirements of this Ordinance.

##### 10.06.2 Action on Permit Applications

Within ten days of receipt of an application for a permit or approval, and all plans and fees paid according to the schedule in Section 10.06.6, the Area Planning Commission shall determine the sufficiency of such application and whether it complies with the provisions and requirements of this Ordinance, and shall either issue the permit or notify the applicant in writing of the denial of the permit and the reasons therefor. Failure to notify the applicant of such denial within said ten days shall entitle the applicant to a permit, unless the applicant consents to an extension of time. Provided, however, failure to notify the applicant within said ten days shall not exclude or exempt the applicant from compliance with the provisions and requirements of this Ordinance.

##### 10.06.3 Violations and Penalties

No person shall locate, erect, construct, reconstruct, enlarge, change, maintain, or use any structure or land in violation of any provisions of this Ordinance or any amendment, supplement or regulation thereto. A structure or use which violates this Ordinance shall be deemed a public nuisance. A person who violates a provision of this Ordinance shall be guilty of an Ordinance Violation, and upon conviction shall be fined not less than ten (\$10.00) dollars and not more than three hundred (\$300.00) dollars. Each day the violation continues or occurs shall constitute a separate offense. An enforcement action may be instituted in the name of the Area Planning Commission of Randolph County, Indiana, or, the Board of Zoning Appeals of Randolph County, Indiana, against such person.

##### 10.06.4 Violation Remedies

(a) The Area Planning Commission or Board of Zoning Appeals may initiate a suit for injunctive relief, either temporary or permanent, in the Randolph Circuit Court or the Randolph Superior Court and such injunctive relief may be to restrain any person, individual, firm, company or corporation from violating or continuing to violate any provisions of this Ordinance or zoning laws of Indiana.

- (b) The Area Planning Commission or Board of Zoning Appeals may initiate a suit for mandatory injunction directing any person, individual, firm, company or corporation to remove any building or structure erected in violation of the provisions and requirements of this Ordinance or zoning laws of Indiana, or to seek mandatory injunctive relief directing any person, individual, firm, company or corporation to cease any use or activity which is in violation of the provisions and requirements of this Ordinance or applicable zoning laws of Indiana.
- (c) If the Area Planning Commission or the Board of Zoning Appeals is successful in such suit, the respondent or defendant shall bear the cost of the action.
- (d) An action to enforce a commitment made in accordance with I.C.36-7-4 may be brought in to the Randolph Circuit Court or the Randolph Superior Court by any person who is entitled to enforce a commitment under this Ordinance, the By-Laws of the Area Planning Commission, or the Rules of Procedure of the Board of Zoning Appeals which Ordinance, By-Laws or Rules were in force at the time such commitment was made.
- (e) Any other specifically affected person who was designated in the commitment may also bring an action to enforce such commitment in the Randolph Circuit or Randolph Superior Court.

10.06.5 Duration of Improvement Location Permit

The excavation, construction, reconstruction, extension, conversion or alteration authorized by the issuance of an Improvement Location Permit shall be commenced within eighteen months and completed within thirty-six months of the date of issuance of said permit. However, the Executive Director of the Area Planning Commission may authorize extensions thereof upon good cause shown in writing.

<b>TABLE 10.06.6</b>		
<b>Improvement Location Permit Fee Schedule</b>		
<b>District</b>	<b>Primary Use</b>	<b>Accessory Use</b>
A-L & A-I	\$10.00	\$5.00
A-R	\$10.00	\$5.00
R-1	\$10.00	\$5.00
R-2	\$10.00 per unit	\$5.00
R-3	\$10.00 per unit	\$5.00
C-1	\$15.00	\$10.00
C-2	\$15.00	\$10.00
C-3	\$20.00	\$10.00
M-1	\$30.00	\$15.00
M-2	\$40.00	\$25.00
PD	See above schedule	

<b>Wind Energy Conversion Systems (WECS)</b>	
Commercial Wind Energy Conversion Systems	\$20,000
	+ \$1,750 per mega watt
Non-Commercial Wind Energy Conversion Systems	\$300 per turbine

<b>Telecommunication Towers</b>	
Telecommunication Tower Commercial	\$500
Telecommunication Tower Non-Commercial	\$10

<b>19-8 Fees C-SES</b>
19-8-1 Meteorological Towers, Operational Support Meteorological Towers, and any C-SES accessory buildings, structures or facilities shall be assessed fees as prescribed by the County's Official Schedule of Fees.
19-8-2 Aggregated C-SES Applications shall be assessed a \$20,000 application fees for each C-SES construction-phase as prescribed by the County's Official Schedule of Fees.
19-8-3 An Improvement Location Permit fee of \$1,750/MW shall be assessed
19-8-4 Building permits shall be \$500/MW

<b>19-9 FEES NC-SES</b>
19-9-1 NC-SES less than or equal to 10 kW (total panel rating)
19-9-1-1 An Improvement Location Permit fee of \$35 Shall be assessed for each installation
19-9-1-2 A building fee of \$.04/square foot
19-9-2 NC-SES more than 10 kW (Total Panel Rating)
19-9-2-1 An Improvement Location Permit Fee of \$1.75/kW (total panel rating shall be assessed)
19-9-2-2 A building permit fee of \$.04 per square foot

## **ARTICLE XI**

### **Conditional Uses**

#### **11.01 Conditional Use Permit Approval**

Uses listed as Conditional Uses in the various zoning districts shall be permitted therein only upon the approval of a Conditional Use Permit by a vote of the Board of Zoning Appeals of Randolph County, Indiana. Application for a Conditional Use Permit shall be in accordance with the Rules of Procedure of the Board of Zoning Appeals, and shall include a Plan of Operation, as defined herein, which shall become an enforceable part of the Board's approval.

#### **11.02 Conditional Use Findings of Fact**

The Board of Zoning Appeals shall approve an application for a Conditional Use Permit only upon the finding that:

- 1) All construction and development is in conformance with the developmental standards applicable in the zoning district of the property included in the request.
- 2) The use adheres to the general character of and will not be substantially detrimental to the use and development in the vicinity of the property included in the request.
- 3) The use and development includes improvements and amenities necessary to minimize any adverse effects on the use and value of surrounding properties.

#### **11.03 Conditions of Approval**

The Board of Zoning Appeals may impose reasonable conditions upon its approval of a Conditional Use Permit to assure that the authorized use and improvements therefor conform to the intent of this Ordinance and the Findings of Fact for a Conditional Use Permit, and such conditions shall become enforceable as if they were provisions of this Ordinance.

#### **11.04 Duration of a Conditional Use Permit**

Notwithstanding any other provisions contained herein, a Conditional Use Permit shall be limited to the specific use authorized, and improvements therefor, and shall be in perpetuity, until such authorized use becomes an abandoned use as defined herein. Only accessory uses permitted in the applicable zoning district, and improvements therefor, shall be permitted and conducted in association with the authorized use unless otherwise specifically included with the application for the Conditional Use Permit and approved by the Board of Zoning Appeals therewith.

#### **11.05 Improvement Location Permit Required**

Unless an Improvement Location Permit is obtained within one year of the approval of a Conditional Use Permit by the Board of Zoning Appeals, the approval of such Conditional Use Permit shall be null and void. Provided, however, the Executive Director may approve extensions of such time, totaling not more than eighteen months from the initial approval date, only if such request is made in writing prior to the expiration of the initial year and demonstrates sufficient cause and need for the requested period of extension. The Executive Director may approve an extension period less than that requested or deny any extension upon the determination that the cause or need for the request is insufficient.

#### **11.06 Modification of a Conditional Use Permit**

Any alteration, expansion or modification of the use or improvements therefor authorized by a Conditional Use Permit shall require a new application for consideration by the Board of Zoning Appeals in accordance with these requirements and the Board's Rules of Procedure.

## **ARTICLE XII**

### **Special Exceptions**

#### 12.01 Special Exception Use Approval

Uses listed as Special Exception Uses in the various zoning districts shall be permitted therein only upon the approval of a Petition for Special Exception by a vote of the Board of Zoning Appeals of Randolph County, Indiana. Application for a Special Exception Use shall be in accordance with the Rules of Procedure of the Board of Zoning Appeals and shall include a Plan of Operation, as defined herein, which shall become an enforceable part of the Board's approval.

#### 12.02 Special Exception Use Findings of Fact

The Board of Zoning Appeals shall approve an application for a Petition for Special Exception Use only upon the finding that:

- 1) The establishment, maintenance or operation of the Special Exception Use will not be detrimental to or endanger the public health, safety, morals or general welfare of the community.
- 2) The Special Exception Use will not be injurious to or diminish the use, value and enjoyment of other property in the immediate vicinity for the purposes already permitted.
- 3) The Special Exception Use will not impede the normal and orderly development and improvement of surrounding property for uses permitted by right in the zoning district(s) of surrounding property.
- 4) Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.
- 5) Adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets.
- 6) All construction and development is in conformance with the developmental standards applicable in the zoning district of the property included in the request.

#### 12.03 Conditions of Approval

The Board of Zoning Appeals may impose reasonable conditions upon its approval of a Petition for Special Exception Use to assure that the authorized use and improvements therefor conform to the intent of this Ordinance and the Findings of Fact for a Special Exception Use, and such conditions shall become enforceable as if they were provisions of this Ordinance.

#### 12.04 Duration of a Special Exception

Notwithstanding any other provisions contained herein, a Special Exception Use shall be limited to the specific use authorized, and improvements therefor, and shall be in perpetuity, until such authorized use becomes an abandoned use as defined herein, unless otherwise specified by the Board of Zoning Appeals. Only accessory uses permitted in the applicable zoning district, and improvements therefor, shall be permitted and conducted in association with the authorized use unless otherwise specifically included in the Petition for Special Exception Use and approved by the Board of Zoning Appeals therewith.

#### 12.05 Improvement Location Permit Required

Unless an Improvement Location Permit is obtained within one year of the approval of a Petition for Special Exception Use by the Board of Zoning Appeals, the approval of such Petition shall be null and void. Provided, however, the Executive Director may approve extensions of such time, totaling not more than eighteen months from the initial approval date, only if such request is made in writing prior to the expiration of the initial year and demonstrates sufficient cause and need for the requested period of extension. The Executive Director may approve an extension period less than that requested or deny any extension upon the determination that the cause or need for the request is insufficient.

12.06 Modification of a Special Exception Use

Any alteration, expansion or modification of the use or improvements therefor authorized by a Petition for Special Exception Use shall require a new petition for consideration by the Board of Zoning Appeals in accordance with these requirements and the Board's Rules of Procedure.

**ARTICLE XIII**  
**(Amended May, 2009)**  
**Definitions**

13.01 Construction of Language

For the purpose of this Ordinance, the following terms have the meaning indicated. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The word "*shall*" is mandatory and the word "*may*" is permissive. The word "*used*" includes "*designed*" or "*intended to be used*."

13.02 Definitions

- Abandoned Use** Any use or activity which has ceased being conducted or otherwise operated for a period of one year.
- Access Aisle** Accessible pedestrian space in a parking facility, between elements such as parking spaces; that provide clearances appropriate for use of the elements.
- Access Road** A street designed to provide vehicular access over and across property or to abutting property
- Accessible Parking** A parking facility that can be used by all people including individuals with disabilities.
- Accessory Child Care**  
An occupant's use of a residential living unit to provide child care for five or fewer children at any time for less than twenty-four hours a day. The State exempts this use from licensing.
- Accessory Communications Tower**  
The structure, accessory to the primary use, on which transmitting or receiving antennas are located.
- Accessory Structure** A structure which is subordinate to a principal structure and is located on the same zoning lot.
- Accessory Use** The use conducted within an accessory structure or building or one conducted within the principal structure or building but is subordinate and incidental to the primary use.
- Administrative Officer**  
The person within each member jurisdiction with the responsibility for enforcing this ordinance within that jurisdiction.
- Adult Bookstore** An establishment having a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of visual or audio representations which are distinguished or

characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**Adult Cabaret**

A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas and/or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or by exposure of specified anatomical areas for observation by patrons.

**Adult Drive-in Theater**

An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or by exposure of specified anatomical areas for observation by patrons.

**Adult Entertainment Business**

An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret, adult drive-in theater, adult live entertainment arcade or adult service establishment.

**Adult Live Entertainment**

Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyrational choreography which performances are distinguished from or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

**Adult Mini Motion Picture Theater**

Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee, with a capacity of more than five but less than fifty persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or by exposure of specified anatomical areas.

**Adult Motion Picture Arcade**

Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or by exposure of specified anatomical areas.

**Adult Motion Picture Theater**

Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee, with a capacity of fifty or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or by exposure of specified anatomical areas.

**Adult Service Establishment**

Any building, premises, structure or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.

**Aggregated WECS** WECS which are developed or operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger WECS. For the purpose of administering and enforcing this Chapter, all associated infrastructure, such as power lines or transformers or other components that service the WECS facility, while being owned by a separate entity or entities are included as part of an aggregated WECS.

**Airport Approach Area**

Those parts of the Airport Zone, established by this ordinance for any public-use airport, which lie generally below the flight path of aircraft approaching or taking off from the runways of such airport and, specifically, below the defined airport reference surfaces: the airport approach surface, the airport primary surface and the airport transitional surfaces.

**Airport Approach Surface**

A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the airport primary surface of a public-use airport. An airport approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end. The following also applies to the airport approach surface:

- (1) The inner edge of the airport approach surface is the same width as the airport primary surface and it expands uniformly to a width of the following:
  - (a) 1,250 feet for that end of a runway with only visual approaches;
  - (b) 1,500 feet for that end of a runway with other than a utility runway with only visual approaches;
  - (c) 2,000 feet for that end of an airport utility runway with a nonprecision instrument approach;
  - (d) 3,500 feet for that end of an airport nonprecision instrument runway other than utility, having visibility minimums greater than  $\frac{3}{4}$  of a statute mile; and
  - (e) 4,000 feet for that end of an airport nonprecision instrument runway, other than utility, having nonprecision instrument approach with visibility minimums as low as  $\frac{3}{4}$  of a statute mile;
  - (f) 16,000 feet for airport precision instrument runways.
- (2) The airport approach surface extends a horizontal distance of the following:
  - (a) 5,000 feet at a slope of 20:1 for all airport utility and visual runways;
  - (b) 10,000 feet at a slope of 34:1 for all airport nonprecision instrument runways other than utility; and
  - (c) 10,000 feet at a slope of 50:1 with an additional 40,000 feet at a slope of 40:1 for all airport precision instrument runways.
- (3) The outer width of an airport approach surface to an end of a runway will be that width prescribed in this ordinance for the most precise approach existing or planned for that runway end.

### **Airport Circling Area**

Those parts of the airport zone, established by this ordinance for any public-use airport, which lie generally below the flight path of aircraft circling such airport and, specifically, below the airport horizontal surface and the airport conical surface.

### **Airport Conical Surface**

A surface extending outward and upward from the periphery of the airport horizontal surface of a public-use airport at a slope of 20:1 for a horizontal distance of 4,000 feet.

### **Airport Elevation**

The established elevation of the highest point on which the usable landing area of the airport.

### **Airport Horizontal Surface**

A horizontal plane 150 feet above the established airport elevation of a public-use airport, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the airport primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet for all airport runways designated as utility or visual, and 10,000 feet for all other runways. The radius of the arch specified for each end of a runway will

have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the airport horizontal surface.

#### **Airport Non-precision Instrument Runway**

A runway of a public-use airport having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on a Federal Aviation Administration planning document.

#### **Airport Precision Instrument Runway**

A runway of a public-use airport having an existing instrument approach procedure utilizing an instrument landing system (ILS) or other precision approach system approved by the Federal Aviation Administration. It also means a runway for which a precision approach system is planned and is so indicated by a Federal Aviation Administration approved airport layout plan or other planning document.

#### **Airport Primary Surface**

A surface longitudinally centered on a runway of a public-use airport. When the runway has a specifically prepared hard surface, the airport primary surface extends two hundred feet beyond the end of the runway, but when the runway has no specifically prepared hard surface, or planned hard surface, the airport primary surface ends at each end of that runway. The elevation of any point on the airport primary surface is the same as the elevation of the nearest point of the runway centerline. The width of an airport primary surface is the following:

- (1) 250 feet for airport utility runways having only visual approaches;
- (2) 500 feet for airport utility runways having non-precision instrument approaches; and
- (3) for other than airport utility runways, the width is the following:
  - (a) 500 feet for airport visual runways having only visual approaches;
  - (b) 500 feet for airport non-precision instrument runways having visibility minimums greater than  $\frac{3}{4}$  of a statute mile; and
  - (c) 1,000 feet for airport non-precision instrument runways, having a non-precision instrument approach with visibility minimums as low as  $\frac{3}{4}$  of a statute mile, and for airport precision instrument runways. The width of the airport primary surface of a runway will be that width prescribed in this ordinance for the most precise approach existing or planned for either end of that runway.

#### **Airport Reference Point**

A point within the boundaries of a public-use airport established as follows for each airport:

**Airport Referenced Surfaces**

The airport horizontal surface, the airport conical surface, the airport approach surface, the airport transitional surfaces and the airport primary surface associated with a public use airport.

**Airport Transitional Surfaces**

Surfaces that extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the airport primary surface and from the sides of the airport approach surfaces. Transitional surfaces for those portions of the precision airport approach surface which project through and beyond the limits of the airport conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the airport approach surface and at right angles to the runway centerline.

**Airport Utility Runway**

A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

**Airport Visual Runway**

A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on a Federal Aviation Administration approved airport layout plan or any other planning document.

**Alley**

A right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access for the special accommodation of the abutting property.

**Alteration**

Any change in size, shape, character, occupancy, or use of a building or structure.

**Amateur Radio Antenna Support Structures**

Poles, master towers and antennas used in the operation of amateur radios licensed by the Federal Communication Commission.

**Amusement Machine**

Any machine or device designed or modified to be operated by a coin, coins or token for which change is made for the operation thereof. Such machine or device used exclusively for the vending of merchandise of a tangible nature shall not be deemed an amusement machine.

**Amusement Parlor**

Any public area or room containing one (1) or more amusement machines.

**Animal Unit**

See Animal Unit Calculation Worksheet: **Article III.I APPENDIX AU**: For Animal unit calculation .50 units and above shall be raised to the next full animal unit; and, for animal unit calculation below .50 units shall be reduced to the next full animal unit.

<b>Animated Sign</b>	Any sign that uses movement or change of lighting to depict action or create a special effect or scene, or which uses a crawling message, or which changes more frequently than once per minute.
<b>Antenna</b>	Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission and/or reception of electromagnetic waves external to or attached to the exterior of any structure or to a communication tower.
<b>Apartment</b>	(See Dwelling)
<b>Apartment House</b>	(See Dwelling, Multiple-family)
<b>APC</b>	The Area Planning Commission of Randolph County, Indiana.
<b>Applicant</b>	An owner of land, WECS owner, WECS operator, WECS Transmission Facility(ies) owner and/or operator, engineer, contractor, or agent or attorney (at-law or in-fact) for any of the above who makes application and/or petition to the Area Planning Department, Area Planning Commission of Randolph County, Indiana, or the Board of Zoning Appeals of Randolph County, Indiana, for permit(s), approval(s), waiver, hearing, decision or action of any other description whatsoever by said Department, Commission or Board.
<b>Arcade</b>	(See Amusement Parlor)
<b>Area Planning Commission</b>	The Area Planning Commission of Randolph County, Indiana and the same may be designed Area Planning Commission, Area Planning Commission of Randolph County, Indiana, or APC.
<b>ATM</b>	An automated teller machine, which dispenses cash, takes bank deposits, and performs other limited banking functions, with no personal attendant on site. An ATM is an accessory use if it is attached to a building, or if it shares a lot with the bank it serves. An ATM is a primary use, or a primary use building (if enclosed), if it is freestanding on any lot other than one it may share with the bank it serves.
<b>Atrium</b>	An open, unroofed court within the walls of a building or structure.
<b>Automobile</b>	(See Motor Vehicle)
<b>Automobile Body Shop</b>	(See Automobile Repair Shop)
<b>Automobile Repair Shop (Fully Enclosed)</b>	A building designed and used for the care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, painting, and body work. Any such activities conducted within the zoning jurisdiction of the City or Town shall (1) be conducted inside a fully

enclosed structure, and (2) meet all appropriate state and local health, safety, fire, and ventilation codes.

**Automobile Service Station (Gas, Filling Station)**

A building or structure used for the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto. Facilities for washing and for chassis and gear lubrication of not more than two (2) vehicles are permitted if enclosed in a building.

**Automobile Wrecking Yard**

An area outside of a building where motor vehicles are disassembled, dismantled, junked or "wrecked," or where motor vehicles not in operable condition or used parts of motor vehicles not in operable condition or used parts of motor vehicles are stored for salvage, recycling or similar use for monetary gain or profit.

**Awning**

A roof-like cover that is temporary in nature and that projects not more than five feet from the wall of a building for the purpose of shielding a doorway or window from the elements.

**Back-lit**

(See definition for Internal Lighting.)

**Balcony**

A raised, railed platform projecting from the wall of a Structure.

**Banner**

Any sign of lightweight fabric or similar material that is mounted to a building or free-standing structure, other than a flag.

**Basement**

(See also Cellar)

That portion of the building partly underground which has more than one-half of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground; and not deemed a story unless the ceiling is six (6) feet or more above the grade.

**Baby Sitting**

Care provided at the home of one or more children when parents or legal custodians are not at home.

**Bay Window**

A window or series of windows forming a bay or recess in a room and projecting from the wall in a rectangular, polygonal or curved form.

**Beacon**

Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source or any light with one or more beams that rotate or move. A beacon is a type of event oriented sign.

**Bed and Breakfast**

An owner-occupied dwelling unit which:  
(a) contains no more than four (4) guest rooms,  
(b) may provide meals to the guests inside the premises,

- (c) meets all applicable building, fire, and health codes and alcoholic beverage regulations, and
- (d) is allowed one advertising sign, not exceeding four (4) square feet in area, which shall be attached to the dwelling.

<b>Bedroom</b>	Any room with an area of at least 70 square feet, that meets applicable building code, either intended for sleeping, or intended for use as a den, study or all-purpose room.
<b>Berm</b>	An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.
<b>Billboard</b>	(See Sign, Outdoor Advertising and Off-premise Advertising.)
<b>Billiard Room</b>	Any public area or room containing any number of pool or billiard tables as the primary use.
<b>Billiard Table</b>	Any table used for any form of the games commonly referred to as pool or billiards.
<b>Block</b>	An area that abuts a street and lies between two (2) adjoining streets or barriers such as a railroad right-of-way or a waterway.
<b>Board of Zoning Appeals</b>	The Board of Zoning Appeals of Randolph County, Indiana and the same may be designated Board of Zoning Appeals, Board of Zoning Appeals of Randolph County, Indiana, or BZA.
<b>Boarding House</b>	A building, other than a hotel or lodging house, in which meals or lodging are provided for compensation on a long term basis.
<b>Buffer Yard</b>	(See Transitional Yard)
<b>Building</b>	A roofed structure for the shelter, support, enclosure, or protection of persons, animals, or property (each part of such a structure that is separated from the rest by unbroken party walls is a separate building for the purposes of this Ordinance), provided, however, any structure with interior areas not normally accessible for human use, such as oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers and other similar structures shall not be considered buildings.
<b>Building Area</b>	The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than thirty inches into a minimum required yard.
<b>Building, Attached</b>	A building which has any part of its exterior or bearing wall in common with another building or which is connected to another building by a roof.

<b>Building Code</b>	The Uniform Building Code, as adopted and modified by this jurisdiction.
<b>Building Coverage</b>	The proportion of the lot area, expressed as a percent that is covered by the maximum horizontal cross-section of a building or buildings.
<b>Building, Detached</b>	A building having no structural connection with another building.
<b>Building Height</b>	The vertical distance measured from the established finished grade level to the highest point of the underside of the ceiling beams; in the case of a flat roof, to the deck line of a mansard roof and to the mean level of the underside of rafters between the eaves and the ridge of a gable, hip, or gambrel roof. Chimneys, spires, towers, elevator penthouses, tanks and similar projections, other than signs, shall not be included in calculating the height.
<b>Building Line</b>	The line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way line.
<b>Building Marker</b>	Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
<b>Building, Principal</b>	A building in which is conducted the main or principal use of the zoning lot on which said building is situated. Where a part of an accessory structure is attached to the principal building in any manner, as by a roof, such accessory building shall be considered to be part of the principal building.
<b>Bus</b>	A vehicle for public passenger transportation having seats on either side of a central aisle.
<b>Bus, Private Passenger</b>	A private vehicle for passenger transportation having seats on either side of a central aisle.
<b>Business</b>	Refers to the purchase, sale, or exchange of goods or services, or the maintenance of offices or recreational or amusement enterprises.
<b>Business District</b>	Refers to C-1, C-2 and C-3 Districts (Article V).
<b>Business Frontage</b>	The distance along the external wall of any commercial structure which faces the boundary line of a public right-of-way.
<b>Business School</b>	A privately owned school, not conducted by or under the sponsorship of a public or charitable organization, which teaches secretarial, bookkeeping, accounting or other similar office or clerical skills.
<b>BZA</b>	See: Board of Zoning Appeal

<b>Campground</b>	An area or tract of land used for occupancy by two (2) or more temporary tents, dwellings, rooms, sleeping quarters or recreational vehicles of any kind.
<b>Campsite</b>	A piece of land, the location, shape and size of which have been established in an approved recreational vehicle park and campground plan, to be rented for occupancy by a tent or recreational vehicle.
<b>Canopy, Building</b>	(See also Canopy, Service Area) A roof-like cover, often of fabric, metal, plastic, fiberglass or glass on a support, which is supported in part by a building wall at one end and by poles, posts, columns or similar supporting member from the ground on the other end, providing shelter over, for example, a doorway, outside walkway or parking area.
<b>Canopy, Service Area</b>	A canopy which may be supported in part by a building or which may be free-standing and self-supporting, providing shelter, for example, over gasoline pump islands.
<b>Car Wash</b>	A building, or portion thereof, where automobiles are washed.
<b>Carbon Capture and Sequestration (CCS)</b>	The process of capturing carbon dioxide from emission sources, compressing and transporting it; and injecting it into deep geologic formations for permanent storage.
<b>Caretaker's Residence</b>	An accessory dwelling occupied by the person, and family members, who oversees operations on the property twenty-four hours a day.
<b>Cellar</b>	A portion of a building partly underground which has less than one-half of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground and which is not deemed a story.
<b>Cemetery</b>	A place of burial for the deceased, human or otherwise. It may include any columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.
<b>Charitable Organization</b>	Any organization organized and operated exclusively for public charitable purposes as defined in the Internal Revenue Code of 1954, as amended.
<b>Child Care</b>	Custodial, supervisory, recreational or instructional care, designed to supplement parental care, given children (other than the provider's), who are under eleven years old, excluding public or parochial schools, baby sitting, day camps, summer camps, foster homes, group homes or cooperative reciprocating care by a group of parents in their own homes.

**Child Care Center** A State licensed (or exempted) facility in a nonresidential structure where one or more individuals provide child care for any number of children; or such facility in a residential structure where individuals provide child care for eleven or more children at any time. However, the term does not include public or private school programs for children age three and older, or day care ministries as defined in Section 12-3-2-12.7 of the Indiana Code.

**Child Care Home** Any residential structure licensed by the State of Indiana where an individual provides child care for compensation for not more than ten children, including children related to the provider.

**City** Any city or town within Randolph County.

**City Council** The legislative body of any City.

**Clear Distance** The unobstructed distance from any given point, mobile home or line to the closest point or points of adjacent mobile home or mobile homes

**Clear-sight Triangle**

A triangular area, within which nothing can be erected, parked, placed, planted or allowed to grow in such a way as to materially impede drivers' vision between 2 ½ feet and 8 feet above grade, row crops excluded. A clear-sight triangle shall be established as one of the following:

- (1) On a corner lot, the clear-sight triangle is formed by the street right-of-way lines, the pavement edge of the drives or driveways and the line connecting points twenty-five feet from the intersection of such street right-of-way lines and pavement edge lines; or in the case of a round or cut property corner, from the intersection of the street right-of-way lines and pavement edge lines extended; or,
- (2) On a lot adjacent to an at-grade railroad crossing, the clear-sight triangle is formed by the lot line contiguous with the railroad right-of-way, the street right-of-way line or pavement edge line, and the line connecting points twenty-five feet from the intersection of such lines; or,
- (3) On a lot which has a driveway, abuts an alley or which is next to a lot which has a driveway, the two clear-sight triangles are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and the line connecting points ten feet from the intersection of the street right-of-way line and driveway or alley lines extended.

**Clinic** An establishment in which patients are admitted for medical or dental study or treatment and in which the services of at least two (2) physicians or dentists are provided.

**Club or Lodge, Private**

A building or facility owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not

primarily for profit or to render a service which is customarily carried on as a business.

**Codes** The land development Codes of Randolph, Indiana, or any City therein.

**Co-location** The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

**Commercial Greenhouse**

A building and premises intended for the indoor growth and propagation of plants to be sold on site at retail or wholesale. It may include enclosures that are unroofed or that have open sheds housing HVAC and irrigation equipment, storage sheds, display and sales rooms, and garages. This use does not include the sale of power equipment or farm implements.

**Commercial Zone** C-1, C-2 and C-3 zoning districts.

**Commission** The Area Planning Commission of Randolph County.

**Concentrated Animal Feeding Operation (CAFO)**

Any existing or proposed Confinement Operation or an expansion of an existing Confinement Operation with any of the following:

- (1) Seven hundred (700) mature dairy cows, over 1000 pounds, whether milked or dry;
- (2) One thousand (1,000) calves;
- (3) One thousand (1,000) cattle other than mature dairy cows over 1,000 pounds or calves. Cattle includes but is not limited to heifers, steers, slaughter or other; bulls; feeder cattle; stock cows; mature dairy cows under 1,000 pounds, whether milked or dry; and cow/calf pairs;
- (4) Two thousand five hundred (2,500) swine each weighing 55 pounds or more;
- (5) Ten thousand (10,000) swine each weighing less than 55 pounds;
- (6) Five hundred (500) horses;
- (7) Ten thousand (10,000) sheep or lambs;
- (8) Fifty-five thousand (55,000) turkeys;
- (9) Thirty thousand (30,000) laying hens or broilers, if the CAFO uses a liquid manure handling system;
- (10) One hundred twenty-five thousand (125,000) chickens (other than laying hens), if the CAFO uses other than a liquid manure handling system;
- (11) Eighty-two thousand (82,000) laying hens, if the CAFO uses other than a liquid manure handling system;
- (12) Thirty thousand (30,000) ducks if the CAFO uses other than a liquid manure handling system;
- (13) Five thousand (5,000) ducks if the CAFO uses a liquid manure handling system.

**Conditional Use** A specific use which, by its nature and potential impact upon adjacent property, a substantial portion of the entire county or the county as a whole, requires review and approval by the Board of Zoning Appeals, or a

use which is an activity, service or facility traditionally provided by local government, but which may be provided by private business or industry through a contractual or franchise agreement with local government.

**Condominium** Real estate lawfully subjected to IC 32-1-6 (the Horizontal Property Law) by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

**Confined Feeding Operation (CFO)**

Any existing or proposed Confinement Operation or an expansion of an existing Confinement Operation on which there are livestock numbers exceeding:

- (1) Three hundred (300) mature cows under 1000 pounds, whether milked or dry;
- (2) Six hundred (600) swine over 300 pounds;
- (3) Six hundred (600) sheep;
- (4) Thirty thousand (30,000) fowl

**Confinement Operation**

The confined feeding of animals for food, fur, or pleasure purposes on lots, pens, ponds, sheds, or buildings where:

- (1) Animals are confined, fed and maintained for at least 45 days (does not have to be consecutive days) during any 12 month period (does not have to be a calendar year); and
- (2) Ground cover or vegetation is not sustained over at least 50% of the animal confinement area.

**Construction** The placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing structure has been substantially begun preparatory to rebuilding such excavation, demolition or removal shall be deemed construction.

**Construction/Demolition Disposal Site**

An off-site solid waste disposal facility, as established in Indiana Code, designed and operated to accept waste material from construction and/or demolition sites. Such material may include but is not limited to: bricks, concrete, stone, glass, wallboard, lumber, roofing materials, and other items which are affixed to a structure being constructed, repaired or demolished, including plumbing fixtures, wiring, and non-asbestos insulation.

**Convalescent Home** A private home for the care of children or the aged or infirmed, or a place of rest for those suffering bodily disorders, but not including facilities for the treatment of injuries or surgical care.

**Convenience Store** A retail establishment selling a limited number of food items, such as sandwiches, snacks, staple groceries, household items, lottery tickets, beverages and food items prepared on the premises, including reheating,

which can be immediately consumed. Such establishments may also provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved storage and dispensing equipment by customers of the establishment on a self-serve basis.

**Coop and Cage** A structure, not necessarily attached to the ground, with a top and sides and designed to provide shelter and protection for small animals or birds.

**Corner Lot** A lot at the junction of and abutting two (2) or more intersecting or intercepting streets.

**Council** (See City Council)

**County** The County of Randolph, State of Indiana unless another county is specifically mentioned or implied by its use or context.

**Crawl space or underpinning**

A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground, except for necessary openings constructed in accordance with the One- and Two-Family Dwelling Code.

**Cul-de-sac** A street having one open end and being permanently terminated by a vehicle turn-around.

**Curb** The defined edge between the pavement or gravel of a public street and the public right-of-way.

**Curb Cut** The area of ingress to and/or egress from a property between the property line and the street pavement line.

**Dangerous Material** Material which has been designated by as "dangerous" by the Federal Environmental Protection Agency, the Randolph County Board of Health, the Indiana State Board of Health, IDEM, DOE or the Town Fire Chief.

**Day Care Center** (See Child Care Center)

**Decibel** A unit of measurement of the intensity (loudness) of sound.

**Deciduous** A plant with foliage that is shed annually.

**Demolition** Any act or process which destroys in part or in whole a structure.

**Density** The number of dwelling units per acre exclusive of rights-of-way.

**Detached Building** A building that has no structural connection with another building.

<b>Development</b>	Any improvement or change to property brought about by human activity, including but not limited to: buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
<b>Development Standards</b>	The setback, setback line, setback requirement, reciprocal setback, reciprocal setback line, reciprocal setback requirement, bulk, height, and area requirements defined in this Ordinance for each zoning district.
<b>Director</b>	The Executive Director of the Area Planning Commission of Randolph County, Indiana, his or her designee, or the designee of the Board of Commissioners of Randolph County.
<b>District</b>	Any specifically described area of the County as indicated by the Official Zoning Map of Randolph County to which these regulations apply and are shown on an official map maintained by the Staff.
<b>Dormitory/Quarters</b>	A building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.
<b>Drive-in, Food Restaurant</b>	An establishment selling food, frozen desserts, or beverages to consumers; the establishment being designed, intended or used for the consumption of such items on the premises outside of the building in which they were prepared.
<b>Drive-in Movie Theater</b>	An outdoor entertainment facility where customers view movies from their vehicles.
<b>Drive-up</b>	The use of a window, machine or similar mechanical device, either as a primary or accessory use, for the dispensation of goods or services without requiring the consumer to leave their vehicle.
<b>Driveway</b>	A pathway for motor vehicles from a street to a permitted accessory building used for service purposes or for access to the principal structure on a zoning lot.
<b>Dwelling</b>	A building, or part of a building, that is used primarily as a place of abode. This does not include a hotel, motel, lodging house, or boarding house.
<b>Dwelling Unit</b>	One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one household with separate toilets and facilities for cooking and sleeping, with a minimum of 950 square feet of living area.

**Dwelling Unit, Efficiency**

A dwelling unit consisting of one room, exclusive of bathroom, kitchen or dining alcove adjacent to the principle room, provided such dining alcove does not exceed one hundred (100) square feet in area.

**Dwelling Unit, Manufactured Home**

A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears 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 which also complies with the following specifications:

- (1) Shall have been constructed in compliance with the Rules of the Indiana Fire Prevention and Building Safety Commission;
- (2) Is attached to a permanent foundation of masonry or concrete construction in accordance with the manufacturer's instructions, a certified engineer's drawings, or the Manufactured Home Foundation System described in the Indiana One- and Two-Family Dwelling Code;
- (3) The chassis cannot be removed, only the wheels and axles;
- (4) Has a pitched roof with a minimum rise of 2/12;
- (5) Consists of two (2) or more sections which, when joined, have a minimum dimension of 20' x 47.5' enclosing the occupied space;
- (6) Shall have an exterior finish compatible with other homes in the area.

**Dwelling Unit, Mobile Home**

A single dwelling unit suitable for year-round occupancy, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to required utilities, and which complies with the Rules of the Indiana Fire Prevention and Building Safety Commission.

**Dwelling Unit, Modular**

A unit which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process, designed for occupancy by one family unit. Every module shall bear the Indiana Modular seal certifying that it was built in compliance with the Rules of the Indiana Fire Prevention and Building Safety Commission. All modular homes shall be built to the Indiana One- and Two-Family Dwelling Code.

**Dwelling Unit, Multiple-household**

A building, or portion thereof, consisting of three (3) or more dwelling units with varying arrangements of entrances and party walls. The definition of multiple-household dwelling unit may include, but shall not be limited to the following terms: apartment, condominium, cooperative, quadraminium, three-flat and triplex.

**Dwelling Unit, Single-Household Attached**

An attached single-household dwelling unit is a building consisting of dwelling units each of which is attached by a common vertical wall to one other dwelling unit with each dwelling unit having a separate entrance. An attached single-household dwelling unit shall include the terms “townhouse” and “row house”.

**Dwelling Unit, Single-Household Detached**

A single-household detached dwelling unit is a building containing a single dwelling unit only, which is separated from all other dwelling units by open space.

**Dwelling Unit, Row House or Town House** (See Dwelling Unit, Single-Household Attached)

**Dwelling Unit, Two-Household**

A two-household dwelling unit is a building consisting of two (2) dwelling units which may either be attached, side-by-side, or one above the other, with each dwelling unit having a separate or combined entrance or entrances.

**Dwelling, Zero Lot Line**

A building, on a separate lot, containing one dwelling unit, built so that one or more of the building’s sides rest directly on a lot line.

**Easement**

(See Public Way)

**Efficiency**

A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.

**Enclosure**

A set of walls or fences designed to confine animals or birds to a space that is large enough to permit the animals and birds to roam relatively freely in an open yard area.

**Enlarged**

An increase in the size of the property, building, parking or other improvements thereon, or an increase in the intensity of the use thereof.

**Entrance**

A passageway from premises to thoroughfare, street, alley or easement by which vehicles enter or leave, or a passageway from building to exterior through which pedestrians leave.

**Essential Services**

Services that have been viewed to be necessary to a basic standard of living and the general welfare of society, and therefore have traditionally been supplied publicly in order to ensure the broadest level of access for citizens. These services may include water, sanitation, electricity, cable, telephone and fiber optics. For the purposes of the administration and enforcement of the Unified Zoning Ordinance of Randolph County, the term essential services shall not include collection cables and lines and communication lines installed as part of any Wind Energy Conversion System.

**Established Airport Elevation**

(See Airport Elevation)

**Established Building Setback Line**

The average setback distance of all structures on the same side of a street between two (2) intersecting streets, when forty percent (40%) or more of such structures area set back a greater distance than required by the front setback provisions of the district. Such line shall be re-determined as each successive vacant lot is proposed to be improved with a structure.

**Establishment of a Business**

Any of the following:

- (1) the opening or commencement of any use as a new business;
- (2) the conversion of an existing business to any other business;
- (3) the addition of any business other than the existing business;
- (4) the relocation of any business.

**Evergreen**

A plant with foliage that persists and remains green year-round.

**Executive Director**

The Executive Director of the Area Planning Commission of Randolph County, Indiana.

**Extension/Extended**

An increase or enlargement in the size of a structure, building or other improvement upon property or an increase in the intensity of the use of a structure, building, other improvement or the use of the property.

**Family**

Either:

- (a) one or more persons related by blood, marriage or adoption living as a separate housekeeping unit, or
- (b) not more than two (2) unrelated adults living as a single housekeeping unit.

**Farm**

An area of *at least five (5) acres* devoted to agricultural purposes, generally under the management of a tenant or the owner of the acreage.

**Farm Animal**

(see livestock)

**Fence**

Any unroofed construction of wood, metal, wire mesh, masonry or other material erected for, or serving the purpose of assuring privacy or protection.

**Financial Assurance**

Reasonable assurance from a credit worthy party including, but not limited to, a surety bond company, trust instrument, cash escrow, an irrevocable letter of credit, or a combination thereof.

**Fire Department**

Refers to the governmental organizations which is responsible for providing fire protection services to the Townships and Cities therein.

**Fire Hydrant** Refers to a valved connection on a piped water supply system having one or more outlets and which is used to supply hose and fire department pumpers with water.

**Flag** Any pole-mounted fabric which is the official emblem of a governmental entity or church.

**Flood Hazard Areas**

Those flood plains which have not been adequately protected from flooding caused by the regulatory flood. They are shown on the zoning map or on the Flood Hazard or Floodway-Flood Boundary Maps of the Federal Emergency Management Agency or maps provided to the Commission from the Indiana Natural Resources Commission.

**Flood Plain** The area adjoining the river or stream which has been, or may hereafter be, covered by flood water from the regulatory flood, including those areas defined as the regulatory floodway and floodway fringe.

**Flood Protection Level**

The elevation of the lowest floor of a building, including the basement, which shall be two (2) feet above the elevation of the regulatory flood.

**Floodway** (See Regulatory Floodway)

**Floodway Fringe** That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

**Floor Area, Gross** The total number of square feet of floor space within the exterior walls of a building, including halls, stairways, elevator shafts, attached garages, porches, and balconies but not including space in cellars or basements.

**Floor Area Ratio** A mathematical expression determined by dividing the total floor area of a building by the area of the lot on which it is located, as

$$\frac{\text{Floor Area}}{\text{Lot Area}} = \text{Floor Area Ratio}$$

**Foot Candle** A unit of illumination equal to the illumination at all points that are one foot from a uniform point source of one candle power.

**Foundation** The supporting member of a wall or structure below or at ground level and includes footings.

**Fraternity, Sorority, or Student Cooperative**

An unrelated group of persons living as a single housekeeping unit, recognized under state or federal tax law as a not-for-profit entity and recognized as a student living unit by a college or university.

<b>Free burning</b>	A rate of combustion described by a substance that burns actively and easily supports combustion.
<b>Frontage</b>	All the property fronting on one (1) side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.
<b>Front Building Line</b>	The building foundation line that is nearest the front lot line.
<b>Front Yard</b>	The horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The front yard of a corner lot shall be that yard which contains the front lot line marking the boundary between the lot and the shorter of the two abutting street segments, except as otherwise specified by deed restrictions.
<b>Garage, Commercial</b>	A structure which is used or intended to be used for the storage of commercial motor vehicles
<b>Garage, Private</b>	An accessory building or part of a principal building used primarily for the storage of motor vehicles as an accessory use, when the storage space does not exceed that for the following number of vehicles: <ul style="list-style-type: none"> <li>(a) For any single-family dwelling - three (3) passenger vehicles;</li> <li>(b) For any two-family dwelling - four (4) passenger vehicles;</li> <li>(c) For any multiple-family dwelling - passenger vehicles equal in number to 150 percent of the number of dwelling units in the principal building; and</li> <li>(d) For any other use - no limitation.</li> </ul>
<b>Garage, Public</b>	A building or premises which is operated for commercial purposes and used for the storage of motor vehicles, but a " <i>public garage</i> " shall not be used for the storage of dismantled or wrecked motor vehicle parts thereof, or junk. Any such public garage facility shall conform to the landscaping and buffering requirements Article V of this Ordinance.
<b>Garage Sale</b>	(See Sales, Rummage - Private and Public)
<b>Gasoline Filling Station</b>	(See Gasoline Station)
<b>Gasoline Station</b>	A place primarily intended for the purpose of refueling of motor vehicles but may also include services and products offered as a convenience to motorists, including but not limited to motor vehicle vital fluids and accessories, mechanical vehicle washing, and food, beverages and similar consumable products.

**General Industrial Use**

Manufacturing, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes, in which some operations other than transportation, are performed in open area.

**Grade Level**

The elevation of the ground, as established by a Certified Engineer or Civil Surveyor, at a structure or site.

**Gross Leasable Area**

The total floor area designated for both tenant occupancy and exclusive use. This includes both owned and leased areas, and basement, mezzanine and upper floors if any. It is expressed in square feet and measured from the centerline of joint partitions and from the inside face of outside walls.

**Ground Floor Area**

The area of a building in square feet, as measured in a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

**Group Home**

A single self-contained children's home, established in a residence, and operated by the County Division of Children and Families, licensed private child placement agency or licensed incorporated group established for the purpose of receiving and caring for up to eight children who are attended by resident adults.

**Guidelines and Regulations**

All policies contained within the land development Codes of Randolph County, Indiana, including but not limited to, The Unified Development Code (zoning and subdivision regulations), the Landscape Guidelines (Tree Ordinance), the Sign Ordinance, and all Building Codes administered by the Randolph County Building Commission.

**Handicap**

Any physical or mental impairment which limits one or more of a person's life activities; or a record of having such impairment; or being regarded as having such impairment. However, the definition of handicap does not include the current use of or addiction to a controlled substance.

**Hardship**

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

requiring variance from the development standards of this Ordinance in order to render that site buildable.

**Hazardous Waste** The material which has been designated as "*hazardous waste*" by the Federal Environmental Protection Agency, the Randolph County Board of Health, the Indiana State Board of Health, or the Town Fire Chief.

**Hazardous Waste Facility**

All contiguous land, structures, other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste.

**Hazardous Waste Disposal Facility**

A facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure.

**Hazardous Waste Generator**

Any person or site whose act or process produces hazardous waste identified, defined or listed in Environmental Protection Agency regulations.

**Hazardous Waste Motor Freight Terminal**

A motor freight terminal engaged in the off-site transportation of hazardous waste.

**Highway Oriented Use**

Any business use which caters primarily to motorists traveling the interstate highway system, including but not limited to restaurants, hotels and motels, and vehicle fueling and repair facilities.

**Historic Area**

Any Historic Site, Landmark or District.

**Historic District**

An area possessing a significant concentration, linkage or continuity of Historic Sites and/or Landmarks unified by past events or aesthetically by plan or physical development.

**Historic Landmark**

A structure or object of historic significance designated as such by the Historic Commission.

**Historic Site**

The location of an event or of a structure or object for which no physical remains exist designated as such by the Historic Commission.

**Home Occupation**

An accessory use of a dwelling unit for gainful employment which:  
(a) is clearly incidental and subordinate to the use of the dwelling unit as a residence,  
(b) is carried on solely within the main dwelling, does not alter or change the exterior character or appearance of the dwelling and does not utilize more than thirty percent (30%) of the main floor living area of the dwelling,

- (c) employs the principal operator of the home occupation and not more than one assistant serving a clearly subordinate capacity,
- (d) is located in any zoning district which allows residential uses, and
- (e) is a business other than a Child Care Center.

**Hospital** A building or portion thereof used for the accommodation and medical care of sick, injured, infirmed persons and including sanitariums, rest homes, homes for the aged, alcoholic sanitariums, institutions for the cure of chronic drug addicts and mental patients.

**Hotel** A building, other than a boarding or lodging house, containing rooms and may have a general kitchen and dining room, a common entrance lobby, and halls and stairway.

**Household Pets** Limited to: domesticated dogs and cats; rabbits; hamsters; gerbils; and guinea pigs.

**Housekeeping Unit** Either a family or the occupants of shared housing, living together in one dwelling unit, with common access to and use of all living, eating, and food preparation and storage areas within the dwelling units.

**Improvements** Any building, structure, parking facility, fence, gate, wall, work of art, underground utility service or other object constituting a physical betterment of real property, or any part of such betterment.

**Improvement Location Permit**

Written authorization issued by the Area Planning Department to locate new construction, repair, alter, move or add to a structure, or change the condition of land or use thereof.

**Industrial Park** A planned industrial district in which buildings and lands may be used for research, offices, experimental or testing laboratories, light industrial, non-nuisance manufacturing, storage and distribution facilities and other customary uses that meet with the requirements of the comprehensive plan and specifically excludes any hazardous or radioactive waste storage, transportation or disposal.

**Industrial Performance Standards** (See Performance Standard)

**Integrated Center** One or more buildings occupying a site under one ownership or management, containing a number of individual, unrelated and separately operated uses which share common site facilities and services such as driveway entrances and exits, parking areas, truck loading, maintenance, sewer and water facilities, and similar common facilities and services. A building on a lot which is physically separated from other uses in an integrated center by curbs and/or landscaping, and which contains its full requirement of parking, but which shares driveway entrances and exits with other uses, is not a part of that integrated center.

<b>Intense burning</b>	A rate of combustion described by a substance that burns with a high degree of activity and is consumed rapidly.
<b>Interested Person</b>	Any person who holds an interest in real estate which is the subject of a hearing of the Area Planning Commission or Board of Zoning Appeals of Randolph County, and anyone who owns property within two hundred and fifty feet of such real estate and anyone within the required set back. Service of notice to interested persons shall be made by certified mail on the last assessee of record.
<b>Interior Lot</b>	A lot other than a corner lot or a through lot.
<b>Internal Lighting</b>	A source of external illumination located a distance away from the sign, which lights the sign, but which is itself not visible to persons viewing the sign from any normal position of view.
<b>Institution For Children</b>	An institution providing custodial care to minors on a daily, weekly or other temporary or semi-permanent basis including, but not necessarily limited to, a day care home, a day nursery, nursery school and an orphanage.
<b>Instrument Runway</b>	A runway equipped with electronic and visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.
<b>Junk Yard</b>	A place, usually outdoors, where waste or discarded used property other than organic matter (including, but not limited to, motor vehicles, farm implements, household appliances, and industrial machinery) is accumulated and is or may be salvaged for reuse or resale. This shall include any industrial scrap metal yard.
<b>Kennel, Dog</b>	Any commercial facility, either private or public, used primarily for keeping dogs over six months of age and has been issued a major or minor kennel license by the appropriate County agency as indicated in IC 15-5-9-1 (b)©
<b>Laboratory</b>	A structure devoted to experimental study such as testing and analysis.
<b>Lake</b>	A body of standing water having a depth greater than two feet and an area of 225 square feet.
<b>Landing Area</b>	The area of an airport used for landing, takeoff or taxiing of aircraft.
<b>Landscaped Area</b>	Land that has been decoratively or functionally altered by contouring and planting shrubs, trees, or vines, and with a living or non-living ground cover.

**Legally Established** A use or structure which complied with the provisions of the zoning regulations which were in effect at the time said use or structure came to exist.

**Light Industrial Use** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes in which all operations, other than transportation, loading and unloading operations, are performed entirely within enclosed buildings.

**Limited Access Highway**

A highway to which abutting properties are denied access.

**Livestock:**

A domestic animal normally raised on a farm, or as part of commercial agricultural or animal husbandry operation, which are normally used for purposes related to agricultural production of food and commerce, or in the operation of a farm, or for exhibition. Livestock, including animal breeds derived from livestock, shall not be deemed to be pets and may not be maintained as an accessory to a residential use unless specifically permitted in this Zoning Ordinance.

**Loading Berth**

A facility for the loading and unloading of vehicles, either covered or uncovered, with either the loading dock raised above the grade elevation of the area where the vehicle is parked or the parked vehicle area below that of the surrounding area.

**Loading and Unloading Area, Off-street**

An open area, other than a public way, surfaced with an all-weather, dustless, impervious, hard-surfaced pavement, the principal use of which is the standing, loading and unloading of commercial motor vehicles, to avoid undue interference with the public use of street and alleys.

**Lodging House**

A building in which lodgings are regularly provided for compensation for services rendered for at least three (3) but not more than six (6) persons.

**Lot**

- (1) (a) A piece of land, the location, shape and size of which have been established by a recorded plat, subdivision or planned development; or  
(b) Any part of that piece of land where a division has been made; and which shall include any adjacent area of land added to that piece of land by either the vacation of a public way, or an exempt division as permitted by the Subdivision Ordinance.
- (2) A piece of land, not in a recorded plat, subdivision or planned development, the location, shape and size of which are determined by the legal description in the last recorded document made as an exempt division or parcelization under the then applicable Subdivision Ordinance; and which shall include any adjacent area of land added to that piece of land by either vacation of public way or an exempt division as permitted by the Subdivision Ordinance.

- (3) A tract of land occupied or capable of being occupied by one or more structures.

<b>Lot Area</b>	The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any floodplain or any area lying within the right-of-way of any public or private street, alley, or easement for surface access (ingress or egress) into the subject lot or adjoining lots.
<b>Lot Coverage</b>	The percentage of the total lot area which is covered by buildings, including accessory or out buildings.
<b>Lot Depth</b>	The average horizontal distance between the front and rear lot lines.
<b>Lot Ground Level</b>	<ol style="list-style-type: none"><li>(1) For a building having walls abutting (that is, generally parallel to and not more than five feet from one street only, means the elevation of the sidewalk at the center of the wall abutting the street;</li><li>(2) For a building having walls abutting more than one street, means the average of the elevations of the sidewalk at the centers of all walls that face streets; and</li><li>(3) For a building having no wall abutting a street, means the average level of the ground adjacent to the exterior walls of the building.</li></ol>
<b>Lot Line, Front</b>	<ol style="list-style-type: none"><li>(1) For an interior lot: means the line dividing the front yard and the abutting street.</li><li>(2) For a through lot abutting two public streets: means the lines dividing each front yard from each abutting street.</li><li>(3) For a through lot abutting both a public street and a lake or watercourse: means<ol style="list-style-type: none"><li>(a) the line dividing the front yard from the abutting street, and</li><li>(b) the line dividing the other front yard from the abutting lake or watercourse.</li></ol></li><li>(4) For a corner lot: means the line marking the boundary between the lot and the shorter of the two abutting street segments, except as otherwise specified by deed restrictions.</li></ol>
<b>Lot Line, Rear</b>	The line or lines directly opposite the front lot line.
<b>Lot Line, Side</b>	The connecting line or lines between the front and rear lot lines.
<b>Lot of Record</b>	A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in any manner in the office of the Recorder of Randolph County, Indiana. A Lot of Record is not necessarily a piece, parcel, plot or tract designated or used for single ownership.
<b>Lot Width</b>	The distance between the side lot lines as measured on the building line.

- Major Change** In the context of Planned Development Districts, any increase in residential density; any change or modification in building dimension or location unless all other development standards set forth are met; any change in lot lines; any change or modification in landscaping other than substitution of species or redesign with the same materials; any alteration in the size and/or location of signs; any change or modification in type or location of land use; any change or modification in the alignment or intersection of streets unless requested or required by the appropriate governmental agency; or any change or modification in restrictive covenants, or horizontal ownership and owners' association documents regarding these items.
- Maneuvering Aisle** A driving lane in a parking area, such as between two rows of parking spaces or between a row of parking and the edge of a parking area, which serves two or more parking spaces.
- Maneuvering Space** An open space in a parking area designed to be used for and which is necessary for turning, backing, or driving a motor vehicle forward into a parking space, but which is not used for the parking or storage of motor vehicles.
- Manufactured Home** (See Dwelling Unit, Manufactured)
- Manufactured Housing**  
Any dwelling unit defined herein as manufactured, mobile or modular.
- Marquee** Any permanent roof-like structure projecting from a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather and to include advertising signs or messages.
- Massage** Method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating or the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment, or other such preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his behalf will pay money or give any other consideration or any gratuity therefore. However, massage as used in this ordinance shall not apply to the activity of any person who is registered or licensed by the United States government or any agency thereof, the State of Indiana or any agency thereof, by Randolph County or any agency thereof, by any city or town within Randolph County or any agency thereof, or registered or licensed by any statute or ordinance of the United States, State of Indiana, Randolph County or any city or town in Randolph County, while such person so registered or licensed is performing the services for which the registration or license was issued and during the period of time said registration or license is in effect.

**Massage Establishment**

Any establishment having a source of income or compensation derived from the practice of massage as herein defined and which has a fixed place of business where any person, firm, association, or corporation engages in, or carries on any of the activities as defined in a massage.

**Medical Center**

An institution providing health service and medical or surgical care on an inpatient basis or out-patient basis to persons suffering from illness, disease, injury, deformity, or other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities such as laboratories or training facilities.

**Medical Clinic**

An establishment in which patients are admitted for medical or dental treatment and in which the services of more than one physician or dentist are provided, often without requiring an appointment.

**Medical Office**

An establishment in which patients are admitted for medical or dental treatment and in which the services of one physician or dentist are provided, often by appointment only.

**Meteorological Tower**

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

**Minor Change**

In the context of Planned Development Districts, any change or modification which does not increase residential density; any change or modification in building dimension or location which complies with all other development standards set forth are met; any change or modification in landscaping species or redesign with the same materials; any change or modification in the alignment or intersection of streets requested or required by the appropriate governmental agency.

**Mobile Home**

(See Dwelling Unit, Mobile)

**Mobile Home Park**

Any site, lot, field, or tract of land under single ownership, or ownership of two or more persons upon which at least five (5) mobile homes to be used for human habitation are parked, whether free of charge or for revenue purposes, and shall include any street used or intended for use as part of the facilities of such mobile home park. A mobile home park does not include a mobile home sales area on which unoccupied mobile homes are parked for inspection or sale.

**Mobile Home Subdivision**

Any site, lot, field or tract of land under single ownership, or ownership of two or more persons, which is to be divided into smaller sites, lots, fields, or tracts of land, which smaller sites, lots, fields, or tracts of land are to be sold for use by purchaser to park such purchaser's mobile home.

**Mobile Home Tie-Downs**

Sufficient anchorage to resist floatation, collapse or lateral movement of any mobile home.

**Moderate Feeding Operation (MFO)**

Any existing or proposed Confinement Operation or an expansion of an existing Confinement Operation on which there are livestock numbers exceeding:

- a. 100 Cattle or Horses
- b. 300 Swine or Sheep
- c. 500 Fowl or Duck

Where a confinement Operation involves less than one hundred (100) cattle or horses, three hundred (300) swine or sheep, five hundred (500) fowl or duck, but if there is more than one species of animal, the total number of animals in each category shall be divided by 100 in the case of cattle or horses, 300 in the case of swine or sheep, 500 in the case of fowl or ducks, then multiplied by 100 to get percentages for each. The resulting percentages shall be added together. If the total of such percentages equals or exceeds 100, then the operation is a Moderate Feeding Operation.

**Modular Home** (See Dwelling Unit, Modular)

**Motel** An overnight facility, other than a boarding or lodging house, with a parking space on the lot for each lodging unit.

**Motor Freight Terminal** Any structure in which freight, brought to said structure by motor truck, is sorted for further shipment by motor truck.

**Motor Vehicle** A device in, upon and by which any person or property may be transported or drawn upon a public way, except devices moved by human or other animal power or used exclusively upon stationary rails or tracks.

**Motor Vehicle, Commercial** A motor vehicle used or designed for use in pulling, towing, hauling, transporting or as a temporary or permanent base, platform or support for equipment, machinery, materials and/or other goods, the rated capacity of which is more than 1-1/2 tons (1360 kg) of such equipment, machinery, materials and/or goods, including but not necessarily limited to stake body trucks, dump trucks, trucks and/or tractors, having dual rear wheels and/or more than two axles, semi-tractor trailers, semi-tractor trailers having dual rear wheels and/or more than one axle and/or having an overall length of more than twelve feet, regardless of capacity.

**Motor Vehicle Impound Yard** Any place where two or more motor vehicles, regardless of operating condition, are kept solely for the purpose of impoundment under proper authority.

**Motor Vehicle Storage Yard**

Any place where two or more vehicles, regardless of operating condition, are kept for the purpose of storage.

**Motor Vehicle Repair, Major**

Includes the rebuilding of motor vehicle engines, transmissions, drive trains and similar reconditioning of motor vehicles and components as well as the repairing or repainting of bodies, frames, fenders but excluding vehicle conversion.

**Motor Vehicle Repair, Minor**

The repair or replacement of motor vehicle parts, such as brakes, mufflers and tires, and the servicing of motor vehicles such as tune-ups, lubrication and oil change.

**Motor Vehicle Sales Lot**

Any premises where new or used motor vehicles are offered for sale or are sold during any calendar year and has been issued a valid license by the Indiana Bureau of Motor Vehicles.

**Motor Vehicle Service Station**

A place where gasoline stored only in underground tanks, kerosene, lubricating or grease and other similar products used in the servicing and/or operation of motor vehicles are offered for sale directly to the public on the premises, including minor accessories and services for motor vehicles but not including Major Motor Vehicle Repair; and including washing of motor vehicles where no chain conveyor, blower or steam-cleaning service is employed.

**Motor Vehicle Wash**

A structure or portion thereof where motor vehicles are washed but excluding such areas within a Motor Vehicle Service Station

**Motor Vehicle Wrecking Yard**

Any place where one or more vehicles not in operable condition or otherwise legally operable on public ways, or parts thereof, are stored in the open or any land or structure used for wrecking, salvaging or storing such motor vehicles or parts thereof, including farm machinery stored in the open and not being restored to operating condition and each motor vehicle shall have a salvage title issued by the Indiana Bureau of Motor Vehicles.

**Multi-family Dwelling**

A dwelling containing more than two dwelling units.

**Municipal Solid Waste Landfill (MSWLF)**

A solid waste land disposal facility that is permitted to receive municipal solid waste and that is not a land application unit, surface impoundment,

injection well, or waste pile. A MSWLF is a sanitary landfill for purpose of IC 12-20-21. A MSWLF also may receive commercial solid waste, construction/demolition waste, small generator waste, industrial solid waste, and special waste in accordance with 329 IAC 10-8.1. Such a landfill may be publicly or privately owned.

**Municipal Solid Waste Landfill Unit (MSWLF Unit)**

A discrete area of land or an excavation that is permitted to receive municipal solid waste for disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined in 40 CFR 257.2. A MSWLF Unit also may receive commercial solid waste, construction/demolition waste, small generator waste, industrial solid waste, and special waste in accordance with 329 IAC 10-8.1. Such a landfill may be publicly or privately owned. A MSWLF Unit may be a new MSWLF Unit, an existing MSWLF Unit or a lateral expansion.

**Natural Resources** The Indiana Department of Natural Resources Commission.

**Naturally Ventilated Barn or Structure:**

A barn or other structure in which animal units are housed in a **Confinement Operation** which utilizes fans for ventilation which fans move less than 25,000 cubic feet of air per minute per 300 animal units.

**Net-Metering** Net-metered customers are credited for net excess generation, wherein no cash is given to the owner of the wind turbine.

**Net Site Area** The total area of a parcel of land, excluding rights-of-way.

**Noise Pollution** A level of noise which subjects those in close proximity to such decibel levels that impair their health, general welfare and enjoyment of their property for its intended use.

**Non-complying Use** A use which does not comply with the terms of this ordinance or conditions of its approval.

**Nonconforming Building or Structure**

A building, structure, fence, or other improvement or portion thereof lawfully existing at the time this ordinance or any of its amendments became effective and which was designed, erected or structurally altered for a use which does not conform to the use of the district in which it is located or, which building, structure, fence, or other improvement or portion thereof, does not comply with all the setback, setback line, height, bulk and area regulations or other requirements of the Zoning Ordinance or amendments thereto of the district in which the same is located.

**Nonconforming Lot** A Lot of Record which does not conform to the lot area or lot width regulations of this Ordinance.

**Nonconforming Use** A use that exists at the time a provision of this Ordinance is passed but does not comply with it.

**Non-Participating Landowner**

A person who has not entered into any contractual agreement with a Wind Energy Conversion System company, entity or person for the purposes of developing a Wind Energy Conversion System

**No parking Setback** An open space in which all parking is prohibited.

**Normal Grade Level** (See Lot Ground Level)

**Noxious Matter** Any material offensive to the human senses, especially sight and smell.

**Nursery School** (See Institutions for Children)

**Nursing Home** Premises used for the housing of and caring for the ambulatory, aged or infirm. There shall be only incidental convalescent care not involving either trained nurse or physician residing on the premises. There shall be no surgery, physical therapy or other similar activities such as is customarily provided in sanitariums and hospitals.

**Occupied Space** The total area of earth horizontally covered by the structure, excluding detached garages, patios and porches and other accessory structures.

**Octave band** All the frequencies from one frequency to a second. In sound octave bands, the second frequency is usually twice the first one.

**Octave band filter** An electrical device that separates the sounds in each octave band and presents them to the sound-level meter.

**Office/Warehouse** A building devoted primarily to warehousing activities, but also includes accessory office space.

**Off-Street Parking Area**

An area which is designated for the parking of vehicles and which is not a public way.

**One- and Two-Family Dwelling Code, Indiana**

The nationally recognized model building code adopted by the Indiana Department of Fire and Building Services as mandated by Public Law 360, and which includes those supplements and amendments promulgated by the Indiana Department of Fire and Building Services.

**Opaque** Neither reflecting nor emitting light; not transparent and not translucent.

**Open Space** Any front, side or back yards, courts, or off-street parking space provided about a building in order to meet the requirements of this code.

<b>Open Use</b>	The use of a lot without a building, or a use for which a building with a floor area no larger than five percent of the lot area is only incidental.
<b>Operational Support Meteorological Tower</b>	A tower which is erected primarily to measure wind speed and wind direction and to gather other weather/climate data and which operates in support of a Wind energy Conversion System. It does not include towers and equipment used by airports, the Indiana Department of Transportation or other similar applications to monitor weather conditions.
<b>Orphanage</b>	(See Institutions for Children)
<b>Outlet Mall</b>	A type of integrated center containing multiple retail establishments, each one selling a single manufacturer's product.
<b>Owner</b>	The owner as shown on the records of the Randolph County Recorder's Office.
<b>Parcel</b>	A piece of land, the location, shape and size of which is determined by the official record of the last transfer of its ownership transacted before the Subdivision Control Ordinance of Randolph County, Indiana.
<b>Parcelization</b>	Any division of land complying with the terms of this ordinance and the Subdivision Control Ordinance of Randolph County, Indiana.
<b>Parent Tract</b>	A piece of land, the location, shape and size of which is determined by the official record of the last transfer of its ownership transacted before the enactment of this ordinance or the last division by recordation of a plat prior to the enactment of this ordinance provided such plat is not in violation of any previous ordinance.
<b>Park, Private</b>	Any land held in private ownership which is specifically designated as a park and which is reserved for recreational, educational, cultural, or aesthetic uses.
<b>Park, Public</b>	Any area open to the general public which is specifically designated as a park and which is reserved for recreational, educational, cultural, scenic, or open space uses.
<b>Parking Area</b>	A group of parking spaces, exclusive of any part of a street or alley, designed or used for the temporary parking of motor vehicles or bicycles.
<b>Parking Space</b>	An open space, exclusive of maneuvering aisle and driveway, used for the temporary parking of one motor vehicle or bicycle.
<b>Participating Landowner</b>	A person(s) who has entered into a contractual agreement with a commercial Wind Energy Conversion System (WECS) company

**Pennant** A lightweight plastic, fabric, or other material, whether or not containing a message or any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

**Performance Standard**

A criterion established for the purpose of (1) assigning proposed industrial uses to proper districts, and (2) establishing requirements for the control of noise, odor, smoke, toxic matter, vibration, fire and explosive hazards, or glare generated by, or inherent in, uses of land or buildings.

**Permanent Foundation**

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

**Permanent Perimeter Foundation**

A permanent perimeter structural system completely enclosing the space between the floor joist of the home and the ground. Such structural system shall be below grade level at a depth of thirty inches and shall be composed of cement block or poured cement.

**Permitted Use**

A use which is allowed by this Ordinance in specific zoning districts and which is one of the following:  
(1) expressly permitted;  
(2) use permitted as a conditional use;  
(3) use permitted as a special exception;  
(4) accessory use; or  
(5) a legally established nonconforming use.

**Person**

Includes any individual person, corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a single unit.

**Pervious Surface**

Any material which permits full or partial absorption of storm water.

**Petitioner**

(See Applicant)

**Plan Commission**

The Area Planning Commission of Randolph County, Indiana.

**Planned Industrial District**

A tract of land which is subdivided and developed according to the comprehensive plan for the use of a community of industries, with streets, rail lead tracks, and utilities installed before sites are sold to prospective occupants. The district is characterized by low density occupancy and a park-like character, with protective restrictions that are written into deeds or leases.

**Planned Unit Development**

A tract of land which is developed as an integrated unit under single ownership or control, which includes two (2) or more principal buildings, and where the specific requirements of a given district may be modified, and where the minimum area is fixed.

**Planning Department**

The staff of the Area Planning Commission.

**Plan of Operation**

A written statement describing the details of how a use is operated. Depending on the use, the description may include such information as the gross floor areas devoted to various activities; percentage amounts of income derived from various activities; number of employees on various work shifts; anticipated or known amounts and hours of customer and delivery vehicular or pedestrian traffic; hours of operation, differentiating among general office hours, delivery hours and hours open to the general public, etc.; amount, type and location of outdoor activities, lighting and storage; and an indication and brief description of regulations imposed by other governmental agencies.

**Plat**

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

**Plat Map**

The official aerial photograph overlaid with mylar indicating lot lines, street and road rights-of-way, maintained by the Plat Department of the Randolph County Auditor's Office.

**Plot Plan**

(See Site Plan)

**Pole Barn or Pole Structure**

Any permanent open or enclosed structure which is constructed using post and beam construction and which, upon completion of construction, the exterior of the structure gives the appearance of a shell building which was constructed primarily of either light metals or prefabricated steel.

**Pond**

A body of standing water having a depth greater than two (2) feet and an area of 225 square feet.

**Pool Room**

(See Billiard Room)

**Porch, Open**

A roof over-structure attached to the wall of a principal structure and open on one or more side(s) or enclosed on the sides with screens.

**Porch, Enclosed**

A roof over-structure attached to the wall of a principal structure and enclosed on the sides forming a heated or an unheated area.

**Primary Communications Tower**

A structure intended for transmitting and/or receiving television, radio, telephone, or messaging communications, including those used exclusively for dispatch communications if the tower is the primary use.

**Primary Residence** The home in which you spend the majority of your time. (By law, you can only have one primary residence and it's used for such purposes as filing taxes, census taking, in-state tuition verification, acquiring a mortgage and other such activities.)

**Primary Use** The main or primary purpose for which a building, other structure and/or lot is designed, arranged, or intended, or for which they may be used, occupied or maintained under this Ordinance. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this Ordinance shall be considered an accessory use.

**Principal Building** A building in which the primary use of the lot on which it is located is conducted, including a building that is attached to such a building in a substantial way, such as by a roof (with respect to residential uses, it means the main dwelling).

**Private Recreational Development**

Any indoor or outdoor commercial recreational development which:  
(1) is privately planned and operated;  
(2) consists of such recreational uses and accompanying service uses as theaters, miniature golf courses, driving ranges, swimming pools, skating rinks, recreational courts, and similar uses; and  
(3) meets all of the zoning requirements and performance standards for commercial Planned Developments outlined in Section 7.00 of this Ordinance.

**Private School** A school other than a public school.

**Private Use Airport** Any area, site, or location, either on land, water, or upon any building, which is specifically adapted and maintained for the landing and taking off of aircraft, and which is not utilized or to be utilized in the interest of the public for such purposes. The term does not include any public use airport or landing field or any military airport solely occupied by any federal branch of government using that airport for military purposes.

**Produce Stand** A structure, often of a temporary nature, from which agricultural produce is sold at retail.

**Professional Office** An office used by members of a recognized profession such as architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons, pharmacists, real estate agents, insurance agents and brokers.

<b>Protected Use</b>	Dwelling unit, nursing home, hospital, fraternity, sorority or student cooperative, hotel, motel, Industrial park, medical center, planned unit development, residential facility for the developmentally disabled, shopping center
<b>Public or Commercial Sanitary Landfill, Refuse Dump, or Garbage Disposal Plant</b>	A legal disposal site and/or facility employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards.
<b>Public Gathering Place</b>	Child care center, a public park, church, convent, monastery, rectory, parish hall, synagogue, historic area, private recreational development and schools.
<b>Public Parking Garage</b>	A garage, other than private garage, where parking, but not repairs, are available to members of the public or to persons occupying a hotel, club, or similar facility.
<b>Public Right-of-way</b>	The property or space from the edge of the public way to the furthest from the adjoining private property line not controlled by the city, town, county or other governmental unit.
<b>Public Road</b>	A road or road right-of-way owned and/or maintained by a public entity for the use of the public.
<b>Public Street</b>	A street established for or dedicated to public use for vehicular traffic.
<b>Public Use Airport</b>	Any area, site, or location, either on land, water, or upon any building, which is specifically adapted and maintained for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes. The term does not include any private use airport or landing field or any military airport solely occupied by any federal branch of government using that airport for military purposes.
<b>Public Way</b>	Any street, road, avenue, alley, or sidewalk within the Town's boundaries provided and maintained by the Town for the vehicular and pedestrian use of its citizens, including those within the park system.
<b>Publishing</b>	The act of producing for release or sale to the public of literature, information, musical scores and recordings, and art, including bookbinding and lithography, etc.
<b>Rear Lot Line</b>	For an interior or corner lot, this is the lot line that is opposite the front lot line and farthest from it; except that for a triangular or other irregularly-shaped lot, it means the line ten feet long, parallel to the front lot line, and wholly within the lot that is farthest from the lot line.

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

**Reciprocal Setback/Setback Line/Setback Requirement for Agricultural Intensive District:** See **Article III-I.** 3.I-13 Subsections 1., 2., and 3. (See also: Setback/Setback Line/Setback Requirement).

**Recreational Vehicle** A transportable vehicular structure designed as a temporary dwelling for travel and vacation uses which:

- (1) Is identified on the unit by the manufacturer as a travel trailer; and
- (2) Is not more than eight (8) feet in body width; and
- (3) Is of any weight provided its body length does not exceed twenty-nine (29) feet; or
- (4) Is a structure mounted on an automobile or truck; and
- (5) Is designed to be used for temporary sleeping and human habitation.

**Recreational Vehicle Park** Any site, lot, field, or tract of land designed with facilities for short-term occupancy by recreational vehicles only.

**Recyclable Material** Material which is intended for reuse, remanufacture, or reconstitution, consisting of items such as authorized by each member jurisdiction.

**Recycling** A process by which recyclable materials that would otherwise become solid waste are collected, separated or processed, and converted into materials or products for reuse or sale.

**Recycling Collection Facility** A use designated to receive and store pre-sorted recyclable material not intended for disposal. The facility may include bins, boxes or containers transported by trucks, vans, or trailers and used for the collection of recyclable materials. The use excludes facilities which use power-driven processing equipment on site.

**Recycling Processing Facility** A use designed for the collection and processing of recyclable materials. Processing entails the preparation of materials for efficient shipment, or to an end user's specification, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding or cleaning but excludes burning or otherwise heating.

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

**Regulatory Floodway**

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

**Residence** A dwelling unit.

**Residential Zone** Any zoning district permitting residential uses and development, particularly A-R, R-1, R-2 and R-3.

**Residential Facility for the Developmentally Disabled**

A properly licensed, community based living facility that provides a family or home-like environment and, in some cases, training for from four (4) to sixteen (16) developmentally disabled persons (as defined in P.L. 98-527 STAT 2662 1984) in a supervised group living program, as described in IC 16-13-22-1(1).

**Residential Facility for the Mentally Ill**

A properly licensed, community based living facility that provides a family or home-like environment and, in some cases, training for mentally ill individuals as defined and delineated in the Indiana State Code in a supervised group-living program.

**Residential Youth Facility**

An emergency shelter or a temporary residential home for abused or neglected or court-ordered children (as defined in IC 12-3-2 and 31-6-4-1[b]).

**Rest Home** (See Nursing Home.)

**Restaurant** A structure or part thereof where meals are prepared and sold to the public for consumption inside the structure.

**Restaurant, Carry-Out**

A restaurant where meals are sold for persons either parked in the cars, whether or not meals are provided for consumption inside the structure or on the site.

**Restaurant, Drive-In**

A restaurant that delivers meals for persons in their parked cars, whether or not meals are provided for consumption on the site.

**Restaurant, Drive-Thru**

A restaurant where meals are delivered to persons in their cars through a window in the structure.

**Restaurant, Sit-Down**

A restaurant where meals are primarily offered to and consumed by persons seated at tables within the structure or within designated outdoor seating areas immediately adjacent to the structure and where carry-out meals are only incidental to the principal use.

**Resultant Displacement**

The maximum amount of motion in any direction as determined by any three-component simultaneous measuring system approved by the commission; *Three-component simultaneous measuring system* is instrumentation that can measure earth borne vibrations in a horizontal as well as a vertical plane.

**Reupholster Shop**

A business engaged in the repair or replacement of materials such as springs, padding, cushions, and fabric for chairs, sofas and similar furniture.

**Right-of-way**

A strip of land acquired by reservation, dedication, forced dedication, prescription, grant, or condemnation and intended to encompass a road, street, crosswalk, alley, or railroad and other similar uses.

**Right-of-way Line**

The property line that forms the boundary of a right-of-way.

**Ringelmann number**

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

**Road**

A street of any type as defined herein.

**Rooming House**

(See Lodging House)

**Sales, Rummage - Private**

A temporary sale, conducted by an individual or non-profit organization such as a church or club, where members of the group bring articles or items to a central structure or premises to be sold to raise money for use by the organization.

**Salvage**

The saving of items typically for the value of their component parts.

**Satellite Dish Antenna**

A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or concave dish. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are

commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas. Satellite dish antennas, which are eighteen inches or less in diameter shall be excluded from this definition and the regulations of this ordinance.

**Satellite Manure Storage**

A structure designed and utilized for the offsite storage of manure for land application, which is located at least five hundred (500) feet from the property line of the real estate where the production facility which generated the manure is located.

**Schools**

Public, charitable or non-profit institutions offering a general academic curriculum, including but not limited to primary and secondary schools, elementary schools, junior colleges, colleges and universities and military academies, which may also include living quarters, dining rooms, restaurants, heating plants, athletic and incidental facilities, but excluding trade and business schools.

**Scope**

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

**Scrap Metal Yard**

A general industrial use established independent of, or ancillary to, or connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for sale and shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operation; such an establishment shall not include junk yards, landfills, or automobile wrecking yards. The storage, or the accumulation of significant quantities of combustible, organic or nonmetal scrap materials such as wood, paper, rags, garbage, bones and shattered glass on the premises of such an establishment will disqualify it from being classified as a scrap metal yard, and the same will be classified as a junk yard.

**Screening**

A hedge, fence, wall, earthen mound or berm, or any combination thereof, used to reduce the visual and audible effects between or among adjoining uses.

**Searchlight**

An apparatus containing a light and/or reflector for projecting a strong, far-reaching beam in any direction.

**Section**

A unit of a manufactured home at least ten (10) feet in width and thirty (30) feet in length.

**Services Involving Specified Sexual Activities or Display of Specified Anatomical Areas**

An adult service establishment which includes any combination of two or more of the following activities:

- (1) The sale or display of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
- (2) The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
- (3) The operation of coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas;
- (4) Live performance by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis specified sexual activities or specified anatomical areas; and
- (5) The operation of a massage establishment.

**Service Station** A place where mechanical services and repairs, excluding body repair or painting, to motor vehicles are provided which may also include other services or products offered as a convenience to motorists, including but not limited to motor vehicle vital fluids and accessories, mechanical vehicle washing, and food, beverages and similar products.

**Setback** The horizontal distance from a street right-of-way line or lot line.

**Setback Line** The line delineating the minimum horizontal distance between the street, rear or side lines of the lot and the front, rear or side lines of the building. When two (2) or more lots under one (1) ownership are used, the exterior property lines so grouped shall be used in determining setback lines.

**Setback/Setback Line/Setback Requirement for Agricultural Intensive District**  
See **Article III-I. 3.I-13** Subsections 1., 2., and 3. (See also: Reciprocal Setback/Setback Line/Setback Requirement).

**Shared Housing** A dwelling unit which the owner allows to be occupied by unrelated persons living as a single housekeeping unit.

**Shelter, Emergency** Boarding and/or lodging and supporting services provided by non-profit, charitable, governmental, or religious organizations to primarily indigent, abused, needy, or homeless persons.

**Sheltered Living Facility**

A supervised home for developmentally disabled persons needing a temporary or permanent sheltered living situation in the community. Developmentally disabled persons are those with organically based impairment, including but not limited to mentally retarded, cerebral palsied and epileptics.

**Shopping Center**

A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size, and type of shops to the trade area which the unit serves.

**Side Lot Line**

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

**Side Yard**

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

**Sign**

(See Sign Code)

**Single-family Dwelling**

A building or structure on a separate lot containing one dwelling unit.

**Site Plan**

A diagram delineating the boundaries of a property as well as the improvements thereon and any adjoining public rights-of-way and easements, and the dimensions of distances between such items.

**Sleeping Unit**

Sleeping or living quarters without cooking facilities and with or without individual bathroom facilities.

**Smoke unit**

The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation. Each reading shall then be multiplied by the time in minutes during which it is observed. The products so computed shall then be added to give the total number of smoke units observed during the entire observation period.

**Social Rehabilitation Center**

An institution established for the purpose of treating, on a temporary resident or non-resident basis, persons with anti-social behavior problems not considered serious enough for the persons to be confined to an institution.

**Solar Energy System**

A device or combination of devices or elements that rely on direct sunlight as an energy source, including any substance or device that collects sunlight for the following uses: heating or cooling of a structure or building; heating or pumping of water; or, generating electricity. Examples of a solar energy system include the south wall and a solar hot water system.

**Sound Level Meter** An instrument standardized by the American Standards Association for measurement of the intensity of sound.

**Special Exception** A specific use which is allowed under "Special Exceptions" in certain zoning districts and has been deemed by the Board of Zoning Appeals to meet the specific conditions.

**Specific Anatomical Areas**

Any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specific Sexual Activities**

Any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
- (4) Flagellation or torture in the context of a sexual relationship;
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (6) Erotic touching, fondling or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth herein.

**Specified Sexual Activities** (See Specific Sexual Activities)

**Staff** The planning, zoning and code enforcement support staff of the Plan Commission and the Board of Zoning Appeals.

**Standard Plant Unit** One of a number of alternative planting schemes used to landscape required transitional yards.

**State Agency** All boards, commissions, departments and institutions of the State of Indiana created pursuant to legislative acts.

<b>Street Frontage</b>	Any portion of a lot which coincides with the right-of-way line of a public street.
<b>Stoop</b>	An unroofed outdoor staircase and/or small platform whose sole purpose is to provide access to the entrance to a building.
<b>Storage Tank</b>	A structure or container designed and constructed for the purpose of providing storage of solid, liquid or gaseous material.
<b>Story</b>	That portion of a structure included between the surface of any floor and the surface of the ceiling above. A basement shall be considered a floor only if more than half of the distance between its floor and ceiling is above grade level.
<b>Story, Half</b>	That portion of a structure under a gable, hip or mansard roof, the wall plates of which, on at least two opposite exterior walls, are not more than 4-1/2 feet above the finished floor of such story. In dwellings less than three stories in height, a half story in a sloping roof shall not be counted as a story; in dwellings of three or more stories in height, a half story shall be counted as a story.
<b>Street</b>	A right-of-way that is established by a recorded plat or other means as a public way to provide the principal means of access to abutting property.
<b>Street, Arterial</b>	A main street designed for high volume traffic and into which other streets funnel.
<b>Street, Back or Side</b>	A street designed to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways to reach arterial streets.
<b>Street, Collector</b>	A street primarily designed and intended to carry vehicular traffic movement at moderated speeds between local streets and arterial streets while allowing direct access to abutting properties.
<b>Street, Interstate Highway</b>	Any street, expressway or freeway, which is typically under the jurisdiction of the State of Indiana, primarily designed and intended to carry vehicular traffic movement at high speeds among states and providing no direct access to abutting properties.
<b>Street, Limited Access</b>	An arterial street onto which access is limited or otherwise minimized or restricted, not necessarily providing access to abutting properties.
<b>Street, Cul-de-sac</b>	A street having only one open end which is permanently terminated by a vehicle turn around.

<b>Street, Dead End</b>	A street having only one open end which is not terminated by a vehicle turn around.
<b>Street, Local</b>	A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds within the immediate geographical area with direct access to abutting properties.
<b>Street, Primary Arterial</b>	A street designed and intended to carry high volumes of vehicular traffic movement at low to moderately high speeds between other street types and often connecting cities, towns, other counties and developed areas.
<b>Street, Public</b>	A street or street right-of-way owned and/or maintained by a public entity for the use of the public.
<b>Street, Secondary Arterial</b>	A street designed and intended to collect and distribute moderate volumes of vehicular traffic movement at low to moderately high speeds similar to primary arterial street except servicing areas of lesser traffic generation.
<b>Street Frontage</b>	The horizontal distance for which a lot adjoins or coincides with a public street right-of-way from one intersecting side lot line to another.
<b>Structural Change or Alteration</b>	A substantial change in a supporting member of a building, such as a bearing wall, partition, column, beam, or girder, in an exterior wall or the roof.
<b>Structure</b>	Anything constructed or erected that requires location on, or in the ground, or attachments to something having a location on or in the ground.
<b>Structure, Accessory/Out Building</b>	A subordinate structure that is located on the same lot as a principal building, and which is not to be used for human habitation.
<b>Structure, Temporary</b>	A structure which is placed on a site for less than six months.
<b>Subdivision</b>	The division of an existing parcel of land into at least two smaller parcels so that either now or in the future the subdivider can do any of the following with one or more of the divided parcels: (1) Transfer ownership; (2) Construct buildings; or (3) Create new building sites for leasehold.
<b>Substation Wind Energy Conversion System (Substation/WECS Substation)</b>	A structure containing the apparatus which serves as the connection point for multiple below ground or above ground electrical collection lines of a

Wind Energy Conversion System to the electric utility grid, with or without increasing voltage.

**Switchyard for Wind Energy Conversion System (Switchyard/WECS Switchyard)**

A structure containing the apparatus whereby transmission lines for a WECS connect to the electrical utility grid, that is, the location of “interconnection” to a public utility.

**Swimming Pool**

A temporary or permanent water-filled enclosure containing filtration and/or pumping equipment and/or a water depth of at least three feet at any point and a width of at least eighteen feet at any point, designed, used and maintained for swimming, diving, bathing or soaking. Hot tubs, spas, lap pools, whirlpool baths and tubs, and Jacuzzi-type baths and tubs shall also be considered swimming pools if located outdoors. Temporary wading pools, consisting of only an enclosure capable of holding less than three feet of water throughout, shall not be considered swimming pools, nor shall permanent decorative or reflecting pools not designed or used for swimming, diving, bathing or soaking.

**Telecommunication** The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

**Telecommunication Facility**

The lot, tract, or parcel of land that contains the telecommunications antenna, its support structure, any accessory buildings, and parking, and may include other uses associated with and ancillary to telecommunications transmission.

**Tent**

A shelter designed to provide temporary quarters for travel, recreation or camping, with at least some portion of its walls and/or roof made of, or covered or protected by, canvas or any other fabric material.

**Through Lot**

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

**Tourists Home Tower**

(See Lodging House)  
Any structure that is designed and constructed for the purpose of telecommunication antennas or other uses including but not limited to a primary communications tower. For the purposes of Article XVII it does not include a Wind Energy Conversion Systems Facility(ies).

**Tower Height**

The distance from the anchored base of the tower, whether on the top of another building or at grade, to the highest point of the structure, even if the highest point is the top of an antenna.

<b>Townhouse</b>	A group or row of three (3) or more, but not more than six (6) attached single-household dwelling units extending from the basement to the roof and facing upon a street or place as herein defined.
<b>Toxic Substances</b>	Those pollutants or combinations of pollutants, including disease-causing agents, which, after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly through food chains, will on the basis of information available, cause disease, death, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring.
<b>Trade or Business School</b>	A secretarial school, business school or college that is not publicly owned; or that is not owned, conducted, or sponsored by a religious, charitable, or non-profit organization; or that is not a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hairdressing, industrial arts or technical arts.
<b>Trailer</b>	A vehicle which cannot be moved under its own power and is therefore hauled by another vehicle.
<b>Transitional Yard</b>	A required yard, provided in lieu of the minimum required front, side or rear yard as specified for the zoning district in which the property is located, wherever a residential zoning district, church, school or park property line adjoins a commercial or industrial zoning district.
<b>Transmission Line</b>	A cable or line conducting 12,000 volts or greater.
<b>Transmission Lines for Gas, Oil, Electricity, or other Utilities</b>	A system of cross-country structures situated on nonresidential sites which is intended either for transmitting communications signals or for the movement of fossil fuels
<b>Trash Transfer Station</b>	A facility at which solid waste is transferred from a vehicle or a container to another vehicle or container for transportation, excluding a recycling collection facility or a recycling processing facility.
<b>Truck Garden</b>	A garden where vegetables are raised for market and may be sold from a structure located on the same site.
<b>Travel Park</b>	An area of land used or designed to be used to accommodate two or more camping parties, including cabins, tents, or other camping outfits, but not including a travel trailer park.
<b>Truck Freight Terminal</b>	Any land and/or buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. Said terminal facility

may include areas for the short-term storage of trucks and trailers and also may include buildings or areas for the repair and cleaning of trucks and trailers associated with the terminal. (This definition and use are not meant to include any commercial truck stop operations.)

**Truck Stop** Any retail facility that dispenses motor fuels to the general public primarily for use in trucks and other commercial vehicles and which may sell other merchandise (motor oil, tires, batteries, parts, etc.), perform maintenance, servicing and repair work, and provide overnight accommodations and food service primarily for the use of truck crews.

**Truck Tire Mobile Sales and Service** A facility serving the trucking industry predominantly by delivering and installing on the interstate or other roads and street, new or retreaded tires to trucks that have suffered tire damage.

**Two-family Dwelling** A building or structure on a separate lot containing two, attached dwelling units.

**Unified Development Code** The combined Zoning and Subdivision Ordinances of the County, Cities and Towns of Randolph County.

**Untagged Vehicle** A vehicle without a valid license plate or with a plate which does not match the registration.

**Use** The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

**Use, Accessory** A subordinate use that is located on the same lot as a principal use, and which is not to be used for human habitation.

**Use, Principal** The main use of the land or structures as distinguished from a subordinate or accessory use.

**Vacant** Empty and not in use at that particular time.

**Van Conversion** (See Vehicle Conversion)

**Variance (developmental standards)** A specific approval granted by the Board of Zoning Appeals in the manner prescribed by this Ordinance, to deviate from the development standards including, but not limited to, setback, height, bulk, and area that the Ordinance otherwise prescribes, provided, however, no use variance shall be granted.

**Vegetative Cover** A pervious surface supporting plant materials.

**Vehicle Conversion** The process of modifying motor vehicles, commercial motor vehicles, or recreational vehicles to cause substantial change to the vehicle's interior or

exterior for purposes of sale. Modification includes but is not limited to upholstery work, customized painting, or the installation of custom windows.

**Veterinary Clinic** A facility devoted to the practice of veterinary medicine and surgery, defined as the diagnosis, prevention, and treatment of diseases, disorders and injury to animals.

**Vision Setback** (See Clear-sight Triangle)

**Wagon** A trailer with four wheels which may also be pulled by animals.

**Warehouse** A structure, or part thereof, or area used principally for the storage of goods and merchandise.

**Warehouse/Office** (See Office/Warehouse)

**Wheel Stop** A concrete, metal or wood barrier not less than four inches in height and properly used in parking areas at each parking space or stall sufficient to prevent vehicular movement through such parking space.

**Wholesale Produce Terminal**

Any land and/or buildings used as a relay station for the wholesaling and transfer of farm produce from one party to another party or from one vehicle to another vehicle.

**Wholesale Store (Business Establishment)**

Sale or resale, not for direct consumption.

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

Permitted-Prohibited use within specific Zoning Classification Districts: See **Article XVI, Appendix A** for use districts, type of use for respective districts and districts in which WECS is prohibited use.

**Wind Energy Conversion Systems, Commercial (Commercial WECS)**

A WECS that is designed and built to provide electricity to the electric utility's power grid. In general, commercial WECS have a 40 kW or greater total name plate generating capacity

**Wind Energy Conversion Systems, Facility(ies) [WECS/WECS Facility/Facility(ies)]**

An electric generating facility comprised of, among other things, one or more wind turbines that operate by converting the kinetic energy of wind into electrical energy. Said energy may be used on site or distributed into an electrical grid. A WECS or a WECS Facility(ies) shall include, but not be limited to, any or all of the following, Wind Turbine Generator (WTG), Wind Turbine Generator Tower (WTG Tower), Meteorological Tower, Operational Support Meteorological Tower, Sub-Station, Switchyard, Transmission Line, Collection Line, Distribution Line, Power Line. Poles,

Guy Wire, Transformer, Access Roads, Accessory Buildings and Structures and WECS Transmission Facility(ies).

**Wind Energy Conversion Systems, Micro (Micro-WECS)**

Micro-WECS is a type of non-commercial WECS which typically have a total name plate generating capacity of 1 kW or less and utilizing supporting towers of sixty (60') feet or less.

**Wind Energy Conversion Systems, Non-Commercial (Non-Commercial WECS)**

A WECS that is accessory to a principal non-farm, non-agricultural use located on the same lot, and is designed and built to serve the needs of the principal use, this includes WECS that are accessory to a permitted farm or agricultural operation that are designed and built to serve the needs of the farm or agricultural operation. In general, non-commercial WECS have less than 40 kW in total name plate generating capacity.

**Wind Energy Conversion System Operator [WECS Operator/WECS Facility(ies) Operator/WECS Transmission Facility(ies) Operator]**

The person responsible for the day-to-day operation and maintenance of the Wind Energy Conversion System, including, but not limited to WECS Facility(ies) Operator, WECS Transmission Facility(ies) Operator and third party sub-contractors. That for purposes of this Ordinance, the phrase “WECS Operator” shall include any and all of the above set forth in the definition heading.

**Wind Energy Conversion System Owner/WECS Transmission Facility(ies) Owner**

A person with an equity interest in the Wind Energy Conversion System, including, but not limited to, WECS Facility(ies) Owner, WECS Transmission Facility(ies) Owner and all respective successors and assigns. For purposes of this Ordinance, the phrase “WECS Owner” shall include any and all of the above set forth in the definition heading. Owner does not mean (i) the real property owner from whom land is leased for locating the Wind Energy Conversion Systems, unless the property owner has an equity interest in the Wind Energy Conversion Systems; or, (ii) any person holding a security interest in the Wind Energy Conversion Systems solely to secure an extension of credit, or a person foreclosing on such security interest provided that after the judgment of foreclosure is entered by a court the person sells the Wind Energy Conversion Systems within one (1) year of the date of said judgment or the Wind Energy Conversion System(s) is decommissioned per the Decommissioning Plan and Decommissioning Agreement.

**Wind Energy Conversion Systems, Transmission Facility(ies) [WECS Transmission Facility(ies)]**

Transmission lines, substations or switchyards pertaining to a commercial WECS. [See also: Wind Energy Conversion Systems, Facility(ies).]

**Wind Farm**

A wind farm is a collection of wind turbines in the same location and used for the generation of electricity.

**Wind Turbine Generator (WTG)**

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

**Yard**

A space on the same lot with a principal building that is open and unobstructed from the ground to the sky except as otherwise authorized by this Ordinance.

**Zone**

A specifically delineated area or district within which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings.

**Zoning District**

Any area of Randolph County, Indiana, within which the zoning regulations are uniform. All references to residential, commercial, and/or industrial zoning districts are as shown on the Official Zoning Map for Randolph County, Indiana, its Cities of Winchester and Union City and Towns of Farmland, Parker, Lynn, Ridgeville, Modoc, Saratoga and Losantville.

**Zoning Lot**

A piece, parcel, plot or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control. A Zoning Lot may or may not coincide with a Lot of Record.

**Zoning Map**

A delineation of the boundaries of areas or divisions of the County, its Cities and Towns, for the purpose of regulating, limiting and determining the height and bulk of buildings, the intensity of the use of lot area, the areas of open spaces about the surrounding buildings for the purpose of classifying, regulating and restricting the location of trades and industries, and buildings designed for specified industrial, business and residential uses, and which map is attesting to and is on file in the office of the Plan Commission.

**Zoo**

See Exotic Animal Farm and Petting Zoo.

**Exotic Animal Farm**

A business or enterprise which is privately owned and maintained on a privately owned area of property which houses and maintains for the purpose of exhibition to the public animals not generally native to such location. Any such business or enterprise shall operate in compliance with all federal, state or local laws, regulation and ordinances applicable to such business and enterprise. The Plan of Operation (Conditional Use) for an Exotic Animal Farm, in addition to all other requirements of such Plan, shall include those set forth, as applicable, for a Petting Zoo. Nothing herein shall prevent the construction and operation of an Exotic Animal Farm which exhibits primarily animals which are native, indigenous, or generally kept or raised in this area. By-way-of-example and not limitation, are cattle, horses and sheep, however, the requirements of the Plan of Operation or otherwise shall be the same.

**Petting Zoo**

A business or enterprise which is privately owned and maintained on a privately owned area of property which houses and maintains animals, either native or non-native to such location, primarily for the purposes of exhibition and/or touching, petting, feeding or to otherwise interact with visitors, customers, guests or other third parties. Any such business or enterprise shall operate in compliance with all federal, state, or local laws, regulations and ordinances. The Plan of Operation (Conditional Use) shall in addition to all other requirements of such Plan, set forth in full, or in sufficient detail, applicable laws, ordinances and regulations to construct, maintain, and operate such a facility in conformity with such laws, ordinances and regulations. Also any stamp, permit or other document required to own, possess or display any animal shall be included in the Plan of Operation.

**ARTICLE XIV**  
**District Changes and Regulations Amendments**

14.01 Amendments

All amendments to this Ordinance shall be made in conformance with the provisions of IC 36-7-4. Any proposed amendments shall be submitted to the Area Planning Commission for report and recommendation prior to any action thereon by the appropriate legislative body.

14.02 Procedure for Change

Petitions for any change of the regulation of district boundaries or classifications of land use as shown on the Zoning Map shall be filed with the Area Planning Commission's office, upon such forms and accompanied by such data and information as may be prescribed for that purpose, so as to assure the fullest practicable presentation of fact for the permanent record. Each such petition for a change of district boundaries or a reclassification of property submitted by the owner shall be verified by at least one such owner attesting to the truth and correctness of all facts and information presented in the petition.

14.03 Notice and Hearing

Before submitting its recommendations on a proposed change in the regulations or reclassification of property to the appropriate legislative body, the Area Planning Commission shall hold a public hearing thereon, notice of which shall be given in accordance with its Rules of Procedure.

14.04 Recommendation to Legislative Body

Following such hearing, the Area Planning Commission may recommend that the petition be granted as requested in the petition, that it be granted subject to conditions or commitments, or that it not be granted. These recommendations shall then be certified to the appropriate legislative body by a majority vote of the Area Planning Commission.

14.05 Final Action

Following certification to the appropriate legislative body, that legislative body shall consider such recommendations and vote on passage of the proposed amendment to the text of the ordinance or to the Zoning Map. In the event the report of the Area Planning Commission is adverse to a proposed change referred to it, the amendment shall not be passed except by a three-fourths vote of the appropriate legislative body.

14.06 Repeal of Conflicting Ordinances

The Zoning Ordinances of the Cities of Winchester and Union City, of the Towns of Farmland, Losantville, Lynn, Modoc, Parker City, Ridgeville, and Saratoga, and of the County of Randolph, Indiana, are hereby repealed. All other Ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are, to the extent of their inconsistency, repealed.



**ARTICLE XV**  
**(Amended May, 2009)**  
**Severability**

15.01 Severability

If any part of provision of this Zoning Ordinance shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other part or provision of this Zoning Ordinance not held so invalid or unenforceable, and such other parts and provisions shall to the full extent consistent with this Zoning Ordinance and applicable law continue in full force and effect. The intentions that this paragraph shall be construed in such a manner that if any part of provision is determined invalid or unenforceable, all remaining parts and provisions shall remain in full force and effect. In the event that any portion of any part or provision is determined invalid or unenforceable, all remaining parts and provisions shall remain in full force and effect. In the event that any portion of any part or provision shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining portions of such part or provision of this Zoning Ordinance not held so invalid or unenforceable and such remaining portions of such part or provision shall to the full extent consistent with this Zoning Ordinance and applicable law continue in full force and effect. The intention is that this paragraph shall be construed in such a manner that if any portion of any part or provision shall be held invalid or unenforceable, the remaining portions of such part or provision shall remain in full force and effect. For the purposes above provided, the provisions and parts of this Zoning Ordinance are hereby declared to be severable.

15.02 Emergency Clause, Attestation

NOW BE IT FURTHER ORDAINED that an emergency exists for the passage of this Ordinance and that the same shall be in full force and effect from and after its passage by the following:

**ARTICLE XVI**  
**Wind Energy Conversion Systems**  
**Siting Regulations**

16.0 Purpose and Intent

16.0.1 Purposes

The purposes of this Article are to:

- A. Assure that the development and production of wind-generated electricity in Randolph County, Indiana, is safe and effective;
- B. Facilitate economic opportunities for local residents; and
- C. Develop standards for wind generated energy, utilize natural resources and ecologically sound energy sources, support Indiana's alternative energy sources potential and other such economic development tools.

16.0.2 Intent

The intentions of the Wind Energy Conversion Systems (WECS) siting regulations are to provide a regulatory scheme for the development, construction and operation of WECS in Randolph County, Indiana to establish reasonable guidelines and restrictions on the development, construction, operation, and decommissioning of WECS, wind farms and wind turbine generators (WTG), and to preserve the health and safety of Randolph County residents and the general public.

16.1 Applicability

- A. The provisions of this Article are applicable to those zoning districts which allow or may allow WECS and to govern the siting, development, operation and decommissioning of WECS, which generate electricity to be sold in the wholesale market or retail market, or which are utilized to generate electricity for private use and public use.
- B. When any part of the development, construction, operation or decommissioning of a WECS requires action, recommendations, hearing and/or decision by the Area Planning Commission of Randolph County, Indiana (APC) or the Board of Zoning Appeals (BZA) pursuant to the provisions of the Unified Zoning Ordinance of Randolph County, Indiana (Zoning Ordinance), or any law or regulation, notice shall be given pursuant to Indiana law, the Zoning Ordinance and the applicable By-Laws of the APC and the Rules of Procedure (Rules) of the BZA.
- B. Provisions of this Article or other parts of the Zoning Ordinance which are specifically made applicable to a specific type of WECS, e.g. commercial, shall apply to that type of WECS. Provisions without reference to a specific type of WECS, shall apply to all WECS unless determined otherwise by the Executive Director of the APC. The Executive Director of the APC may, upon proper notice, assign any question, general or as to a specific WECS or a WECS application, for discussion, action and/or instruction from the BZA. An applicant for a WECS, may appeal the requirement, decision or determination of the Executive Director in the manner prescribed by applicable Rules of the BZA, the Zoning Ordinance and statute(s).

16.2 Prohibition

No person shall construct, operate, or locate a WECS and/or Meteorological Tower or Operational Support Meteorological Tower within Randolph County without having fully complied with the provisions of this Article and all other applicable provisions of said Zoning Ordinance and any applicable Rules of the BZA and By-Laws of the APC and state and federal law and regulations.

16.3 Conflict With Other Regulations

Nothing in this Article is intended to pre-empt other applicable state and federal laws or regulations, including, but not limited to, compliance with all Federal Communications Commission (FCC) and all Federal Aviation Administration (FAA) rules and regulations and with the notification requirements of the FCC and FAA. Nor shall any provisions of this Article interfere with, abrogate, or annul any other ordinance, rule, regulation, statute or other provision of law. In the event that any provision of this Article imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provision which is more or most restrictive or which imposes the higher or the highest standard(s) shall control.

16.4 District Regulations

16.4.1 Location

Commercial WECS, non-commercial WECS, micro-WECS, Meteorological Tower and Operational Support Meteorological Tower are allowed, may be allowed, or shall not be allowed, in zoning districts as prescribed by Appendix A of this Article.

16.4.2 Height

A non-commercial WECS greater than two hundred (200') feet in height shall require the filing for a variance by petition and hearing before the BZA pursuant to this Zoning Ordinance. For commercial WECS and Meteorological Evaluation Tower (MET tower), there is no restriction on height, except those height limitations imposed by FAA rules and regulations. MET tower heights shall reflect the approximate height of the existing or prospective Wind Turbine Nacelle. A micro-WECS shall not exceed one hundred twenty five (125) feet in height and no micro-WECS shall exceed one hundred fifty (150) feet from the ground at the base of a micro-WECS to the tip of the blade at the highest point of the blade tip.

16.4.3 Horizontal Extension

The furthest horizontal extension of a WECS including, but not limited to, guy wires, provided, however, excepting the WECS collection system, WECS transmission lines and WECS access roads, shall not extend into a setback which is otherwise required for the zoning district in which the WECS is located or into a setback required for an adjacent and adjoining zoning district nor be less than twelve (12') feet from any structure or public right-of-way easement for any above-ground telephone line, electrical transmission line, electrical distribution line or other above ground communication or transmission line.

16.5 Setback Requirements

16.5.1 Minimum Setback Distances For COMMERCIAL Wind Turbine Generator Tower

Distance for a commercial WTG tower shall be measured from the center point of each WTG tower. The distance from said center point to each of the following shall be:

<b>TABLE 16.5.1</b>	
<b>Minimum Setback Distance for Commercial Wind Turbine Generator Tower</b>	
<b>Distance from:</b>	<b>Minimum Setback Distance</b>
Property line.	One and one-tenth (1.1) times the total height (measured from where the blade tip is at its highest point) to non-participating landowner's property line. A non-participating landowner may waive this requirement by written waiver. This setback requirement is waived if the affected adjoining or adjacent landowner is a participating landowner sharing a common property line with another participating landowner.
Dwelling: to the nearest corner of a dwelling.	One thousand (1,000) feet. <sup>1</sup>
Line of public road right-of-way.	One and one-tenth (1.1) times the total height (measured from where the blade tip is at its highest point), provided that the distance shall be no less than three hundred and fifty (350') feet. <sup>2</sup>
Line of other rights-of-way, including, but not limited to, railroads and utility easements, excluding private access easements.	One and one-tenth (1.1) times the total height (measured from where the blade tip is at its highest point), provided that the distance shall be no less than three hundred and fifty (350') feet.
Wetlands, as defined by the U.S. Army Corps of Engineers: the nearest point of the wetland.	As determined by a permit obtained from the Army Corps of Engineers
Shoreline of all rivers	One-half (1/2) mile
Incorporated limits of a municipality.	Fifteen hundred (1,500') feet from the incorporation line.
Above-ground electric transmission line.	One and one-tenth (1.1) times the total height (measured from where the blade tip is at its highest point).

<sup>1</sup>The setback for dwellings shall be reciprocal in that the nearest corner of a dwelling shall be constructed no less than one thousand (1,000') feet measured from the center of a WTG tower.

<sup>2</sup>The setback shall be measured from future public rights-of-way width if a road improvement plan or expansion plan of a public road exists at the time of application. Applicant shall have the responsibility of inquiry of the appropriate authority to determine if any public road improvement plan or expansion plan exists at the time of filing its application and shall set forth all relevant information including, but not limited to, that there are no improvement plans or expansion plans.

#### 16.5.2 Commercial WECS Power Collection and Transmission System

For all substations, setbacks from property lines are waived if the affected adjacent or adjoining landowners sharing the common property line are all participating landowners.

##### A. WECS Substation

The substation setbacks shall be the same as those of a commercial WTG tower if the affected adjacent or adjoining landowner sharing a common property line is a non-participating landowner. A non-participating landowner may waive this setback requirement by written waiver.

**B. Poles and Underground Wiring**

For all poles carrying overhead wiring and for underground wiring connecting commercial WTG towers to a substation for connection to a utility’s electric transmission line, there are no setback requirements from property lines of participating or non-participating landowners so long as the poles and underground wiring are located within a recorded easement for such purpose.

**16.5.3 Minimum setback distances for NON-COMMERCIAL Wind Turbine Generator Tower and MICRO-Wind Turbine Generator Tower**

Distance for a non-commercial WTG tower and micro-WTG tower shall be measured from the center point of each non-commercial WTG tower and center point of a micro-WTG tower. The distance from each of the following shall be:

<b>TABLE 16.5.3</b>	
<b>Minimum Setback Distance for Non-Commercial Wind Turbine Generator Tower</b>	
<b>Distance from:</b>	<b>Minimum Setback Distance</b>
Property line.	One and one-tenth (1.1) times the total height (measured from where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed for that zoning district.
Dwelling: to the nearest corner of a dwelling.	One and one-tenth (1.1) times the total height (measured from where the blade tip is at its highest point). <sup>1</sup>
Line of public road right-of-way	One and one-tenth (1.1) times the total height (measured from where the blade tip is at its highest point), provided that the distance shall be no less than the required yard setback prescribed for that district.
Wetlands, as defined by the U.S. Army Corps of Engineers: the nearest point of the wetland.	As determined by a permit obtained from the Army Corps of Engineers.
Shoreline of all rivers.	One half (1/2) mile
Above-ground electric transmission line.	One and one-tenth (1.1) times the total height (measured from where the blade tip is at its highest point).

<sup>1</sup>The setback for dwellings shall be reciprocal in that the nearest corner of a dwelling shall be constructed no less than one and one-tenth (1.1) times the total height of the WTG tower (measured from where the blade tip is at its highest point.)

<sup>2</sup>The setback shall be measured from future public rights-of-way width if a road improvement plan or expansion plan of a public road exists at the time of application. Applicant shall have the responsibility of inquiry of the appropriate authority to determine if any public road improvement plan or expansion plan exists at the time of filing its application and shall set forth all relevant information including, but not limited to, that there are no improvement plans or expansion plans.

16.5.4 Minimum Setback Distances For All Meteorological Towers and Operational Support Meteorological Towers

<b>TABLE 16.5.4</b>	
<b>Minimum Setback Distance for MET Towers and Operations Support MET Towers</b>	
<b>Distance from:</b>	<b>Minimum Setback Distance</b>
Property line, measured from the center of the Meteorological Tower or Operational Support Meteorological Tower to the property line	One and one-tenth (1.1) times the total height of the Meteorological Tower or Operational Support Meteorological Tower, provided that the distance is no less than the required yard setback. The setback requirement is waived if the affected adjacent or adjoining is a participating landowner sharing a common property line with another participating landowner(s). A non-participating landowner may waive this requirement by written waiver.
Dwellings, measured from the center of the Meteorological Tower or Operational Support Meteorological Tower to the nearest corner of the dwelling.	One and one-tenth (1.1) times the total height of the Meteorological Tower or the Operational Support Meteorological Tower. <sup>1</sup>
Public road right-of-way, measured from the center of the Meteorological Tower or the Operational Support Meteorological Tower to the edge of the right-of-way	One and one tenth (1.1) times the total height of the Meteorological Tower or the Operational Support Meteorological Tower, provided that the distance is no less than the required yard setback. <sup>2</sup>
Other rights-of-way, such as railroads and public utility easements, excluding private access easements, measured from the center of the Meteorological Tower or the Operational Support Meteorological Tower to the edge of the right-of-way	One and one-tenth (1.1) times the total height of the Meteorological Tower or the Operational Support Meteorological Tower, provided that the distance is no less than the required yard setback

<sup>1</sup>The setback for dwelling shall be reciprocal in that the nearest corner of a dwelling shall be constructed no less than one and one-tenth (1.1) times the total height of the Meteorological Tower or Operational Support Meteorological Tower measured from the center point of any such tower.

<sup>2</sup>The setback shall be measured from future public rights-of-way width if a road improvement plan or expansion plan of a public road exists at the time of application. Applicant shall have the responsibility of inquiry of the appropriate authority to determine if any public road improvement plan or expansion plan exists at the time of filing its application and shall set forth all relevant information including, but not limited to, that there are no improvement plans or expansion plans.

16.6 Safety Design and Installation Standards

16.6.1 Equipment Type

- A. Turbines  
All turbines shall be constructed of commercially available equipment and in conformance with subsection 16.6.4(A).
- B. Meteorological Towers and Operational Support Meteorological Towers  
All Meteorological Towers or Operational Support Meteorological Towers may be guyed.
- C. Experimental or Proto-Type Equipment

Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the BZA after notice and hearing pursuant to the variance procedures of this Zoning Ordinance.

#### 16.6.2 Industry Standards and Other Regulations

All WECS shall conform to applicable industry standards, as well as all local state and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party.

#### 16.6.3 Controls and Brakes

##### A. Braking System

All WECS shall be equipped with a redundant braking system. This shall include both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Stall regulation shall not be considered a sufficient braking system for over speed protection.

##### B. Operation Mode

All mechanical brakes shall be operated in a fail-safe mode and in accordance with manufacturer's specifications.

C. Subparagraphs (A) and (B) are current standards, and any other braking system or operation mode which is utilized may be approved after notice and hearing before the BZA for a variance pursuant to the Zoning Ordinance.

#### 16.6.4 Electrical components

##### A. Standards

Electrical components of all WECS shall conform to applicable local, state and national codes, and any relevant industry and national standards and be in conformance with industry standards for similar WECS in the United States.

##### B. Cables and Lines

All cables and lines, except transmission cables and lines, shall be buried no less than forty-two (42") inches underground. For any installation method of cables and lines except as provided herein, applicant shall apply for a variance before the BZA pursuant to this Zoning Ordinance.

#### 16.6.5 Color and Finish

In addition to all applicable FAA requirements, the following shall also apply:

##### A. Wind Turbines And Towers

(i) Color: All wind turbines and towers that are part of a WECS shall be white, grey, or other non-obtrusive color.

##### B. Blades

(i) All blades shall be white, grey, or other non-obtrusive color. Blades may be black in order to facilitate deicing.

##### C. Finishes

(i) Finishes shall be matte or non-reflective.

##### D. Exceptions

(i) A variance may be applied as provided by this Zoning Ordinance by the applicant for Meteorological Towers and Operational Support Meteorological Towers if there exists concerns relative to aerial spray applicators.

16.6.6 Warnings

A. Commercial WECS

For all commercial WECS, a sign or signs shall be posted on each WTG tower, pad-mounted transformer or otherwise and each substation warning and switchyard of high voltage. Signs with emergency contact information shall also be posted on each WTG tower or at other suitable and conspicuous locations on the WECS property. All access roads to a commercial WECS shall have posted in a conspicuous location the Emergency 911 Address road sign indicating such address of the WECS property upon which the access road is located. All signage required herein shall have a distinct, high contrast background and shall be of weather proof paint or other weather proof material.

B. Guy Wires and Anchor Points

For all guyed towers, one of the following alert and warning methods shall be used at each anchor point:

1. Visible and reflective objects, which may include, but are not limited to, flags, plastic sleeves, reflectors, or reflective tape placed on, or at, each anchor point of guy wires and along the innermost guy wires no less than fifteen (15') feet above ground level at the said guy wire locations.
2. Visible fencing not less than four (4') feet in height installed around each anchor point of guy wires.

C. Non-Commercial WECS and Micro-WECS

The following notices shall be clearly visible on all non-commercial WECS and micro-WECS:

1. "No Trespassing" signs shall be securely attached to each side of any perimeter fence.
2. "Danger" signs shall be securely posted at the height of five (5') feet on each WTG tower and on each side of all WECS accessory structures and facilities.
3. A sign shall be securely posted on each WTG tower clearly displaying an emergency telephone number(s) in weather proof paint or other weather proof material.
4. All manual electrical and/or overspeed shutdown disconnect switches shall be clearly labeled. Such labels shall be printed in weather proof paint or other weather proof material.
5. All signage required herein shall have a distinct, high contrast background and shall be of weather proof paint or other weather proof material.

D. Meteorological Towers and Operational Support Meteorological Towers

All Meteorological Towers and Operational Support Meteorological Towers shall be in compliance and have all FAA required aviation warnings. A variance may be applied pursuant to this Zoning Ordinance to paint aviation warnings on all Meteorological Towers and Operational Support Meteorological Towers.

16.6.7 Climb Prevention

All commercial WTG tower designs, and as the same are actually constructed, shall include features to deter unauthorized climbing or have anti-climbing devices which shall include as minimum standards:

1. Fencing no less than ten (10') feet in height with locking portals; fencing shall enclose the entire tower; or,
2. Anti-climbing devices fifteen (15') feet vertically from the base of the WTG tower; or,

### 3. Locked WTG tower doors.

#### 16.6.8 Blade Clearance

The minimum distance between the ground and any protruding rotor blade(s) utilized on a commercial WTG tower shall be twenty-five (25') feet, as measured from the highest point of the ground within the arc of the blades and the lowest point of the arc of the blades. The minimum distance between the ground and any protruding rotor blade(s) which blades do not exceed twenty (20') feet in diameter, utilized on any and all other WTG towers shall be a minimum of fifteen (15') feet, as measured at the highest point of the ground within the arc of the blades and the lowest point of the arc of the blades. In all instances, the minimum ground to blade clearance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

#### 16.6.9 Lighting

##### (A) Intensity and Frequency

All WTG tower lighting, including, but not limited to, lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by FAA permits and regulations as the same are now or as the same may from time to time be amended.

##### (B) Shielding

Except with respect to lighting required by the FAA, lighting may require shielding so that no glare extends substantially beyond any WTG tower and WECS structures and facilities.

#### 16.6.10 Materials Handling, Storage and Disposal

##### (A) Solid Wastes

All solid wastes whether generated from supplies, equipment, parts, packaging, operation, maintenance of the facility, Decommissioning Plan and Decommissioning Agreement or otherwise, including, but not limited to, old parts and equipment related to the construction, operation, maintenance, Decommissioning Plan and Decommissioning Agreement of any WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws and ordinances. The WECS owners and WECS operators shall have the same responsibility for compliance hereof.

##### (B) Hazardous Materials

All hazardous materials or hazardous waste related to the construction, operation, maintenance, Decommissioning Plan and Decommissioning Agreement of any WECS or otherwise generated by the facility shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws. The WECS owner and the WECS operator shall have the same responsibility for compliance hereof.

#### 16.7 Other Applicable Standards

##### 16.7.1 Guyed Wire Anchors

No guyed wire anchors shall be allowed within any public road right-of-way setback.

##### 16.7.2 Sewer and Water

All WECS facilities shall comply with the septic system and well regulations as currently required or as hereinafter amended, of the Randolph County Health Department and the State of Indiana Department of Public Health.

16.7.3 Noise

The noise level of a micro WECS, a commercial WECS or a non-commercial WECS shall be no greater than sixty (60) decibels as measured from any part of the micro-WECS, commercial WECS or a non-commercial WECS to any part of the neighbor's house or residence which house or residence is nearest to any part of a WECS. This level may only be exceeded during short-term events such as utility outages and/or severe weather conditions.

16.7.4 Utility Interconnection

A WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, as the regulations now exist and as the same are from time to time amended.

16.7.5 Signage

In addition to complying with Sign Standards, provided in other Articles of the Zoning Ordinance, the following signage regulations and standards shall also apply. In the event that one of the following regulations or standards conflicts with another sign regulation or standard prescribed by this Zoning Ordinance, the more/most restrictive regulation or standard shall apply.

(A) Surface Area

No sign shall exceed sixteen (16') square feet in surface area.

(B) Height

No sign shall exceed eight (8') feet in height.

(C) Manufacturer's or Owner's Company Name and/or Logo

The manufacturer's and/or owner's company name and/or logo may be placed upon the compartment containing the electrical equipment.

(D) Development Signs

An identification sign relating to a wind farm development may be located on each side of the total project area, provided that there shall be no more than one (1) sign located on any side of the wind farm development unless additional identification signs are required to provide reasonable notice to the general public of the wind farm development area.

(E) Other Signs and Logos

No other signs or logos shall be placed or painted on any WTG tower, except as required or allowed by this Article. In the event of a special circumstance peculiar to any wind farm development, a variance may be granted for such additional or alternative signage upon proper notice of hearing and hearing before the BZA for a variance as provided by the provisions of the Zoning Ordinance.

All signage required or permitted by this Article shall be made of industry accepted or required material and constructed to industry accepted standards. In the absence of industry accepted or required material or industry accepted construction standards, said signage shall be made of materials and constructed in a manner to be durable and long lasting. The same shall be painted or made of material with a distinct, high contrast background and be weather proof paint or other weather proof material to promote safety and protect the public from hazards and potential hazards.

16.7.6 Collection Cable/Lines

Collection cables and lines and communication lines installed as part of any WECS shall not be considered essential services.

16.7.7 Other Appurtenances

No appurtenances other than those associated with the WECS construction, operations, maintenance, decommissioning, removal, and permit requirements shall be connected to any WTG tower except after notice of hearing and hearing before the BZA pursuant to the applicable Article(s) of this Zoning Ordinance.

16.8 Operation and Maintenance

16.8.1 Physical Modifications

Any physical modification to any WECS or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-certification by all appropriate regulatory authorities. Like-kind replacements shall not require re-certification, unless required by a regulatory authority. Prior to making any material physical modification, the owner or operator of such WECS shall confer with the Randolph County Building Commissioner, Executive Director of the APC, Randolph County Surveyor, Randolph County Highway Department Superintendent, and any other appropriate regulatory authority as to whether or not the proposed physical modification requires re-certification of such WECS.

16.8.2 Interference

Prior to the commencement of construction of a commercial WECS, a communications study shall be conducted by the applicant, owner and/or operator to determine whether or not the operation of the WECS may produce interference with public or public serving utility microwave transmissions and if so, to determine the most effective method to mitigate interference with public or public serving utility microwave transmissions. If necessary, as outlined hereinafter, the applicant, owner and/or operator shall as part of the commercial WECS application process and the commercial WECS construction implement or incorporate the means determined to be the most effective method to mitigate interference with electromagnetic communications including, but not limited to, radio, telephone, microwaves, or television signals caused by the commercial WECS. Applicant, owner and/or operator shall comply with the following:

- (A) Preconstruction Requirements
  - (i) The applicant, owner, and/or operator shall complete a communications study to, among other things, determine the most effective method to mitigate interference with any public or public serving utility microwave transmissions.
- (B) Construction
  - (i) The applicant, owner, and/or operator, as part of a commercial WECS construction, shall implement the method or methods determined by the communications study to be the most effective method to minimize interference with public or public serving utility microwave transmissions.
- (C) Post Construction
  - (i) If, after construction of a commercial WECS, the owner and/or operator receives a written complaint related to interference with the broadcast and/or reception of residential television, telecommunication or microwave

transmissions, the WECS owner and WECS operator shall take all additional reasonable steps to mitigate such interference. Interference with private telecommunications system including, but not limited to, Global Positioning System, shall be between the WECS owner and/or WECS operator and the complainant.

(D) Failure To Remedy A Complaint: Penalty

- (i) If an agreement to remedy a known interference is not reached within one hundred eighty (180) days from the date of the written complaint or if an agreement to remedy is reached, however, the agreement is not implemented and completed within thirty (30) days of the date of such agreement i.e. the remedy is not fully implemented by the owner and/or operator of the commercial WECS causing such interference, unless all parties agree in writing to an extension of time, the complainant in the event that the interference is other than with a private telecommunications systems, may file a complaint with the Executive Director of the APC. The Executive Director shall make an appropriate investigation and determine if the complaint is meritorious, and if so, refer the same to the BZA for determination as to whether or not the BZA seek remedies available to it including, but not limited to, fines and/or injunctive relief, temporary or permanent, which may result in an order requiring the offending WECS to be enjoined from operating. The BZA shall have no jurisdiction with regard to a complainant regarding interference with private telecommunications system and the WECS owner and/or operator, however, nothing in the Zoning Ordinance shall preclude such a complainant from seeking any remedy available to a complainant either at law or in equity, and as there is no administrative remedy for such a complainant, there is no prerequisite administrative action i.e. no exhaustion of an administrative remedy, to preempt or prevent direct action at law or equity by the complainant against the WECS owner and/or operator.
- (ii) In order for a complainant to have a valid complaint, the interference with the broadcast and/or reception of residential television, telecommunication, and/or a microwave transmission which is the subject matter of the complaint, such residential television, telecommunication, or microwave transmission shall have been “in service” on or before the date on which the WECS or any part of the WECS causing such interference is issued an Improvement Location Permit. For purposes of this provision, residential television, telecommunication or microwave transmission, the same shall be considered continuous i.e. “in service” if the preceding owner(s) or possessor(s) of the affected real estate had residential television, telecommunication, and/or microwave transmission on or before the date of issuance of the Improvement Location Permit; notwithstanding a reasonable break not to exceed ninety (90) days of “in service” in order to provide a new owner(s) or possessor(s) the opportunity to obtain such services. The break of “in service” either all or part may occur prior to, or subsequent to, the date of issuance of the Improvement Location Permit, however, the same shall not exceed ninety (90) days. Provided, further, the complainant must have comparable service to that of the preceding owner(s) or possessor(s). The Executive Director shall make this provision part of the investigation of the complaint.

16.8.3 Declaration Of Public Nuisance

Any WECS declared unsafe by the Randolph County Building Commissioner by being in breach of, or, out of compliance with its WECS permit(s) may seek to be rehabilitated and declared safe by appropriate repair(s) and other essential steps necessary to eliminate the breach(es) so as to be in compliance with such WECS permit(s). A WECS declared by the Randolph County Building Commissioner by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, abandonment or as provided herein to be determined unsafe, is hereby declared to be a public nuisance. In the absence of such repair and rehabilitation in the time determined reasonable by the Randolph County Building Commissioner which time shall not exceed one hundred eighty (180) days, such WECS shall be demolished and removed in accordance with the approved Decommissioning Plan and Decommissioning Agreement.

16.9 Decommissioning

16.9.1 Decommissioning Plan and Agreement

Prior to receiving an Improvement Location Permit and Building Permit, under this Ordinance, the applicant, owner and operator shall submit a Decommissioning Plan to the County and shall enter into a Decommissioning Agreement with the County outlining the anticipated means, costs and method of payment of all costs in carrying out such Decommissioning Agreement at the end of the WECS life or the life of any part of a WECS, upon becoming irreparably damaged, upon becoming an abandoned use, or upon being declared a public nuisance as provided by Section 16.8.3.

16.9.2 Discontinuation and Abandonment

A WECS shall be considered an abandoned use after one (1) year without energy production, unless a plan developed by the WECS owner and WECS operator is submitted to, and approved by, the Randolph County Building Commissioner outlining the necessary procedures and time schedule for commencing or returning the WECS to energy production. Failure by the WECS owner and/or operator to commence energy production at such WECS or return such WECS to energy production within the time schedule which has been approved by Randolph County Building Commissioner to conclude the necessary energy production procedures, the WECS shall be considered an abandoned use.

16.9.3 Removal

The WECS owner and/or the WECS operator is required to remove all physical material pertaining to the WECS and all improvements of said WECS which is forty (40”) inches or less below ground level and removal to not less than forty (40”) inches for any WECS facility which is more than forty (40”) inches below ground level. All materials shall be so removed within three hundred sixty five (365) days of the discontinuation of energy production subject to 16.9.2, irreparable damage to the facility, abandonment of the WECS, or is an unrehabilitated WECS which has been declared to be a public nuisance pursuant to 16.8.3 and shall, within said time limit, also require the WECS owner and/or WECS operator to restore the WECS area to as near as practicable the condition of the WECS site immediately prior to the beginning of construction of such WECS. All expenses involved in such removal and restoration shall be paid by the WECS owner and WECS operator, or done by Randolph County at the WECS owner’s expense and WECS

operator's expense as specifically provided by the Decommissioning Agreement. The WECS access roads built on the real property upon which WECS was situated or any access road built to facilitate the WECS in any manner shall be removed; provided, however, that if the then real property owner upon which an access road is situated desires that all or any reasonable part(s) of such access road(s) remain, the owner and operator shall not be required to remove such roads. This provision regarding access road removal shall also apply to Randolph County in the event that Randolph County should carry out the WECS decommissioning.

#### 16.9.4 Written Notices

Prior to implementation of any procedures or remedy for the resolution of any WECS owner's and/or operator's failure to decommission the WECS pursuant to the Decommissioning Agreement and the Ordinance, the Board of County Commissioners shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, except upon such longer time to which all said parties agree, for good faith negotiations between the WECS owner and/or operator and the Board of County Commissioners or its duly appointed representative, to resolve the default(s). In the event the negotiations fail to resolve the default issue(s), either party may pursue any and all remedies available by the terms of the Zoning Ordinance, the Decommissioning Plan and Decommissioning Agreement.

#### 16.9.5 Costs Incurred By The County

In the event the owner and/or operator shall fail to decommission the WECS in accordance with the Zoning Ordinance and the Decommissioning Plan and Decommissioning Agreement, the owner and/or operator shall pay all costs incurred by the County to remove the WECS. The County shall be entitled to apply the salvage value of the WECS to the costs of removal.

#### 16.10 Liability Insurance

The owner and operator of a WECS shall maintain a general liability policy covering death, bodily injury and property damage and shall be required to name Randolph County, Indiana, its agents and employees as additional insureds, and said policy shall carry dollar amounts satisfactory to the Board of County Commissioners and with agreed upon dollar amount limits per occurrence, aggregate coverage, and deductible amounts, all of which shall be agreed upon by the owner and operator and said Board of County Commissioners and provided in the Decommissioning Agreement or other appropriate plan or agreement between the Board of County Commissioners and WECS owner and WECS operator.

The Board of County Commissioners shall be authorized to require the WECS owner and/or operator to furnish a certificate of insurance and annual renewal certificate of insurance pursuant to this provision. The Board of County Commissioners may require the certificate of insurance and any renewal certificate at a time agreed between the Board of County Commissioners and WECS owner and/or operator, provided, however, the Board of County Commissioners may require the certificate of insurance as part of the application procedures or at such earlier time that said Commissioners believe the same to be necessary and appropriate.

16.11 Application Procedures

Permits and variances shall be applied for and reviewed under the procedures established by this Ordinance.

16.11.1 Applications for All Wind Energy Conversion Systems

An application for all WECS and WECS facilities shall include the following information:

- (i) **Contact Information of WECS Applicant:**  
The name(s), address(es), telephone number(s) and e-mail address(es) (if available) of the applicant(s), together with a description of the applicant’s business structure and overall role in the proposed project.
- (ii) **Contact Information of WECS Owner:**  
The names(s), address(es), telephone number(s) and e-mail address(es) (if available) of the WECS owner(s), together with a description of the owner’s business structure and overall role in the proposed WECS, and documentation of real estate ownership of any real property upon which any part of the proposed WECS is to be located. The WECS owner shall inform the Executive Director of the APC of any change of WECS ownership, in whole or in part, and shall furnish the required information regarding such owner.
- (iii) **Contact Information of WECS Operator:**  
The name(s), address(es), telephone number(s) and e-mail address(es) (if available) of the operator(s), as well as a description of the operator’s business structure and overall role in the proposed project. The WECS operator shall inform the Executive Director of the APC of any change of the WECS operator and furnish the required information regarding such operator.
- (iv) **Legal Description:**  
The legal description and the 911 Emergency Address of the real property upon which the WECS is to be located and general location of the WTG towers and WECS facilities and improvements on such property.
- (v) **WECS Description**  
A WECS description, including to the extent possible, information on each WTG tower proposed, including, but not limited to, the following:
  1. Number of turbines;
  2. Type of towers;
  3. Name plate generating capacity;
  4. WTG tower height;
  5. Rotor diameter;
  6. Total Height;
  7. Anchor base;
  8. The means of interconnecting with the electrical grid;
  9. The potential equipment manufacturer(s); and,
  10. All accessory structures.
- (vi) **Site Plan**  
A site plan, drawn to scale, including distances pertaining to all applicable setback requirements. All drawings shall be at a scale of one (1”) inch equals thirty (30’) feet (1 inch = 30 feet). Any other scale must be approved by the Executive Director of the APC. No individual sheet or drawing shall exceed twenty four (24”) inches by thirty six (36”) inches without the prior consent of said Executive Director.

- (vii) **Randolph County Inspection/Approval Building**  
 This subparagraph i.e. (vii) shall have application only to non-commercial WECS and micro-WECS. Upon receipt of an application for a non-commercial WECS or micro-WECS, the Building Commissioner shall visit the site of the proposed non-commercial WECS or micro WECS. The Building Commissioner shall inspect the site, the WECS' location, proposed foundation, and base in the event of a pole-type WECS, guy wires and any other part or component the proposed design and any other matter pertaining to such non-commercial WECS or micro-WECS, which the Building Commissioner shall deem necessary and appropriate in order to obtain and maintain, structural integrity of the WECS, safety to the owner and neighbors and general public with regard to the maintenance, operation and use of such WECS. That the applicant shall implement, comply and construct the WECS in conformity with the determinations, directions, modifications and orders of the Building Commissioner. The Building Commissioner may come upon the premises upon which such WECS is being constructed at all reasonable times to and including the time of the incident submission of the application to the completion of such WECS and any issuance of final approval and authorization in order to permit the WECS to become operational. That the provisions included in this subparagraph 16.11.1 (vii) shall have no application to commercial WECS.
- (viii) **Proof of Correspondence and Cooperation with Wildlife Agencies:**  
 For the purposes of demonstrating compliance with required permits, the applicant shall provide written documentation that the applicant is in direct correspondence, cooperation and in compliance and shall remain in compliance with all regulations and requirements of the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources. The applicant shall also directly correspond with the local Farm Service Agency, and any regulations and requirements of the Farm Service Agency together with any regulations and requirements of the U.S. Fish and Wildlife Service and Indiana Department of Natural Resources which can be properly and adequately handled by, or through, said Farm Service Agency may be done through said agency.
- (ix) **Other Information:**  
 All other information reasonably requested by the BZA, APC and Executive Director of the APC.

#### 16.11.2 Applications for Non-Commercial Wind Energy Conversion Systems

In addition to the application requirements listed in 16.11.1, applications for non-commercial WECS shall include, but not be limited to, the following information:

- (i) **Demonstration of Energy Need:**  
 The primary purpose of the production of energy from a non-commercial WECS shall be to serve the energy needs of the tract or parcel of real property upon which the WECS is to be located. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the WTG towers fulfill this need. Net-Metering may be allowed, but net metering to the extent that the primary purpose of the applicant's WECS is to produce energy in excess of demonstrated need shall not be the sufficient basis upon which to approve or permit a non-commercial WECS.
- (ii) **Statement of FAA compliance:**

A statement of compliance with all applicable FAA rules and regulations, including, to an airport and a copy of the FAA's response to a submitted Notice of Proposed Construction or Alteration (FAA Form 7460-1).

(iii) Utility notification:

No non-commercial WECS application shall be approved until written evidence has been provided that each local utility company has been informed of the applicant's intention to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

(iv) Compliance with National Electrical Code:

A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. (This information is frequently supplied by the manufacturer.)

(v) Noise profile in conformity with Subsection 16.7.3

### 16.11.3 Applications for Commercial Wind Energy Conversion Systems

In addition to the application requirements listed in 16.11.1, applications for commercial WECS shall include the following information:

A.(i) Engineering Certification

For all commercial WECS and commercial WECS facilities, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the Building Permit Application, that the turbine, foundation and WTG tower designs of the WECS are within accepted professional standards, given local soil and climate conditions. An engineering analysis of each WTG tower showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted. The analysis shall be accompanied by standard drawings of the wind turbine structure, including, but not limited to, the WTG tower, base and footings.

A.(ii) A Preliminary Site Plan

In place of a site plan provided by 16.11.1(vi), a commercial WECS shall include a preliminary site plan, drawn to scale as provided in 16.11.1(vi), including distances, and certified by a registered land surveyor, and shall illustrate the following:

1. Property lines upon tract(s) subject to the application, together with property lines and with the names of owners of record of each adjacent or adjoining tract(s).
2. The latitude and longitude of each individual wind turbine, along with individual identification of each WECS.
3. Dimensional representation of the structural components of the tower construction including, but not limited to, the base and footings.
4. Location and name/number of WECS public road and any WECS access road(s).
5. Statement of FAA compliance:  
A statement of compliance with all applicable FAA rules and regulations, including, but not limited to, any necessary approvals for installations within close proximity to an airport and a copy of the FAA's response to a submitted Notice of Proposed Construction or Alteration (FAA Form 7460-1).
6. Substations: dimensions and location
7. Switchyards: dimensions and locations

8. Electrical cabling
  9. Ancillary equipment
  10. Any structure within one quarter (1/4) mile of the proposed WECS.
  11. Setback lines  
Distances from each individual WTG tower to each setback requirement.
  12. Location and number/name of all roads which abut, or traverse the proposed site.
  13. The location of all above-ground utility lines upon public property, upon a right-of-way, or upon private property within a distance of two (2) times the height of any proposed WECS structure.
  14. The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources, within one (1) mile of a proposed WECS.
  15. The location of any wetlands based upon a delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within one (1) mile of a proposed WECS.
  16. All other information reasonably requested by the BZA, APC and Executive Director of the APC.
- B. Topographic Map  
A USGS topographical map, or map with similar data, of the property and the surrounding area, including, but not limited to, any other WECS property or WTG tower within ten (10) rotor distance, but no less than a one quarter (1/4) mile radius from the proposed WECS site, with contours of not more than five (5') foot intervals.
- C. Noise Profile In Conformity With Subsection 16.7.3.
- D. Location of all known WTG towers within a one (1) mile radius of the proposed WECS, including a written description of the potential impacts on any existing WECS within said one (1) mile radius and wind resources on adjacent or adjoining properties whether or not there are existing WECS located upon the adjacent or adjoining property
- E. Copy Of The Communications Study
- F. Landowner Agreements
1. A Memorandum of Agreement for all agreements of any description signed by participating landowners authorizing the placement of the identified WECS on landowner's property.
  2. Fully executed Setback Waiver Agreements, if applicable, signed by non-participating landowners for adjoining or adjacent property.
  3. An executed copy of any other waiver agreement signed by participating or non-participating landowner(s).

#### 16.11.4 Applications for all Meteorological Towers and Operational Support Meteorological Tower

In addition to the application requirements listed in 16.11.1, applications for Meteorological Towers and Operational Support Meteorological Towers shall include the following information:

- A. Agreement  
A copy of the agreement by which the landowner has authorized the placement of a Meteorological Tower and/or Operational Support Meteorological Tower on

landowner's property. All confidential information may be redacted from such agreement.

B. Preliminary Site Plan

A preliminary site plan with distances drawn to the appropriate scale set forth in 16.11.1 (vi) including, but not limited to, the following:

1. Property lines upon tract(s) subject to the application, together with property lines and with the names of owners of record of each adjacent or adjoining tract.
2. The latitude and longitude of each individual Meteorological Tower or Operational Support Meteorological Tower.
3. Dimensional representation of the structural components of the tower construction, including, but not limited to, the base and footings.
4. Electric cabling.
5. Ancillary equipment.
6. Required setback lines.
  - (i) Distance from each individual Meteorological Tower or Operational Support Meteorological Tower to each setback requirement.
7. Location and number/name of all roads which abut or traverse the proposed site.
8. The location of all above-ground utility lines upon public property, upon a right-of-way or upon private property within a distance of two (2) times the height of any proposed Meteorological Tower or Operational Support Meteorological Tower.
9. The location of all underground utility lines.
10. All other information reasonably requested by the BZA, APC and the Executive Director of the APC.

C. Approval

The Administrator will review the application requirements set down in 16.11.4 for each MET tower and will provide written approval upon the satisfactory completion of said requirements. Decisions of the Administrator may be appealed to the BZA.

16.11.5 Aggregated WECS Applications

Aggregated WECS may jointly submit a single application and be reviewed under joint proceedings, including notices, hearing, and reviews, and as appropriate, approvals. All permits shall be issued pursuant to Article 16.11.7.

16.11.6 Fees

- A. Commercial WTG towers, non-commercial WTG towers, micro WTG towers Meteorological Towers Operational Support Meteorological Towers, and any WECS accessory buildings, structures or facilities:  
As prescribed by the County's Official Schedule of Fees.
- B. Aggregated WECS  
Applications shall be assessed fees for each WECS construction phase as prescribed by the County's Official Schedule of Fees.

16.11.7 Improvement Location Permit and Building Permit

- A. Commercial WTG Towers, Non-Commercial WTG towers, Micro WTG towers, Meteorological Towers, Operational Support Meteorological Towers, and WECS Accessory Buildings, Structures or Facility(ies):
  - 1. All application requirements as set forth in Subsection 16.11, APPLICATION PROCEDURES, together with all other applicable requirements of this Article and the Zoning Ordinance, shall be completed and approved by all required authorities, federal, state and local, before an Improvement Location Permit or Building Permit is issued.
- B. Aggregated WECS  
 For aggregated WECS, Improvement Location Permits and Building Permits shall be issued individually for each WTG tower, Meteorological Tower and Operational Support Meteorological Tower upon meeting the requirements of this Article and any other applicable provisions of the Zoning Ordinance and compliance with all agreements applicable to the WECS contemplated by this Zoning Ordinance.

16.12 Pre-Construction Requirements For Non-Commercial Wecs

The Executive Director of the APC shall determine from the requirements set forth in Subsection 16.13 which requirements shall be complied with by the applicant, owner or operator prior to issuance of an Improvement Location Permit or a Building Permit for a non-commercial WECS. The Executive Director of the APC may, upon proper agenda notice, assign any question, general or as to a specific non-commercial WECS application, for discussion and/or instruction from the BZA. An applicant for a non-commercial WECS may appeal the requirement, decision or determination of the Executive Director in the manner prescribed by applicable Rules of the BZA, the Zoning Ordinance and statute(s).

16.13 Pre-Construction Requirements For Commercial Wecs

That prior to the issuance of an Improvement Location Permit and a Building Permit, and in addition to all other application requirements and any other requirements for the applicant, owner and/or operator to be in compliance with the Zoning Ordinance, the following shall be submitted to the Executive Director of the APC:

(A) Form, Content and Title of Agreements

The plans and agreements set forth in Subsections 16.13.1 (Decommissioning Plan and Decommissioning Agreement), 16.13.2 (Economic Development, Drainage, and Road Use and Maintenance Agreements), 16.13.3 (Erosion Control Plan), 16.13.4 (Utility Plan), 16.13.5 (Avoidance and Mitigation of Damages to Public Infrastructure), 16.15 (Construction Requirements) and 16.16.1 (Road Repairs) may be merged into one or more agreements. Any agreement title or document name/designation made by the parties shall be sufficient provided such plans and agreements are in compliance with the requirements of the Zoning Ordinance and all other requirements of applicable federal, state and local laws, rules, regulations and ordinances.

16.13.1 Decommissioning Plan and Decommissioning Agreement

(A) Decommissioning Plan and a Decommissioning Agreement

16.13.2 Economic Development, Drainage, and Road Use and Maintenance Agreements

An Economic Development Agreement, a Drainage Agreement, and a Road Use and Maintenance Agreement approved by the Board of County Commissioners of Randolph County, Indiana. The Economic Development Agreement shall be developed in conjunction with the Randolph County Community Economic Development Foundation. The Drainage Agreement must prescribe or reference provisions to address crop and field tile damages and repairs thereof.

16.13.3 Erosion Control Plan

An erosion control plan developed in consultation with the Natural Resources Conservation Services (NRCS), and any storm water quality management plan adopted by the applicable jurisdiction(s).

16.13.4 Utility Plan

A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the entire WECS.

16.13.5 Avoidance and Mitigation of Damages to Public Infrastructure

In addition to complying with the approved Road Use and Maintenance Agreement, an applicant, owner, and/or operator proposing to use any county road(s), for the purposes of transporting any component of a commercial WECS, substation and/or any other equipment for the construction, operation or maintenance of a commercial WECS shall comply with the following pre-construction requirements.

(i) Identification of road and services

All roads and services, to the extent that all proposed routes that will be used for transportation of construction materials, construction of the WECS, and/or maintenance of the WECS shall be identified. If the route includes a public road, such route shall be approved by the Randolph County Highway Department Superintendent.

(ii) Pre-construction survey

The applicant, owner and/or operator shall conduct a pre-construction baseline survey in coordination with, and acceptable to, the Randolph County Highway Superintendent and such survey shall be a part of the Road Use and Maintenance Agreement to determine existing road conditions for assessing current needed improvements and potential future damage. The survey shall include, but not be limited to, photographs, and/or video, or a combination thereof, and a written agreement to document the condition of the public facility as the same exists on the date of the baseline survey.

16.14 Amendments and Changes To The Preliminary Site Plan

Any change of location of any WTG and any material change in the location of other WECS facilities and any material change in the method of the WECS operation shall at the time any such change is made, the same shall be furnished to the Executive Director of the APC, Building Commissioner, Highway Superintendent, County Surveyor and any other person(s) designated and authorized by the Board of County Commissioners. It shall be the duty and responsibility of the applicant, owner and/or operator to obtain any variance required by such change and to comply with any other requirement necessitated by such change. Any variance required by this Section shall be obtained prior to construction or implementation of such change.

### 16.15 Construction Requirements

During construction, the applicant shall demonstrate and document to the satisfaction of the Building Commissioner, Highway Superintendent, County Surveyor, Executive Director of the APC and any other person(s) designated and authorized by the Board of County Commissioners, that the following requirements are being met:

#### 16.15.1 Dust control

All reasonable dust control measures required by the Board of County Commissioners during construction of the WECS are being followed together with any additional steps or adjustments for dust control which may from time to time be required by the Board of County Commissioners.

#### 16.15.2 Drainage

Reasonable storm water best management practices as required by the approved Drainage Plan/Agreement.

### 16.16 Post-Construction Requirements For All Wecs

Post-construction, the applicant shall comply with the following provisions:

#### 16.16.1 Road Repairs

Any road damage caused by the transport of any matter or material utilized in any way regarding the WECS, in the construction of the WECS, the installation of the same, and/or the removal and decommissioning of the same, shall be repaired to the satisfaction of the Randolph County Highway Department Superintendent (as per the Road Use and Maintenance Agreement). The Superintendent may choose to require either remediation of road(s) upon completion of the WECS or said Superintendent is authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be determined by a professional highway engineer selected by the Board of County Commissioners may be required by the Superintendent to insure Randolph County that future repairs are completed to the satisfaction of the unit(s) of local government. The cost of such bond shall be paid by the WECS applicant, owner and/or operator and said bond shall remain in full force and affect until the Decommissioning Plan and Decommissioning Agreement are fully completed as prescribed by this Zoning Ordinance and the Decommissioning Agreement.

#### 16.16.2 As-Built Plans Requirement

Where upon completion of all development, the exact measurements of the location of utilities, structures and components erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, and/or operator shall submit a copy of the Final Construction Plans (as-built plans), if amended, said Plans shall be submitted as amended, to the Executive Director of the APC with the exact measurements shown thereon. Said Executive Director, after being satisfied that the measurements are substantially the same as indicated on the originally approved final plan(s) or as the same were from time to time amended, shall approve, date and sign said Construction Plans for the WECS, which the applicant, owner, and/or operator shall then record.

#### 16.16.3 Change In Ownership

It is the duty and responsibility of the WECS applicant, WECS owner and/or WECS operator and any subsequent WECS owner and WECS operator, in addition to the notice requirements of any WECS plan(s) and WECS agreement(s) to notify by written affidavit the Executive Director of the APC of any change in the ownership of the WECS or any part of the ownership thereof and/or any change of any description whatsoever in the operation of a WECS during the life of the WECS, to and through the time that the final Decommissioning Plan and Decommissioning Agreement are concluded and all applicable acceptances, releases and performance standards of any description have been met and concluded and accepted by the appropriate local, state, federal or private authority, department, agency, and person(s) and all financial payments or other financial obligations are fully satisfied and all appropriate parties are in receipt thereof. In order for the owner and/or operator to inform said Executive Director of the required information regarding changes as herein provided, said notice shall be sent by certified mail with certified funds for any required recording fees and any other applicable fee(s) to the Executive Director of the Area Planning Commission of Randolph County, Indiana, 325 South Oak Street, Suite 204, Winchester, Indiana 47394, or by personally delivering the same to said Executive Director.

#### 16.17 Definitions

See Article XIII of this Ordinance.

## APPENDIX “A”

### WIND ENERGY CONVERSION SYSTEMS: ZONING DISTRICTS

Micro WECS allowable use:

- Residential, Low Density (AR)
- Agricultural Limited (AL)
- Agricultural Intensive (AI)

Micro WECS will require Conditional Use approval with BZA in:

- Community Commercial (C2)
- Community Regional (C3)
- Light Industrial (M1)
- General Industrial (M2)

Non-Commercial WECS will require Conditional Use approval with BZA in:

- Residential, Low Density (AR)
- Agricultural Limited (AL)
- Agricultural Intensive (AI)
- Community Commercial (C2)
- Community Regional (C3)
- Light Industrial (M1)
- General Industrial (M2)

Commercial WECS allowable use:

- Residential, Low Density (AR)
- Agricultural Limited (AL)
- Agricultural Intensive (AI)

Commercial WECS will require Conditional Use approval with BZA in:

- Community Commercial (C2)
- Community Regional (C3)
- Light Industrial (M1)
- General Industrial (M2)

All types of Wind Energy Conversion Systems will not be allowed in:

- Residential, Medium Density (R1)
- Residential, High Density, Urban (R2)
- Residential, High Density (R3)
- Neighborhood Commercial (C1)



**ARTICLE XVII**  
**Tower Regulations**

17.0 Intent

The intent of the following standards is to provide sensible and reasonable use of land for towers such as telecommunication (radio, television, cellular, and etc.) and/or primary communication towers and their facilities. (Wind Energy Conversion Systems Facility(ies) are covered in Article XVI.) It is also intended to encourage sharing of telecommunication towers to make the best use of every tower location. To promote public safety by regulating structural standards permitted locations, height, fencing and setbacks. Lastly, these standards are intended to minimize adverse, undesirable visual effects of towers through careful design and siting.

17.1 Permit Required

An Improvement Location Permit shall be required prior to the construction, erection, placement, modification or alteration of a tower. A Tower Application must be submitted for all towers over one hundred (100) feet.

17.2 Location

The location of towers shall be permitted in all zoning districts within Randolph County Indiana.

- A. Such Towers And Facilities Shall Be Located According To The Following Order Of Preference:
1. Co-location on existing buildings, towers or other structures.
  2. New tower in agriculture district.
  3. On existing public/semi-public buildings, lands, towers or other structures such as water towers or utility poles.
  4. On existing privately owned buildings such as grain legs or tall commercial structures.
  5. New tower in industrial or commercial districts, not near residential areas.
  6. New tower in commercial districts near residential areas.
  7. New tower in residential district.
- B. Reasons For Not Locating On A Preferred Site Would Include, But Not Be Limited To, The Following:
1. Unwillingness of the site owner to entertain a communication facility;
  2. Economically impractical;
  3. Topographic limitations of the site;
  4. Adjacent impediments that would obstruct adequate telecommunications transmission;
  5. Physical site constraints that would preclude the construction of a telecommunication facility.
  6. Technical limitations of the telecommunication system;
  7. Existing potential sites do not provide an acceptable location for requisite coverage for the applicant's telecommunication network;
  8. Co-location reasons listed in 17.5 B

17.3 Application For Tower/Antenna Construction Or Placement Requirements:

- A. One copy of typical specifications for proposed structures and antennae, including description of design characteristics and material.
- B. A site plan drawn to scale showing property boundaries, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical designs of proposed structures, parking, fences, landscape plan and existing land uses on adjacent property [site plan not required if antennae is to be mounted on an approved existing structure].
- C. A current map, or update for an existing map on file, showing locations of applicant's antennae, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the area.
- D. A report from a structural engineer registered in Indiana showing the tower antenna capacity by type and number, and a certification that the tower is designed to current federal, state and local codes.
- E. Identification of the owners of all antennae and equipment to be located on the site;
- F. Written authorization from the site owner for the application;
- G. Evidence that a valid FCC license for the proposed activity has been issued.
- H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
- I. A written agreement to remove the tower and/or antenna within the prescribed terms listed in 17.6.
- J. Evidence that applicable conditions in 17.4 are met (including co-location in 17.5).
- K. A 911 address or longitude/latitude coordinates of tower.
- L. Additional information required by the Zoning Administrator for determination that all applicable zoning regulations are met.

17.4 Conditions

Applicant must show that all applicable conditions are met.

- A. The proposed telecommunications tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable telecommunications regulations and applicant's technical design requirements.
- B. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirements without unreasonable modifications on any existing structure or tower under the control of applicant.
- C. Applicant must show that the order of preference in 17.2 A was followed in the selection of the proposed site location for valid technical reasons. Co-location is covered in 17.5 of this article.
- D. Applicant must show that a new tower is designed to accommodate co-location of additional wireless telecommunication companies calculated by the following:
  - 1. If the facility/tower is designed to accommodate only one (1) service provider, the maximum height shall be one hundred twenty (120) feet from grade.
  - 2. If the facility/tower is designed to accommodate two (2) service providers, the maximum height shall be one hundred sixty (160) feet from grade.
  - 3. If the facility/tower is over one hundred sixty (160) feet from grade it shall be designed to accommodate no less than three (3) service providers.

4. Agree to allow public safety agencies to occupy up to four (4) antennas free of charge.
- E. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.
- F. A tower must not be painted or illuminated unless otherwise provided by state or federal regulations.
- G. A permit for a proposed tower site within one (1) mile radius in an Agriculture district and within half (1/2) mile radius in a residential district, of an existing tower, grain leg or other tall structure shall not be issued unless the applicant certifies that the existing structure does not meet applicant's technical design requirements, or that a co-location agreement could not be obtained. Co-location is covered in 17.5 of this article.
- H. General zoning district regulations except setback and height shall apply to the use. Setback and height conditions in this section apply.
- I. A minimum setback from property lines and public right of ways shall be equal to the height of the tower plus fifty (50) feet, except for non-commercial towers of one hundred (100) feet or less in height which shall have a setback equal to the height of the non-commercial tower.
- J. Equipment shelters shall meet all the general requirements, including setback requirements of the district in which they are located.
- K. A commercial telecommunication tower shall not be sited on a property with a residence.
- L. A maximum height is to be determined by State and Federal regulation and the ability to meet conditions in 17.4 C and 17.4 I.
- M. The proposed tower structure, and any associated structures, or apparatus shall be enclosed in a chain link fenced area. Fencing shall be a minimum of eight (8) feet high and shall have an offset barbed wire top starting at eight (8) feet above ground.
- N. Use of any portion of a telecommunication structure, including fencing, for the purpose of placing any signs other than site information signs or warning signs is prohibited.
- O. "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency.

#### 17.5 Co-Location

- A. The developers/owners of any telecommunication equipment shall first attempt to co-locate their equipment onto an existing tower or tall structure. Supply certification, supported by evidence, that co-location of the proposed facility with an existing approved tower or facility cannot be reasonably accommodated. The applicant's certification shall include a listing of all existing towers and facilities, a description of each existing site, and a discussion of the ability or inability to reasonably co-locate on each existing site according to the following:
  1. For a proposed tower in an A-L, A-I or A-R district, all towers and facilities within an eight (8) mile radius of the proposed site.
  2. For a tower in a commercial, industrial or residential district, all towers and facilities within one and a half (1 1/2) mile radius of the proposed site.
- B. Reasons for not co-locating on a site would include, but not be limited to, the following:
  1. No existing towers or facilities are located within the above radius of the site;

2. Existing towers or facilities are not of sufficient height to meet the applicants engineering requirements.
  3. Existing towers or facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  4. Applicant's planned equipment would cause radio frequency interference with other existing or planned equipment of the tower or facility, or the existing or planned equipment of the tower or facility would cause interference with the applicant's planned equipment which cannot be reasonably prevented;
  5. Unwillingness of the owner of the existing tower or facility to entertain a reasonable co-location proposal;
  6. Existing towers or facilities do not provide an acceptable location for requisite coverage for the applicant's communications network.
- C. The developers/owners of any new tower shall permit co-location of other communication equipment following conditions set forth in 17.4 D. Police and fire departments are exempt from the co-location requirements of section 17.4 D, 17.5 A and 17.5 C. As a condition of granting an application for tower/antenna construction or placement in Randolph County the Board of Zoning Appeals and/or the Area Planning Director shall require a written agreement with the petitioner to allow co-location within the prescribed terms listed in 17.4 D and 17.5 C.

#### 17.6 Decommissioning

- A. If any telecommunication antenna or telecommunication antenna tower structure is discontinued, the owner shall provide the Area Planning Commission with a copy of the notice to the FCC of intent to cease operations within 30 days of such notice to the FCC. If the telecommunication antenna or telecommunication antenna tower structure will not be reused, the owner shall have 180 days from submittal of the FCC notice to the Area Planning Commission to obtain a demolition permit and remove the antenna or tower that will not be reused. If the telecommunication antenna or telecommunication antenna tower structure is to be reused, the owner shall have no more than twelve (12) months from submittal of the FCC notice to the Area Planning Commission in which to commence new operation of the antenna or tower to be reused. Upon failure to commence new operation of the antenna or tower that is to be used within twelve (12) months, the telecommunication antenna or telecommunication antenna tower structure shall be presumed abandoned, and the owner shall obtain within 90 days of the expiration of the twelve (12) month period, a demolition permit and remove the antenna or tower that is presumed abandoned within 60 days of obtaining the demolition permit. If the owner fails to remove an antenna or tower in the time provided by this paragraph, the Area Planning Commission may, on grounds of public safety, health, and welfare, cause the demolition and removal of the antenna or tower and recover its costs of demolition and removal. The Area Planning Commission, at time of application for construction, may require posting of a bond covering the cost of removal of the antenna or tower; the bond to be forfeited to the Area Planning Commission upon failure to remove the antenna or tower in a timely manner as required above.

#### 17.7 Approval Required For Application

- A. Filing for an Administrative Review and Approval is required for all towers less than three hundred (300) feet above grade. This process will be conducted by the Director of the Area Planning Department of Randolph County and/or his designee.

- B. Filing for a Special Exception and subsequent approval from the Board of Zoning Appeals is required for:
  - 1. All towers equal to or exceeding three hundred (300) feet above grade.
  - 2. All towers located in a residential district, except for non-commercial towers under one hundred (100) feet.
  - 3. All towers within one thousand (1000) feet of any residential district, except for non-commercial towers under one hundred (100) feet.
- C. Exempt from approval requirements.
  - 1. Removal or replacement of transmission equipment on an existing tower or base station that does not result in substantial modification.
  - 2. Ordinary maintenance of existing facilities and support structure.
  - 3. Wireless facilities placed on utility poles, water towers, grain legs, etc.
  - 4. COWs placed for a period of not more than one hundred twenty (120) days at any location within Randolph County or after a declaration of an emergency or disaster by the Governor.

17.8 Appeal

- A. Any decision of the administrator may be appealed to the BZA by application according to the Rules of Procedure-Board of Zoning Appeals of Randolph County Indiana Article VII, section 2 and 3.

17.9 Fees

- A. There shall be an Improvement Location Permit fee of five hundred dollars (\$500.00) for all commercial towers.
- B. There shall be an Improvement Location Permit fee of ten dollars (\$10.00) for all non-commercial towers.



## ARTICLE XVIII Variances

A variance is a variation in the development standards and the variations set forth in paragraph 7. of this Article which the Board may grant in certain circumstances according to the provisions set forth from the requirements of the Unified Zoning Ordinance of Randolph County, Indiana, which variation would be in conflict with a literal application Ordinance. A variance shall not include authorizing a use not among the permitted uses specified in this Ordinance for the district in which the property is located.

1. In order that the spirit of this Ordinance may be observed and substantial justice done, the Board of Zoning Appeals may, upon application or appeal, grant the variations set forth in paragraph 7, hereof.
2. The Board shall grant or deny an application for a variance properly filed and which otherwise complies with this Ordinance and the Board's Rules of Procedure.
3. A variance may be approved only upon a determination in writing that:
  - a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
  - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and,
  - c. That strict application of the provisions of the Zoning Ordinance will result in practical difficulties in the use of the property.
4. In making its determination as to whether there are "practical difficulties in the use of the property", the Board of Zoning Appeals shall take into consideration the extent to which the following conditions, all favorable to the applicant or appellant, have been established by the evidence:
  - a. That the particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular difficulty upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
  - b. That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification; and,
  - c. That the alleged difficulty has not been created by any person presently having an interest in the property.
5. In authorizing a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use, as it may deem necessary in the interest of the furtherance of the purposes of the Zoning Ordinance and in the public interest. In authorizing a variance with attached conditions, the Board shall require such evidence and guarantee of bond, as it may deem necessary, that the conditions attached are and will be complied with.
6. In exercising its power, Board of Zoning Appeals may, in conformity with the provisions of the rules, laws of the State of Indiana and of the Zoning Ordinance, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination made, and to that end shall have all powers of the officer from whom the appeal is taken.
7. Variations from the regulations of the Zoning Ordinance shall be granted by the Board of Zoning Appeals only in accordance with the standards set forth above and may be granted in the following instances only, and in no others:

- (a) to permit the extension and/or substitution of a nonconforming use as provided in Article II of the Zoning Ordinance.
  - (b) to permit the temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in the Zoning Ordinance for the district in which it is located, provided that such use be of a temporary nature and not involve the erection of a substantial structure, and further provided that an Improvement Location Permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a twelve (12) month period. Further, the Board may include any and all conditions to provide conformity to this Article;
  - (c) to permit extension of any district where the boundary line of a district divides a zoning lot provided that the zoning lot is in single ownership on the effective date of this ordinance;
  - (d) to permit any yard of less dimension than required by the applicable regulations;
  - (e) to permit any building or structure to exceed the height limitations imposed by the applicable regulations;
  - (f) to permit the use of a lot for a use otherwise prohibited because of insufficient lot dimensions or area, but in no event shall the area of the lot be less than ninety (90%) percent of the required lot area;
  - (g) to permit the use of a lot of record which is less than the prescribed zoning lot in lineal and area dimensions but whose frontage is greater than fifty (50%) percent in width of every improved zoning lot on the same block on the same side of the street at the time of construction provided that if such lot or record is in the same ownership on or after the effective date of the Zoning Ordinance as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined in a single zoning lot for this purpose or unless further subdivision produces the requisite minimum lot width;
  - (h) to permit such other variance, not heretofore provided for, required to expand, alter or renovate institutions of public service, religious, philanthropic or eleemosynary use existing on the date of this amendment; and,
  - (i) any such other duties as may be required by the provisions of the Zoning Ordinance.
8. All variances granted within a flood plain district shall be subject to the requirements of Article VIII, 8.05.2, in addition to all other requirements for a variance and of a flood plain area.



**Article XIX**  
**Solar Energy Systems Siting Regulations**

19-1        Purpose and Intent

19-1-1      Purposes

The purpose of this Article is to:

19-1-1-1    Assure that the development and production of solar-generated electricity in Randolph County, Indiana, is safe and effective;

19-1-1-2    Facilitate economic opportunities for local residents; and

19-1-1-3    Develop standards for solar generated energy, utilize natural resources and ecologically sound energy sources, support Indiana’s alternative energy sources potential and other such economic development tools.

19-1-2      Intent

The intention of the Solar Energy System (SES) siting regulation is to provide a regulatory scheme for the development, construction and operation of SESs in Randolph County, Indiana, to establish reasonable guidelines and restrictions on the development, construction, operation, rehabilitation, decommissioning and restoration of a SES, and to preserve the health, safety and general welfare of Randolph County residents and the general public.

19-1-2-1    SES consists of the following:

- a. Solar Energy System (SES) - the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, buffer and landscaping. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.
- b. Regulated systems fit into one of two system types: Commercial (C-SES) or Noncommercial (NC-SES). Non-commercial is divided into systems under or equal to 10 kW (total panel rating) and systems over 10 kW (total panel rating). The definitions of C-SES and NC-SES are found in Chapter 19-10.
- c. As applicable to this ordinance a SES does not include concentrated solar thermal systems and such systems are not permitted.

19-2        Applicability

The provisions of this Article are applicable to those zoning districts which allow or may allow Solar Energy Systems (SESs) and to govern the siting, development, operation, rehabilitation, decommissioning and restoration of SESs, which generate electricity to be sold in the wholesale market or retail market, or which are utilized to generate electricity for private use and public use.

19-2-1      When any part of the development, construction, rehabilitation, operation, decommissioning or restoration of a SES requires action, recommendations, hearing and/or decision pursuant to the provisions of the Unified Zoning

Ordinance of Randolph County, Indiana, notice shall be given pursuant to the Unified Zoning Ordinance and the applicable By-Laws of the Area Planning Commission of Randolph County, Indiana and the Rules of Procedure of the Board of Zoning Appeals of Randolph County, Indiana.

19-2-2 Provisions of this Article or other parts of the Unified Zoning Ordinance which are specifically made applicable to a specific type of SES such as Noncommercial (NC-SES) or Commercial (C-SES), shall apply to that type of SES. Provisions without reference to a specific type of SES, shall apply to all SESs unless determined otherwise by the Director of the Area Planning Commission. The Director of the Area Planning Commission may, upon proper notice, assign any question, general or as to a specific SES application, for discussion and/or instruction from the Board of Zoning Appeals. An applicant for a SES may appeal the requirement, decision or determination of the Director of the Area Planning Commission in the manner prescribed by applicable Rules of Procedure of the Board of Zoning Appeals, the Unified Zoning Ordinance and statutes.

19-2-3 Exemptions

19-2-3-1 NC-SES with an aggregate collection and/or focusing area of 8 square feet or less is exempt from this ordinance.

19-2-3-2 SES constructed prior to the effective date of this Article shall not be required to meet the terms and conditions of this Ordinance. Any physical modifications to an existing SES whether or not existing prior to the effective date of this Article that materially alters the SES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

19-2-4 Effective Date of Amendments to the Solar Ordinance.  
In the event of an amendment to the terms of this Article, all amendments shall become effective on the date the amendment is adopted by the legislative body. Any amendment to this Article shall not apply to any project which has been approved by the Director of the Area Planning Commission prior to the effective date of the Amendment. In addition, no amendment of this Article shall apply to any project which has a signed economic development agreement, road use agreement and/or decommissioning agreement with the Randolph County Board of Commissioners which is dated prior to April 1, 2025.

19-3 Prohibition  
No person shall construct, operate, or locate a SES within Randolph County without having fully complied with the provisions of this Article and all other applicable provisions of said Unified Zoning Ordinance and any applicable Rules of Procedure of the Board of Zoning Appeals and By-Laws of the Area Planning Commission.

19-4 Conflict with Other Regulations  
Nothing in this Article is intended to pre-empt other applicable state and federal laws or regulations. Nor shall any provisions of this Article interfere with, abrogate, or annul any other ordinance, rule, regulation, statute or other provision

of law. In the event that any provision of this Article imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provision which is more or most restrictive or which imposes the higher or the highest standards shall control. Standards specified in this Article that conflict with standards found in other Articles of the Unified Zoning Ordinance takes precedence as it relates to Solar Energy Systems.

19-5 District Regulations

19-5-1 Location

NC-SESs and C-SESs, as defined in Section 19-10 are allowed, may be allowed by Special Exception, or shall not be allowed, in zoning districts as prescribed by Appendix A of this Article.

19-6 Non-Commercial Solar Energy System (NC-SES) General Regulations

19-6-1 Safety Design and Installation Standards for Non-Commercial Solar Energy Systems (NC-SES)

19-6-1-1 Interference

When selecting a site for solar panels, all applicants shall take into consideration the potential maximum allowable structure height and possible landscaping of the adjacent properties to avoid interference and potential loss of efficiency from the sun to the solar panel surface. As part of the application process a written disclaimer is required acknowledging an issued permit does not imply any solar access rights (Subsection 19-6-2-8 and 19-7-4-11).

19-6-1-2 Roof Mounted and Wall Mounted NC-SES

- a. A roof mounted or wall mounted NC-SES may be located on a principal or accessory building.
- b. Roof-mounted solar panels installed on a building or structure with a sloped roof shall not project vertically more than the height requirements for the district in which they are located. The panels shall not be located within 3 feet of any peak, eave, or valley of the roof to maintain pathways of accessibility.
- c. Wall mounted NC-SES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.
- d. Districts with residential uses in C-1, C-2, C-3, M-1 or M-2 shall conform to the developmental standards of the residential district R-1, R-2 or R-3 as determined by the Director of the Area Planning Commission to be the current use on the property.
- e. Roof mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjoining street unless the applicant demonstrates to the Director of the Area Planning Commission that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.
- f. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Indiana Residential Code and adopted building codes of Randolph County, and that the roof or wall is capable of holding the load imposed on the structure.

- g. A-L shall be limited to roof or ground mount NC-SES development.

19-6-1-3 Ground Mounted NC-SES

- a. Setback
  - i. The minimum yard setbacks from side and rear property lines shall be equivalent to the accessory structure setback in the zoning district. Unless otherwise indicated in 19-6-5.
  - ii. Freestanding solar panels shall only be permitted in the rear and side yard, except when given a waiver under Subsection 19-6-1-4.
- b. Ground mounted NC-SES shall not exceed 15 feet in height above the ground elevation surrounding the systems. In residential districts the maximum height of a ground mounted NC-SES shall be 10 feet.
- c. Districts with residential uses in C-1, C-2, C-3, M-1 or M-2 shall conform to the developmental standards of the residential district R-1, R-2 or R-3 as determined by the Director of the Area Planning Commission to be the current use on the property.
- d. Safety/warning signage as required by applicable law concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures.
- e. Ground-mounted N-SES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system, or floodplain, or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system except permission is granted in writing by the County Surveyor and/or County Drainage Board, and/or Floodplain Administrator and owner of the land and/or right-of-way and/or easement. This would include but not be limited to State, County and/or privately owned waterways, ditches, drainage tiles, retention areas and designed swells.
- f. A-L shall be limited to roof or ground mount NC-SES development.

19-6-1-4 Waiver

In the event any of the provisions in Subsections 19-6-1-2 and 19-6-1-3 have the effect of prohibiting the installation of a solar energy system, the applicant shall have the right to apply for a waiver from these provisions to the Director of the Area Planning Commission. The Director of the Area Planning Commission may grant a waiver upon determining that a strict application of the Ordinance would result in a hardship prohibiting the installation of a solar energy system. This waiver is not subject to the requirements listed in Section 19-10 (definitions) of this Ordinance but must be in writing and kept with the Improvement Location Permit issued for the affected NC-SES. Additional landscaping or other means of mitigating visual or other adverse effects may be required by the Director of the Area Planning Commission. A site plan shall be submitted with all proposed solar panels and mitigation shown. The Director of the Area Planning Commission shall attempt to notify by letter or in person any adjoining landowners that may be affected by the waiver, waiting 10 days for written responses to said site plan before granting such a waiver having taken into consideration such written responses. At the discretion of the Director of the Area Planning Commission, approval of the waiver may be delegated to the Board of Zoning Appeals at a regular meeting being placed on the agenda with appropriate appeal docket

number and given proper notice as required by the Board of Zoning Appeals Rules of Procedure and Procedures.

19-6-1-5 Electrical Components

a. Standards

Electrical components of all NC-SESs shall conform to applicable Local, State and Federal safety codes for similar NC-SESs.

b. All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.

c. When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure and installed and maintained as required by applicable law.

19-6-1-6 Utility Interconnection

An NC-SES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as required by applicable law.

19-6-1-7 Color, Finish and Glare

a. To the extent reasonably possible, solar energy panels, regardless of how they are mounted, shall be oriented and/or screened year-round so that glare is directed away from adjacent properties and streets.

b. To the extent reasonably possible, NC-SES shall be designed using such features as colors, materials, textures, screening and landscaping so as to blend into their settings and avoid significant visual impact. The NC-SES shall remain painted or finished in the color or finish that was originally applied by the manufacturer. The exterior surface of any visible components shall be non-reflective, neutral color like white, grey or another non-obtrusive color. Finishes shall be matte or non-reflective.

c. The applicant has the burden of mitigating any glare produced so as not to have significant adverse impact on adjacent uses. Mitigation is accomplished by panel siting, panel orientation, landscaping and/or other means. The determination of the Director of the Area Planning Commission shall be conclusive relative to applicant's compliance with this standard.

19-6-1-8 Signage

No portion of the NC-SES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the NC-SES provided they comply with the prevailing Sign Ordinance Appropriate. Warning signs will be allowed.

19-6-1-9 Landscape – Screening

No trees or other landscaping otherwise required by county ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a NC-SES.

19-6-2 Applications for NC-SES

Applications for NC-SESs shall include, but not be limited to, the following information:

- 19-6-2-1      **Engineering Certification**  
For all NC-SES and NC-SES facilities, the manufacturer’s engineer or another qualified registered professional engineer shall certify, as part of the Building Permit Application, that all structural aspects of the NC-SES design are within accepted professional standards, and the structure the solar technology will be affixed to will tolerate the installed weight and wind load of said technology (e.g. roof structure, soils, etc.).
- 19-6-2-2      **Contact Information of NC-SES Applicant**  
The names, addresses, telephone numbers and e-mail addresses (if available) of the applicants.
- 19-6-2-3      **Legal Description**  
The legal description, 911 Emergency Address or County property key of the real property upon which the NC-SES is to be located.
- 19-6-2-4      **NC-SES Description**  
The NC-SES description and information including, but not limited to, the following:  
a. Type of solar technology (e.g. solar panels, thermal solar, solar shingles, etc.)  
b. Solar panel mounting technique (e.g. ground-mount, roof-mount, etc.);  
c. Solar panel installation height;  
d. Name plate generating capacity  
e. The means of interconnecting with the electrical grid;  
f. The potential equipment manufacturers including information sheets and installation manuals;  
g. accessory structures.
- 19-6-2-5      **Demonstration of Energy Need**  
The primary purpose of the production of energy from a NC-SES shall be to serve the energy needs of the tract or parcel of real property upon which the NC-SES is to be located. The applicants shall demonstrate how much energy is needed and how the proposed size will fulfill this need. Net-Metering may be allowed, but net-metering to the extent that the primary purpose of the applicant’s NC-SES is to produce energy in excess of demonstrated need shall not be sufficient basis upon which to approve or permit a NC-SES.
- 19-6-2-6      **Utility Notification**  
The owner of an NC-SES shall provide the Area Planning Department written confirmation that the public utility company to which the NC-SES will be connected has been informed of the customer’s intent to install a grid connected system and approved of such connection, including the projected power output of the system. Off-grid systems shall be exempt from this requirement.
- 19-6-2-7      **Compliance with National Electrical Code**  
A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code (This information is frequently supplied by the manufacturer and should

conform to the current Indiana Residential Code set out in 675 IRC 14 or the current Indiana Electric Code set out in 675 IRC 17).

- 19-6-2-8      Disclaimer  
Prior to the issuance of a zoning permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself:
- a. the right to remain free of shadows and/or obstructions to solar energy caused by development of adjacent or other property or the growth of any trees or vegetation on such property; or
  - b. the right to prohibit the development on or growth of any trees or vegetation on such property. This disclaimer is subordinate to any solar easements entered into with adjacent land owners and subject to the terms agreed to therein.
- 19-6-2-9      Solar Easements
- a. Where a subdivision or land development proposes a NC-SES, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements prescribed in IC 32-23-2-5 or subsequent amendments.
  - b. Any such solar easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall meet the requirements of IC 32-23-4-4 and 5 and include but not be limited to the following:
    - i. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees at which the solar easement extends over the real property that is subject to the solar easement, and a description of the real property to which the solar easement is appurtenant;
    - ii. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
    - iii. Enumerate any terms and conditions, under which the easement is granted, and may be revised or terminated;
  - c. If necessary, a NC-SES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreements with adjacent property owners.
- 19-6-2-10      Any panels installed to be used by someone other than the owner of the property shall provide an affidavit or evidence of agreement between the lot owner and facility's owner or operator confirming the facility owner or operator has permission of the property owner to install and utilize solar panels.
- 19-6-3      Improvement Location Permit and Building Permit
- 19-6-3-1      Determination of Director of the Area Planning Commission  
The Director of the Area Planning Commission shall determine from the requirements set forth in Sections 19-6-1 which requirements shall be complied

with by the applicant, owner or operator prior to issuance of an Improvement Location Permit or a Building Permit for a NC-SES. The Director of the Area Planning Commission may require additional reasonable submittals from time to time. The Director of the Area Planning Commission may, upon proper agenda notice, assign any question, general or as to a specific NC-SES application, for discussion and/or instruction from the Board of Zoning Appeals. An applicant for a NC-SES may appeal the requirement, decision or determination of the Director of the Area Planning Commission in the manner prescribed by applicable Rules of Procedure of the Board of Zoning Appeals, the Unified Zoning Ordinance and statutes.

19-6-3-2 Permit Requirements

- a. Improvement Location Permit and Building Permit applications shall document compliance with this Section and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the NC-SES is constructed.
- b. The Improvement Location Permit and Building Permit shall be revoked if the NC-SES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the NC-SES not to be in conformity with this Ordinance.
- c. The NC-SES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Director of the Area Planning Commission shall give written notice specifying the violation to the owner of the NC-SES to conform or to remove the NC-SES. Said NC-SES can be declared a public nuisance if not repaired in 60 days without good cause.
- d. Any physical modification to any NC-SES or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-permitting. Like-kind replacements shall not require re-permitting, unless required by a regulatory authority. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such NC-SES shall confer with the Randolph County Building Commissioner and Director of the Area Planning Commission.

19-6-5 Non-Commercial Over 10 kW (Total Panel Rating)

19-6-5-1 Hearing Required

NC-SES with a total output (total panel rating) over 10 kW shall be permitted only as a Special Exception use in Residential Zoning Districts, Commercial Zoning Districts, Industrial Zoning Districts and Agricultural Limited Zoning District.

19-6-5-2 Applicable Regulations

The NC-SES with a total output (total panel rating) over 10 kW shall be subject to the same regulations in 19-6 as the NC-SES under 10 kW total output rating and

in addition may be subject to C-SES regulations that is determined to be applicable by the Area Planning Director. Decisions may be appealed to the Board of Zoning Appeals.

- 19-6-5-3      **Setback and Screening**  
NC-SES with a total output (total panel rating) over 10 kW which are located in Agriculture Intensive Zoning District shall be subject to the same setbacks, screening and buffer requirements for a C-SES.
- 19-6-5-4      **Waiver**  
A waiver under 19-6-1-4 can be applied to residential uses when 10 kW is marginally exceeded but still under 120% of the annual usage (as evidenced by utility bills of said residential use).
- 19-7            **Commercial Solar Energy System (C-SES) General Regulations**
- 19-7-1        **Safety Design and Installation Standards for Commercial Solar Energy Systems (C-SES)**
- 19-7-1-1      **Horizontal Extension for C-SES**  
The furthest horizontal extension of a C-SES, excepting the C-SES collection system, C-SES transmission lines, ingress/egress road and C-SES access roads/lanes, shall not extend into a setback which is otherwise required for the zoning district in which the C-SES is located or into a required buffer area or into a setback required for an adjacent zoning district nor be less than 15 feet from any structure or public right-of-way easement for any above-ground telephone line, electrical transmission line, electrical distribution line or other above ground communication or transmission line.
- 19-7-1-2      **Setback Requirements**
- a. The minimum setbacks for solar equipment associated with the C-SES shall be 20' larger than the applicable buffer strip to allow for an access road/lane around the perimeter of the solar arrays. The setback can be reduced with an approved buffer/landscaping plan and/or waiver agreement. Setbacks are identified in Table 19-7-1-3 and are measured from the road right-of-way, or the property line (PL) where there is no right-of-way present. Setbacks apply to solar panels, racking, accessory buildings and other power equipment. They do not apply to underground cabling, fencing, access roads/lanes or ingress/egress roads.
  - b. **C-SES Substation**  
The substation setbacks shall be the same as those of a C-SES. An adjacent landowner may waive this set back requirement by execution of a written waiver.
  - c. **Poles and Underground Wiring**  
For all poles carrying overhead wiring and for any underground wiring connecting the racks and components of a C-SES and/or to connect a C-SES to a substation for connection to or other direct connection to a utility's electric transmission line. There are no setback requirements from property

lines of adjoining landowners so long as the poles and underground wiring are located within a recorded easement for such purpose or right-of-way.

- d. Ground-mounted C-SES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system, or floodplain, or in any other manner that would alter or impede storm water runoff from collecting in, and/or conveyance through, and/or discharge from, a constructed storm water conveyance system (including, without limitation, any swale, legal drain, water course or drainage tile) except as permitted in writing by the County Surveyor and/or County Drainage Board, and/or Floodplain Administrator and owner of the land and/or right-of-way and/or easement. This would include, but not be limited to, State, County and/or privately owned waterways, ditches, drainage tiles, retention areas and designed swells. Notwithstanding the foregoing, nothing in the preceding sentence shall prevent the replacement, repair, reconstruction and/or relocation of any such water conveyance system as necessary to develop and install the C-SES with any necessary approvals from the County Surveyor and/or County Drainage Board.
- e. Any inverter shall be 500 feet from any dwelling. Waivers shall follow Table 19-7-1-3.
- f. Ingress/egress roads into a C-SES shall be no closer than 50' to an adjoining landowner property line.
- g. Setback from solar equipment in A-L not adjoining incorporated areas of Randolph County as described in 3.01.B (1) shall be 500' from the property line of a zoned (AR; R-1,2 or 3; C-1,2 or 3; M-1 or 2; PD) parcel, camp ground, or subdivision.

#### 19-7-1-3 Buffer Strip, Screening & Vegetation

The buffering and screening shall comply with the following design and developmental standards:

- a. The width of buffer strips are identified in Table 19-7-1-3 and are measured from the road right-of-way or the property line (PL) where there is no right-of-way present.

**TABLE 19-7-1-3**

<b>Distance From</b>	<b>Solar Farm Buffer (width)</b>	<b>Minimum Setback<sup>2</sup> (to panels/equipment)</b>
Agriculture Use <sup>1</sup>	<b>0'</b>	<b>20'</b> (includes 0' buffer, 20' access road/lane)
Residential Use & Public Use (platted building sites, parks, etc.) 1 <sup>st</sup> and 2 <sup>nd</sup> Side of residence  <b>(To the Property Line)</b>	<b>480'</b> (With 20' Visual Barrier)	<b>500'</b> (includes 480' buffer, 20' access road/lane)  <b>40' (includes 20' buffer, 20' access road/lane)</b>
Residential Use & Public Use (platted building sites, parks, etc.) 3 <sup>rd</sup> and 4 <sup>th</sup> Side of residence  <b>(To Property Line)</b>	<b>480'</b> (With 20' Visual Barrier)	<b>500'</b> (includes 480' buffer, 20' access road/lane)  <b>100' (includes 80' buffer, 20' access road/lane)</b>
Residential Use & Public Use (platted building sites, parks, etc.) 1 <sup>st</sup> and 2 <sup>nd</sup> Side with Waiver  <b>(To Property Line)</b>	<b>20'</b> (With Visual Barrier)	<b>40'</b> (includes 20' buffer, 20' access road/lane)  <b>40' (includes 20' buffer, 20' access road/lane)</b>
Residential Use & Public Use (platted building sites, parks, etc.) 3 <sup>rd</sup> and 4 <sup>th</sup> Side with Waiver  <b>(To Property Line)</b>	<b>80'</b> (With Visual Barrier)	<b>100'</b> (includes 80' buffer, 20' access road/lane)  <b>100' (includes 80' buffer, 20' access road/lane)</b>
Zoned Properties, Subdivisions, Camp Grounds within A-L not adjacent to Incorporated Areas	<b>480'</b> (With 20' Visual Barrier)	<b>500'</b> (includes 480' buffer, 20' access road/lane) (see 19-7-1-2(g))
Commercial C-1 & C-2	<b>40'</b> With 20' Visual Barrier	<b>60'</b> (includes 40' buffer, 20' access road/lane)
Commercial C-3 Industrial M-1 & M-2	<b>25'</b>	<b>45'</b> (includes 25' buffer, 20' access road/lane)
Public Street or Road Right-of-way	<b>40'</b> (see 19-7-1-3(g)(i))	<b>60'</b> (includes 40' buffer, 20' access road/lane)
Ingress/Egress Drive	(see 19-7-1-2 (f) above)	<b>All ingress/egress drives must be a minimum of 50' from adjoining landowners</b>

<sup>1</sup>Required fence may be placed on the property line where no buffer is required in A-I

<sup>2</sup>Where two participating parcels adjoin in A-I no setbacks to the property lines are required.

- b. A natural vegetative ground cover shall be maintained under and around the solar arrays. Only non-invasive species shall be used and native species are recommended. In the interest of protecting pollinators seed mixes consisting of native meadow grasses and pollinator-friendly wildflower forbs and/or clover species shall be used in consultation with a USDA Farm Bill biologist or local Soil and Water Conservation District professional on the area under and around the solar arrays. Maintenance shall include eradication of all noxious weeds and plants prior to the weeds seeding and spreading.
- c. No trees or other landscaping otherwise required by the County ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a C-SES.
- d. All Buffers requiring landscaping/screening shall have a Visual Barrier as defined in 19-10. A Visual Barrier shall provide a year round barrier of evergreens or other similar plantings
- e. Only the following improvements shall be permitted within the buffer strip:
  - i. Vehicular ingress/egress drives which tie into approved access points as determined by INDOT and/or Randolph County Highway Department.
  - ii. Landscaping and landscaping fixtures
  - iii. Lighting
  - iv. Fencing
  - v. Signage
  - vi. Underground utility lines
  - vii. Overhead utility lines
  - viii. Drainage or storm water detention or retention areas
  - ix. Agriculture crops
- f. The Access road/lane shall be adjoining the fence which shall adjoin the buffer strip. The visual order of placement shall be panels, access road, fence then buffer strip (extending to the property line or right-of-way).
- g. Landscaping/Screening Requirements
  - i. Right-of-ways in A-I do not require landscaping/screening. Right-of-ways in all other districts excepting C-3, M-1 and M-2 require a 40' buffer with a Visual Barrier but may receive a reduction in density with a Landscaping and Screening Plan approved by the Board of Zoning Appeals with proper notice and hearing.
  - ii. A Visual Barrier shall be provided for any adjacent home or public use building within 500' of solar equipment. Furthermore, any parcel that has an existing residential use, and/or is parceled to 5 acres or less with the intent of future residential use (parceled or platted building sites are "protected properties") shall be provided a Visual Barrier. The 5-acre maximum dimension shall be 726' required to be landscaped along any one side of a residential use property line (726' x 300' = 5 acres) Landscaping/screening shall be placed on all sides adjacent to the C-SES. Approval of the location of the Visual Barrier shall be by the residential property owner. If the property owner is unresponsive within 60 days of the mailing of a certified letter to the taxing address informing them of their choice (and said 60-day limit) then the location of the Visual Barrier along the property line, or C-SES fence line when required on a third and fourth side, shall be made by the developer. A Visual Barrier is intended to exclude visual contact with the solar

equipment from any protected property. A Visual Barrier may be composed of landscaping, landscaped berm, or combination thereof. Solid Fencing shall not be used as part of the Visual Barrier where the adjacent use is Residential, Neighborhood Commercial (C-1) or Community Commercial (C-2). The density, buffer width and method of screening may be waived by the adjacent property owners. Natural Areas may also be used to meet screening requirements. The Director of the Area Planning Commission may determine that further screening improvements shall not be required. The developer may choose to enter into a waiver agreement with the adjoining landowner to reduce the buffer to 20' with or without the Visual Barrier which may be placed with permission on the adjoining property.

- iii. Buffers adjoining C-1 and C-2 districts and parcels where C-1 and C-2 permitted uses exist, may use a Visual Barrier composed of landscaping, landscaped berm, or any combination thereof to screen from those districts as approved by the Director of the Area Planning Commission. The Director of the Area Planning Commission should take into consideration the design wishes of the adjacent property owner/operator. Fencing and walls shall not be used for screening however this requirement may be waived by the adjoining property owners. The width and density requirements may be waived by the adjacent property owners to a reduction of landscaping no less than that required in transition yard density for the district and/or a reduction of width equal to the greater of 50% of the required buffer width shown in Table 19-7-1-3 or the required transition yard width for the district (a C-SES shall be considered a M-1 use as it pertains to transition yards and screening in 6.07, 6.10 and 6.12).
- iv. Landscaping required within buffer strips shall be done in accordance with a certified landscape plan that shows a Visual Barrier with a predicted minimum height of 7 feet within three years will be achieved by the selected species and planting size and density during normal growing conditions. A minimum height of 15 feet is to be maintained over the life of the project. Height is measured from original grade.
- v. Grass or ground cover shall be planted on all portions of the required buffer areas not occupied by other landscaped material. Only non-invasive species shall be used and native species are recommended. All noxious weeds and plants shall be eradicated prior to the weeds seeding or spreading.
- vi. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times.
- vii. Unhealthy and dead plants shall be replaced within one year of being provided written notice from the Director of the Area Planning Commission of the violation. The determination of whether a plant is unhealthy shall be at the discretion of the Director of the Area Planning Commission or a recognized landscape professional.
- viii. The effectiveness of screening shall be maintained as the plant materials mature.

- ix. A clear sight triangle shall be maintained at all intersections and ingress/egress locations.

19-7-1-4

#### Equipment Type

- a. All C-SES shall be constructed of commercially available equipment and in conformance with Subsection 19-7-1-5. Material Safety Data Sheets and/or Safety Data Sheets shall be submitted for each model of solar panel to be used.
- b. Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals after notice and hearing pursuant to the variance procedures of this Unified Zoning Ordinance.
- c. When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure meeting the requirements of the Indiana Building Code and IDEM regulations when in use and when no longer used shall be disposed of in accordance with all applicable laws and regulations.
- d. All SESs shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificates of design compliance that solar manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyed Solar Energie, or an equivalent third party.

19-7-1-5

#### Electrical Components

- a. Electrical components of all C-SES shall conform to applicable local, State and national safety codes for similar C-SES
- b. All cables and lines on site within the fenced area shall follow the current Indiana Electric Code (identified in 675IAC 17). Transmission cables and lines outside the fenced site shall be buried no less than 48 inches underground with a warning mesh located at 36 inches deep. No plow type installations are permitted, only open trenching or boring installations. All underground cabling will be marked at road crossings, creeks, river beds and property lines with a metal or fiberglass post at least 5 feet in height. For any installation method of cables and lines except as provided herein, applicant shall apply for a variance before the Board of Zoning Appeals pursuant to this Unified Zoning Ordinance.

19-7-1-6

#### Color Finish and Glare

In addition to any applicable FAA requirements that now exist and the same are amended from time to time, the following shall also apply:

- a. The solar energy systems shall remain painted or finished in the color or finish that was originally applied by the manufacturer provided the exterior surface of any visible components are non-reflective, a neutral color like white, grey or another non-obtrusive color. Finishes shall be matte or non-reflective.
- b. To the extent reasonably possible, solar energy panels, regardless of how they are mounted, shall be oriented and/or screened year-round so that glare is directed away from-adjacent properties, structures and roadways.
- c. The applicant has the burden of mitigating any glare produced so as not to have significant adverse impact on adjacent uses. Mitigation is accomplished

by panel siting, panel orientation, landscaping and/or other means. The determination of the Director of the Area Planning Commission shall be conclusive relative to applicant's compliance with this standard.

- 19-7-1-7      **Materials Handling, Storage and Disposal**
- a. All solid wastes whether generated from supplies, equipment, parts, packaging, operation, maintenance, rehabilitation, decommissioning, restoration of the facility, or otherwise, including, but not limited to, old parts and equipment related to the maintenance, rehabilitation, decommissioning, or restoration of any C- SES shall be removed from the site promptly and disposed of in accordance with all federal, state and local regulations, laws and ordinances. The C-SES owner and C-SES operator shall have the same responsibility for compliance hereof.
  - b. All hazardous materials or hazardous waste related to the construction, operation, maintenance, rehabilitation, decommissioning, or restoration of any C-SES or otherwise generated by the facility shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations and laws. The C-SES owner and the C-SES operator shall have the same responsibility for compliance hereof.
- 19-7-1-8      **Sewer and Water**
- All C-SES facilities shall comply with the septic system and well regulations as currently required or as hereinafter amended, of the Randolph County Health Department and the State of Indiana Department of Public Health.
- 19-7-1-9      **Utility Interconnection**
- A C-SES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the interconnection agreement with the electrical utility, as any applicable federal and state regulations now exist and as the same are from time to time amended.
- 19-7-1-10     **Signage**
- Signs will comply with the Sign Standards provided in applicable Articles of the Unified Zoning Ordinance.
- a. **Development Signs**  
An identification sign relating to a C-SES may be located on each side of the fenced facility area, provided that there shall be no more than one (1) sign located on any side of the C-SES fenced facility area, unless additional identification signs are required to provide reasonable notice to the general public.
  - b. A sign shall be securely posted on each gate entry point clearly displaying an emergency telephone numbers and other contact information.
  - c. All ingress/egress roads to a C-SES shall have posted in a conspicuous location a 911 Address road sign indicating the assigned address for that location.
  - d. Warning signs shall comply with applicable laws.
  - e. No portion of the C-SES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership

shall be allowed on any equipment of the C-SES provided they comply with the prevailing sign regulations.

- f. All signage required or permitted by this Article shall be made of materials and constructed in a manner to be durable and long lasting. The same shall be painted or made of material with a distinct, high contrast background and be weather proof paint or other weather proof material to promote safety and protect the public from hazards and potential hazards.

19-7-1-11 Collection Cable/Lines

Collection cables, collection lines, and communication lines installed as part of any C-SES shall not be considered essential services.

19-7-1-12 Other Appurtenances

No appurtenances other than those associated with the C-SES construction, operations, maintenance, repair, replacement, rehabilitation, decommissioning, restoration, removal, and permit requirements shall be connected to the C-SES area except after notice of hearing and the hearing before the Board of Zoning Appeals pursuant to the applicable Articles of this Unified Zoning Ordinance.

19-7-1-13 Height

Ground mounted C-SES arrays shall not exceed 18 feet in height when oriented at maximum tilt.

19-7-1-14 Fence

- a. For security, all ground-mounted C-SES shall be completely enclosed by a minimum 6 feet high fence with a locking gate accessed by a key pad or knock box with key.
- b. Signage will be permitted as specified in Subsection 19-7-1-10.
- c. The fence should be located immediately adjacent to the access road/lane and between any required landscaping in the Buffer strip and said access unless otherwise approved in 19-7-1-16.
- d. A fence in an A (agriculture) zone located on the property line is the sole responsibility of the C-SES owner/operator.

19-7-1-15 Noise

No operating C-SES shall produce noise that exceeds any of the following limitations except during construction. Adequate setbacks, barriers, enclosures, use of quieter equipment, or other effective means of reducing noise shall be used to comply with these limitations.

- a. Fifty dBA, as measured at the property line of any adjacent residentially zoned lot;
- b. Forty-five dBA, as measured at any existing adjacent residence between the hours of nine p.m. and seven a.m.
- c. Sixty dBA, as measured at the property lines of the project boundary, unless the owner of the affected property agrees to a higher noise level, as follows: The owner of an adjacent property that would otherwise be protected by the sixty dBA noise limitations may voluntarily agree, by written waiver, to a higher noise level. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of

a legally binding contract or easement between the landowner (including assignees in interest) and the solar energy system developer, effective for the life of the project. This waiver must be recorded and cross-referenced with the affected property (properties).

- 19-7-1-16      Ingress/Egress and Perimeter Access
- a. At a minimum, a 20' wide ingress/egress road must be provided from a public street, legally established access drive, road or other roadway into the site. This ingress/egress road shall be graveled or paved a minimum width of 12' and must meet all State and Federal regulations.
  - b. At a minimum, a 20' wide perimeter access road/lane shall be provided around the perimeter of the C-SES between the solar arrays and required fence to allow access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles. The access road/lane may be a mown well maintained grass lane.
- 19-7-1-17      Lighting
- The ground mounted C-SES shall not be artificially lit except to the extent required for safety or applicable federal, state, or local authority. Such lighting shall be shielded and downcast so as not to affect adjacent properties.
- 19-7-2            Operation and Maintenance
- 19-7-2-1        Repair
- The C-SES owner and/or operator shall repair, maintain and replace the C-SES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the C-SES in good repair and operating condition.
- 19-7-2-2        Operation and Maintenance Plan
- The applicant shall submit a plan for the operation and maintenance of the C-SES, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operation and maintenance of the installation.
- 19-7-2-3        Physical Modifications
- Any physical modification to any C-SES or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-certification by all appropriate regulatory authorities. Like-kind replacements shall not require re-certification, unless required by a regulatory authority. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such C-SES shall confer with the Randolph County Building Commissioner, Director of the Area Planning Commission, Randolph County Surveyor, Randolph County Highway Department Superintendent, and any other appropriate regulatory authority as to whether or not the proposed physical modification requires re-certification of such C-SES.
- 19-7-2-4        Declaration of Public Nuisance

Any C-SES declared unsafe by the Randolph County Board of Commissioners by being in breach of, or, out of compliance with its C-SES permits may seek to be rehabilitated and declared safe by appropriate repairs and other essential steps necessary to eliminate the breach(es) so as to be in compliance with such C-SES permits. A C-SES declared by the Randolph County Board of Commissioners by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, abandonment or as provided herein to be determined unsafe, is hereby declared to be a public nuisance. A *Rehabilitation Plan* should be submitted to the Randolph County Board of Commissioners within 60 days. This plan shall provide procedures to rehabilitate the C-SES in a time not to exceed 365 days except in the event of force majeure, including but not limited to unavailability of components or parts, strikes, and moratoriums which said majeure extends said time to 18 months total or a reasonable extension agreed to by the Randolph County Board of Commissioners. In the absence of an approved *Rehabilitation Plan* or meeting the agreed to time schedules, or failure to execute the required repairs, in the time determined reasonable by the Randolph County Board of Commissioners, such C-SES shall be demolished and removed in accordance with the *Decommissioning-Restoration Plan and Agreement*.

19-7-2-5 Public Nuisance Waiver

In the instance that an unavoidable Act of God inhibits, damages, or destroys part of, or the majority of the C-SES, the 365 day public nuisance removal timeline will be waived so long as the C-SES owner and/or C-SES operator provides a *Rehabilitation Plan* to remedy the damage and said plan is submitted to, and approved by, the Randolph County Board of Commissioners. Said plan will outline the necessary protocol and time schedule for returning the C-SES to energy production and must be submitted to the County within 60 days of the date the damage was incurred or a time determined reasonable by the Randolph County Board of Commissioners.

19-7-2-6 Contact Information

The C-SES owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Director of the Area Planning Commission. The C-SES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

19-7-3 Liability Insurance

The owner and operator of a C-SES shall maintain a commercial general liability policy covering death, bodily injury and property damage, which may be combined with umbrella coverage, and shall be required to name Randolph County, Indiana as an additional insured solely to the extent of liabilities arising under this Ordinance, and said policy shall carry dollar amounts satisfactory to the Randolph County Board of Commissioners and with agreed upon dollar amount limits per occurrence, aggregate coverage, and deductible amounts, all of which shall be agreed upon by the owner and operator and said Randolph County Board of Commissioners and provided in the *Decommissioning-Restoration Plan and Agreement* or other appropriate plan or agreement between the Randolph County Board of Commissioners and C-SES owner and C-SES operator.

The Randolph County Board of Commissioners shall be authorized to require the C-SES owner and/or operator to furnish a certificate of insurance and annual renewal certificate of insurance pursuant to this provision. The Randolph County Board of Commissioners may require the certificate of insurance and any renewal certificate at a time agreed between the Randolph County Board of Commissioners and C-SES owner and/or operator, provided, however, the Randolph County Board of Commissioners may require the certificate of insurance as part of the application procedures or at such earlier time that said Commissioners believe the same to be necessary and appropriate

19-7-4

#### Applications for C-SES

- a. Prior to the application for a C-SES permit, the applicant shall notify the Director of the Area Planning Commission of the location of the proposed C-SES site, including the legal description or the GIS map of the proposed site location.
- b. Upon receiving written notice of the proposed C-SES site from the applicant, the Director of the Area Planning Commission shall notify the Randolph County Board of Commissioners.
- c. The Randolph County Board of Commissioners shall hold a public hearing, within forty-five (45) days, to consider whether the proposed C-SES site is appropriate and whether it should be approved.
- d. The applicant shall provide written notice of the time, date and location of the public hearing, by certified mail, to all property owners within 1000 feet of the proposed C-SES site, at least twenty (20) days prior to public hearing. The notice should include the legal description and/or a GIS map describing the area of the proposed site.
- e. The Randolph County Board of Commissioners shall provide the Director of the Area Planning Commission, with written notice of the decision within five (5) days of the public hearing.
- f. The applicant for a C-SES permit must obtain approval of the proposed C-SES site from the Randolph County Board Commissioners prior to the execution of the following agreements: Road Use and Drainage Agreement, Decommissioning Agreement and/or Economic Development Agreement. Any such agreement which is executed prior to the approval of the proposed C-SES site by the Randolph County Board of Commissioners shall be deemed null and void.
- g. The applicant shall obtain written approval for the proposed site, by majority vote of the Randolph County Board of Commissioners, prior to the approval of the permit(s) by the Director of the Area Planning Commission.
- h. The approval of the proposed site by the Randolph County Board of Commissioners shall not guarantee the issuance of a C-SES permit. The applicant shall meet all other requirements of the Unified Zoning Ordinance, in addition to this section, prior to the issuance of a C-SES permit.

19-7-4-1

#### Applications for C-SESs shall include the following information:

- a. Contact Information of C-SES Applicant:  
The names, addresses, telephone numbers and e-mail addresses (if available) of the applicants, together with a description of the applicant's business structure and overall role in the proposed project.

- b. Contact Information of C-SES Owner  
The names, addresses, telephone numbers and e-mail addresses (if available) of the C-SES owners, together with a description of the owner's business structure and overall role in the proposed C-SES, and documentation of real estate ownership of any real property upon which any part of the proposed C-SES is to be located. The C-SES owner shall inform the Director of the Area Planning Commission of any change of C-SES ownership, in whole or in part, and shall furnish the required information regarding such owner.
- c. Contact Information of C-SES Operator  
The names, addresses, telephone numbers and e-mail addresses (if available) of the operators, as well as a description of the operator's business structure and overall role in the proposed project. The C-SES operator shall inform the Director of the Area Planning Commission of any change of the C-SES operator and furnish the required information regarding such operator.
- d. Legal Description  
The legal description and the 911 Emergency Address of the real property upon which the C-SES is to be located.
- e. C-SES Description  
The C-SES description and information including, but not limited to, the following:
  - i. Type of solar technology (e.g. solar panels, solar shingles, etc.);
  - ii. Solar panel mounting technique (e.g. ground-mount, roof-mount, etc.);
  - iii. Solar panel installation height;
  - iv. Name plate generating capacity;
  - v. The means of interconnecting with the electrical grid;
  - vi. The potential equipment manufacturers; including information sheets and installation manuals;
  - vii. Accessory structures and other appurtenances.

19-7-4-2 Preliminary Site Plan

- a. A site plan, drawn to scale, including distances pertaining to all applicable setback and buffer requirements. All drawings shall be at a scale of 1 inch equals 30 feet. Any other scale must be approved by the Director of the Area Planning Commission. No individual sheet or drawing shall exceed 24 inches by 36 inches without the prior consent of said Director of the Area Planning Commission.
- b. The preliminary site plan shall illustrate the following:
  - i. Property lines upon tracts subject to the application, together with property lines and with the names of owners of record of each adjacent tracts.
  - ii. Location and name/number of public roads surrounding, abutting, and/or traversing the C-SES and any C-SES ingress/egress road.
  - iii. Substations: location
  - iv. Location of electrical cabling outside of fenced areas
  - v. Ancillary equipment
  - vi. Any structure within 1/4 mile of the proposed SES boundary.
  - vii. The location of any airport within 1 mile of the proposed C-SES boundary.
  - viii. Setback lines: Distances from the solar energy system to each setback requirement listed in Subsections 19-7-1-2 and 19-7-1-3.

- ix. The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources, within 1 mile of a proposed C-SES.
- x. The location of any wetlands based upon a delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within 1 mile of a proposed C-SES.
- xi. Location and height of fencing, access roads, berms and landscaping associated with any buffer zone.
- xii. Location and spacing of panels/arrays and key components
- xiii. All other information reasonably requested by the Board of Zoning Appeals, Area Planning Commission and Director of the Area Planning Commission.

19-7-4-3 Topographic Map

A United States Geological Survey (USGS) topographical map, or map with similar data, of the property and the surrounding area, with contours of not more than 5 feet intervals.

19-7-4-4 Landowner Agreements

- a. A Memorandum of Agreement for all agreements of any description signed by participating landowners authorizing the placement of the identified C-SES on landowner's property.
- b. Fully executed *Setback Waiver Agreements*, if applicable, signed by adjacent landowners.
- c. An executed copy of any other waiver agreement signed by adjacent landowners.
- d. A copy of any recorded *Solar Easements* from adjacent landowners.

19-7-4-5 Engineering Certification

For all C-SES and C-SES facilities, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the Building Permit Application, that all structural aspects of the C-SES design are within accepted professional standards, and the structure or substrate the solar technology will be affixed to will tolerate the installed weight of said technology (e.g. roof structure, soils, etc.).

19-7-4-6 Proof of Correspondence and Cooperation with Wildlife Agencies

For the purposes of demonstrating compliance with required permits, the applicant shall provide written documentation that the applicant is in direct correspondence, cooperation and in compliance and shall remain in compliance with all applicable regulations and requirements of the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources.

19-7-4-7 Prior to the issuance of an Improvement Location Permit, C-SES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself:

- a. the right to remain free of shadows and/or obstructions to solar energy caused by development of adjacent or other property or the growth of any trees or vegetation on such property; or
- b. the right to prohibit the development on or growth of any trees or vegetation on such property. This disclaimer is subordinate to any solar easements entered into with adjacent land owners and subject to the terms agreed to therein.

19-7-4-8 Solar Easement may be entered into between affected parties as described in Subsection 19-7-6-6 and must be submitted with the C-SES application.

19-7-4-9 That prior to the issuance of an Improvement Location Permit and a Building Permit, and in addition to all other application requirements and any other requirements for the applicant, owner and/or operator to be in compliance with the Unified Zoning Ordinance, the following shall be submitted to the Director of the Area Planning Commission: Form, Content and Title of Agreements.

The plans and agreements set forth in Subsections 19-7-6-1 (*Emergency Service Plan*), 19-7-6-2 (*Operation and Maintenance Plan*), 19-7-6-3 (*Decommissioning-Restoration Plan and Agreement*), 19-7-6-4 (*Drainage Agreement, and Road Use and Maintenance Agreement*), 19-7-6-5 (*Erosion Control Plan*), 19-7-6-7 (*Economic Development*), 19-7-7-1 (*Avoidance and Mitigation of Damages to Public Infrastructure*), 19-7-8-1, 2 and 3 (*Construction Requirements*) and 19-7-9-1 (*Road Repairs*) may be merged into one or more agreements. Any agreement title or document name/designation made by the parties shall be sufficient provided such plans and agreements are in compliance with the requirements of the Unified Zoning Ordinance and all other requirements of applicable federal, state and local laws, rules, regulations and ordinances.

19-7-4-10 **Waivers**  
All waiver agreements shall be in writing and follow the requirements specified in Section 19-10 (definitions). Copies of all waivers are required as part of the C-SES application.

19-7-4-11 **Aggregated C-SES Applications**  
Aggregated C-SESs may jointly submit a single application and be reviewed under joint proceedings, including notices, hearing, and reviews, and as appropriate, approvals. All permits shall be issued pursuant to Section 19-7-5.

19-7-5 **Improvement Location Permit and Building Permit**

19-7-5-1 Solar technology used for NC-SESs and C-SESs, Meteorological Towers, Operational Support Meteorological Towers, and SES Accessory Buildings, Structures or Facility(ies):  
All application requirements as set forth in Section 19-7-4 together with all other applicable requirements of this Article and the Unified Zoning Ordinance, shall be completed and approved by all required authorities,

federal, state and local, before an Improvement Location Permit or Building Permit is issued.

- 19-7-5-2 For aggregated SES, Improvement Location Permits and Building Permits shall be issued individually for each SES, Meteorological Towers, and Operational Support Meteorological Towers upon meeting the requirements of this Article and any other applicable provisions of the Unified Zoning Ordinance and compliance with all agreements applicable to the SES contemplated by this Unified Zoning Ordinance.
- 19-7-5-3 Application for and acceptance of an Improvement Location Permit is an agreement by the applicant to be bound by the terms of this Ordinance.
- 19-7-4-2 Plans and Agreements  
All reasonable attorney fees incurred in the preparation of any agreement or plan required hereunder shall be borne by the applicant. Aggregated plans and agreements must be approved by the Randolph County Board of Commissioners and shall include, singly or in combination, all the following:
- 19-7-6-1 Emergency Services Plan  
Prior to issuance of a building permit, the C-SES owner or operator shall provide a plan including but not limited to the project summary, electrical schematic, and site plan to the appropriate local safety officials including the Randolph County Homeland Security Emergency Management, Sheriff Department, the responding Fire Department, the responding police department, Randolph County Fire Chief Association and Building Inspector. Upon request the owner or operator shall cooperate with local safety officials in developing an emergency response plan. Specialized training will be provided at the operator's expense to these entities. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- 19-7-6-2 Operation and Maintenance Plan (from Section 19-7-2)  
The applicant shall submit a plan for the operation and maintenance of the C-SES which shall include measures for maintaining safe access to the installation, storm water controls (19-7-6-5), as well as general procedures for operation and maintenance of the facility. Maintenance of vegetation within the buffer strip and underneath the ground mounted solar arrays should be included in the plan and consistent with the requirements in Subsection 19-7-1-3.
- 19-7-6-3 Decommissioning-Restoration Plan and Agreement  
Prior to receiving an Improvement Location Permit and Building Permit, under this Ordinance, the applicant, owner and operator shall submit and shall enter into a *Decommissioning-Restoration Plan and Agreement* with the Randolph County Board of Commissioners outlining the anticipated means, costs and method of payment of all costs in carrying out such *Decommissioning-Restoration Plan and Agreement* at the end of the C-SES life or the life of any part of a C-SES, upon

becoming an abandoned use, or being declared a public nuisance as provided by Subsections 19-7-2-4, 19-7-2-5 and 19-7-6-3.

a. Discontinuation and Abandonment

- i. Owner operator shall give written notice of intent to abandon use of a C-SES facility 60 days prior to the discontinuation of electrical production to the Randolph County Board of Commissioners and Area Planning Department.
- ii. A C-SES or portion of a C-SES shall be considered an abandoned use after one year without energy production unless a *Rehabilitation Plan* developed by the C-SES owner and C-SES operator is submitted to, and approved by, the Randolph County Board of Commissioners outlining the necessary procedures and time schedule for commencing or returning the C-SES to energy production as provided in Subsection 19-7-2-4 and 19-7-2-5. Failure by the C-SES owner and/or operator to commence energy production at such C-SES or return such C-SES to energy production within the time schedule which has been approved by the Randolph County Board of Commissioners, said C-SES or portion of C-SES shall be considered an abandoned use and/or a public nuisance (as provided in Subsections 19-7-2-4 and 19-7-2-5).

b. Removal and Restoration

The C-SES owner and/or the C-SES operator is required to remove all physical material pertaining to the C-SES above ground level and all improvements of said C-SES below ground level to a depth of 36 inches for all C-SES's declared irreparably damaged, and/or an abandoned use and/or a public nuisance. All materials shall be so removed and C-SES site restored within 365 days of the discontinuation of energy production or in accordance with agreements developed under Subsections 19-7-2-4 and 19-7-6-3. A C-SES which is irreparably damaged, abandoned or declared to be a public nuisance shall within said time limit (365 days) require the C-SES owner and/or C-SES operator to have completed restoration of the C-SES site to as near as practicable to the original condition of the C-SES site prior to the development of such C-SES. If any portion of the C-SES is found to be hazardous in nature by State or Federal regulatory agencies or required to be recycled the C-SES owner and/or C-SES operator is required to remove in a manner as prescribed by law.

c. Identification and Removal of Hazardous Materials

During removal and restoration the C-SES owner/operator shall identify all hazardous materials as regulated by State and Federal regulatory agencies (such as the EPA and IDEM) as well as non-hazardous materials and indicate the appropriate handling, storage and transport during disposal and/or diversion of both.

d. Performance Guarantee

- i. Prior to issuance of an Improvement Location Permit or Building Permit, the applicant must provide the County with a performance guarantee in the form of a bond, irrevocable letter of credit and agreement, or other financial security acceptable to the Randolph County Board of Commissioners in the amount of 125% of the estimated decommission and restoration cost minus the salvageable

value, or \$50,000 whichever is greater. Estimates shall be determined by a licensed engineer.

ii. Unless otherwise agreed to by all parties, every five years a new engineer's estimate of probable cost of *Decommissioning and Restoration* shall be submitted for approval in the same manner as the initial submission, and the bond, letter of credit, or other financial security acceptable to the county shall be adjusted upward or downward as necessary. A new estimate will be submitted to the Commissioners prior to the sale of any portion of the C-SES and the Performance Guarantee adjusted appropriately and made part of the sales contract.

iii. All expenses involved in such removal and restoration shall be paid by the C-SES owner and C-SES operator, or removal and restoration will be completed by Randolph County at the C-SES owner's expense and C-SES operator's expense as specifically provided by the *Decommissioning-Restoration Plan and Agreement*.

e. Written Notices

Prior to implementation of any procedures or remedy for the resolution of any C-SES owner's and/or operator's failure to decommission the C-SES pursuant to the *Decommissioning-Restoration Plan and Agreement*, and/or *Rehabilitation Plan* and/or the Ordinance, the Randolph County Board of Commissioners shall first provide written notice to the owner and/or operator, setting forth the alleged defaults. Such written notice shall provide the owner and/or operator a reasonable time period not to exceed 60 days, except upon such longer time to which all said parties agree, for good faith negotiations between the C-SES owner and/or operator and the Randolph County Board of Commissioners or its duly appointed representative, to resolve the defaults. In the event the negotiations fail to resolve the default issues, either party may pursue any and all remedies available by the terms of the Unified Zoning Ordinance and/or *Decommissioning-Restoration Plan and Agreement* and/or *Rehabilitation Plan*.

f. Costs Incurred by the County

In the event, after written notice, the owner and/or operator shall fail to enter into a Rehabilitation Agreement (Subsection 19-7-2-4) or decommission the C-SES in accordance with the Unified Zoning Ordinance and the *Decommissioning-Restoration Plan and Agreement*, the owner and/or operator shall pay all reasonable cost, including reasonable attorney fees, incurred by the County to remove the C-SES. The County shall be entitled to apply the salvage value of the C-SES to the costs of removal, subject to any rights of the C-SES Owners lenders.

19-7-6-4

Drainage Agreement, and Road Use and Maintenance Agreements

A Drainage Agreement, and a Road Use and Maintenance Agreement approved by the Randolph County Board of Commissioners or their designees. The Drainage Agreement must prescribe or reference provisions to address field tile damages and repairs thereof for any field tile owned by Randolph County.

19-7-6-5

Erosion Control Plan

- a. An erosion control plan developed in accordance with the Natural Resources Conservation Services (NRCS) guidelines, and any storm water quality management plan adopted by the applicable jurisdictions.
- b. The area beneath the ground mounted C-SES is considered pervious cover. However, use of impervious construction materials within the C-SES would cause areas to be subject to the impervious surfaces limitations for the applicable Zoning District. Natural (pervious) ground covers are required beneath the solar arrays.

19-7-6-6 Solar Easements

- a. Where a land development proposes a C-SES, solar easements may be provided. Said easements shall be in writing, and shall be subject to the conveyance and instrument recording requirements prescribed in IC 32-23-2-5 or subsequent amendment.
- b. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to:
  - i. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees at which the solar easement extends over the real property that is subject to the solar easement, and a description of the real property to which the solar easement is appurtenant;
  - ii. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
  - iii. Enumerate any terms and conditions under which the easement is granted, and may be revised or terminated;
- c. If necessary, a C-SES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement with adjacent property owner. Copies of such easements shall be submitted as part of the application process with proof of appropriate recording in the Randolph County Recorder Office.

19-7-6-7 Economic Development Agreement

Due to the complexity of large-scale alternative energy projects, the county requires an *Economic Development Agreement* or other appropriate instrument to address the taxing, land use, property assessment, as well as other issues related to such a project. The county is required to ensure the prevention of large tax shifts that may otherwise be incurred by the taxpayers of the county and more particularly of those taxing units upon which the project resides due to any reduction in tax base caused by these said projects. Therefore, in cooperation with all parties, an agreement shall be established that allows for an acceptable solution for the proper taxation of said C-SES. Any agreement drafted and or implemented shall be developed in conjunction with and be approved by the Board of Randolph County Board of Commissioners and any other Board or Council as may be required by law prior to the issuance of any permits and or the commencing of construction.

19-7-7 Pre-Construction Requirements for C-SES

- 19-7-7-1      **Avoidance and Mitigation of Damages to Public Infrastructure**  
 In addition to complying with the approved *Road Use and Maintenance Agreement*, an applicant, owner, and/or operator proposing to use any county roads, for the purposes of transporting any component of a C-SES, substation and/or any other equipment for the construction, operation or maintenance of a C-SES shall comply with the following pre-construction requirements.
  - a.    **Identification of Roads and Services**  
 All roads and services, to the extent that all proposed routes that will be used for transportation of construction materials, construction of the C-SES, and/or maintenance of the C-SES shall be identified. If the route includes a public road, such route shall be approved by the Randolph County Highway Department Superintendent. To the extent possible State or Federal Highways shall be utilized for the purposes of transporting any component of a C-SES, substation and/or any other equipment for the construction, operation or maintenance of a C-SES.
  - b.    **Pre-construction Survey**  
 The applicant, owner and/or operator shall conduct a pre-construction baseline survey in coordination with, and acceptable to, the Randolph County Highway Superintendent and such survey shall be a part of the *Road Use and Maintenance Agreement* to determine existing road conditions for assessing current needed improvements and potential future damage. The survey shall include, but not be limited to, photographs and/or video, or a combination thereof, and a written agreement to document the condition of the public facility as the same exists on the date of the baseline survey. This survey shall be the basis for determining the minimum width of roads (not platted width) when repair or replacement is required in the *Road Use and Maintenance Agreement* (Subsection 19-7-6-4).
  
- 19-7-7-2      **Amendments and Changes to the Preliminary Site Plan**  
 Any material change of location of the C-SES fenced boundary and any material change in the location of C-SES facilities outside of the C-SES fenced boundary shall be furnished to the Director of the Area Planning Commission, Building Commissioner, Highway Superintendent, County Surveyor and any other persons designated and authorized by the Randolph County Board of Commissioners. It shall be the duty and responsibility of the applicant, owner and/or operator to obtain any variance required by such change and to comply with any other requirement necessitated by such change. Any variance required by this Section shall be obtained prior to construction or implementation of such change.
  
- 19-7-8        **Construction Requirements for C-SES**  
 During construction, the applicant shall demonstrate and document to the satisfaction of the Building Commissioner, Highway Superintendent, County Surveyor, Director and any other persons designated and authorized by the Randolph County Board of Commissioners, that the following requirements are being met:
  
- 19-7-8-1      **Dust Control**  
 All reasonable dust control measures required by the Randolph County Board of Commissioners during construction of the C-SES are being followed together

with any additional steps or adjustments for dust control which may from time to time be required by the Randolph County Board of Commissioners.

- 19-7-8-2      Drainage  
Reasonable storm water best management practices as required by the approved *Drainage Plan/Agreement*.
  
- 19-7-8-3      Noise  
Near a residence or public use parcel noise shall be kept to a minimum during the hours of 7 pm to 7 am.
  
- 19-7-9        Post-Construction Requirements for C-SES  
Post-construction, the applicant shall comply with the following provisions:
  - 19-7-9-1      Road Repairs  
Any road damage caused by the transport of any matter or material utilized in any way regarding the C-SES, in the construction of the C-SES, the installation of the same, and/or the removal and decommissioning of the same, shall be repaired to the satisfaction of the Randolph County Highway Department Superintendent (as per the *Road Use and Maintenance Agreement*). The Superintendent may choose to require either remediation of roads upon completion of the C-SES or said Superintendent is authorized to collect fees for oversized load permits. Further, a surety bond or letter of credit in an amount to be determined by a professional highway engineer selected by the Randolph County Board of Commissioners may be required by the County to ensure that future repairs are completed to the satisfaction of the units of local government. The cost of such bond or letter of credit shall be paid by the C-SES owner and said bond shall remain in full force and affect until the decommissioning and restoration is fully completed as prescribed by this Unified Zoning Ordinance and the *Decommissioning-Restoration Plan and Agreement*.
  
  - 19-7-9-2      As-Built Plans Requirement  
Where upon completion of all development, the exact measurements of the location of utilities, structures and components erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, and/or operator shall submit a copy of the final as built survey to the Director of the Area Planning Commission with the locations of the C-SES facilities shown thereon. Said Director of the Area Planning Commission, after being satisfied that the locations of the C-SES facilities are substantially similar to the locations on the originally approved final plans or as the same were from time to time amended, shall approve, date and sign said as-built survey for the C-SES, which the applicant, owner, and/or operator shall then record and provide Area Planning a copy of said recorded Plans.
  
  - 19-7-9-3      Change in Ownership  
It is the duty and responsibility of the C-SES applicant, C-SES owner and/or C-SES operator and any subsequent C-SES owner and C-SES operator, in addition to the notice requirements of any C-SES plans and C-SES agreements to notify by written notice the Randolph County Board of Commissioners and Director of the

Area Planning Commission of any change in the ownership of the C-SES or any part of the ownership thereof to and through the time that the final *Decommissioning-Restoration Plan and Agreement* are concluded and all applicable acceptances, releases and performance standards of any description have been met and concluded and accepted by the appropriate local, state, federal or private authority, department, agency, and persons and all financial payments or other financial obligations are fully satisfied and all appropriate parties are in receipt thereof. In order for the owner and/or operator to inform said Randolph County Board of Commissioners and Director of the Area Planning Commission of the required information regarding changes as herein provided, said notice shall be sent by certified mail with certified funds for any required recording fees and any other applicable fees to the Randolph County Board of Commissioners, 100 South Main, Room 102, Winchester, Indiana 47394 and Director of the Area Planning Commission of Randolph County, Indiana, 325 South Oak Street, Suite 204, Winchester, Indiana 47394, or by personally delivering the same to said Randolph County Board of Commissioners and Director of the Area Planning Commission.

19-8            Fees C-SES

19-8-1           Meteorological Towers, Operational Support Meteorological Towers, and any C-SES accessory buildings, structures or facilities shall be assessed fees as prescribed by the County's Official Schedule of Fees.

19-8-2           Aggregated C-SES  
Applications shall be assessed a \$20,000 application fees for each C-SES construction-phase as prescribed by the County's Official Schedule of Fees.

19-8-3           An Improvement Location Permit fee of \$1,750/MW shall be assessed.

19-8-4           Building permits shall be \$500/MW

19-9            Fees NC-SES

19-9-1           NC-SES less than or equal to 10 kW (total panel rating)

19-9-1-1        An Improvement Location Permit fee of \$35 shall be assessed for each installation.

19-9-1-2        A building fee of \$.04/square foot

19-9-2           NC-SES more than 10 kW (total panel rating)

19-9-2-1        An Improvement Location Permit fee of \$1.75/kW (total panel rating) shall be assessed.

19-9-2-2        A building fee of \$.04/square foot

19-10        Definitions (See Article XIII of this Ordinance)

**Adjacent**     Lying near, close; contiguous; adjoining; neighboring.

**Adjoining**    Being in contact at some point or line; contiguous; bordering.

**Accessory Use**

A use customarily incidental and subordinate to the primary use or building and located on the same lot therewith. A use which dominates the primary use or building in area, extent, or purpose shall not be considered an accessory use.

**Battery Back-Up**

A battery system that stores electrical energy from a solar PV system, making the electricity available for future use. Battery Back-Up systems are common in Off-Grid Systems and Hybrid Systems.

**Concentrated Solar Thermal Power (CST)**

A Solar Energy Systems that use lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat source for either a conventional power plant, such as a steam power plant, or a power conversion unit, such as a sterling engine. Although several concentrating solar thermal technologies exist, the most developed types are the solar trough, parabolic dish and solar power tower.

**Electricity Generation (aka production, output)**

The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

**Electrical Equipment**

Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

**Ground-Mount System**

A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to an adjacent home, building or utility. Ground-mount systems may be applicable when insufficient space, structural and shading issues, or other restrictions prohibit rooftop solar.

**Hybrid Solar Photovoltaic Systems (aka grid-tied PV with battery back-up)**

Solar photovoltaic electricity generation systems designed to serve the electricity needs of the building to which it is connected, thus offsetting a home's or business's electricity usage, while also utilizing a battery back-up in the event of a power outage. This is the only system that provides the ability to have power when the utility grid is down. Typical system components include: PV panels, inverters, and required electrical safety gear, battery bank, and a charge controller.

**IAC** Indiana Administrative Code

**Indiana Electric Code**

Identified in 675 IAC 17

**Indiana Residential Code**

Identified in 675 IAC 14

**Indiana Building Code** Identified in 675 IAC 13

**Inverter** A device that converts the Direct Current (DC) electricity produced by a solar photovoltaic system is converted to useable alternating current (AC).

**Megawatt (MW)**

Equal to 1000 Kilowatts; a measure of the use of electrical power.

**Megawatt-hour (MWh)**

A unit of energy equivalent to one Megawatt (1 MW) of power expended for 1 hour of time.

**National Electric Code (NEC)**

Sets standards and best practices for wiring and electrical systems.

**Natural Areas**

An existing vegetated area located on the same property as the solar farm; is within or includes the required buffer; and is of sufficient height, length, and depth and contains adequate and sufficient healthy vegetation to provide a Visual Barrier where required.

**Net Metering**

A billing arrangement that allows customers with grid-connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.

**Off-Grid Solar Photovoltaic Systems with battery back-up**

Solar photovoltaic electricity systems designed to operate independently from the local utility grid and provide electricity to a home, building, boat, RV (or remote agricultural pumps, gates, traffic signs, etc.). These systems typically require a battery bank to store the solar electricity for use during nighttime or cloudy weather (and/or other back-up generation). Typical system components include: PV panels, battery bank, a charge controller, inverters, required disconnects, and associated electrical safety gear.

**Passive Solar** Techniques, design, and materials designed to take advantage of the sun's position throughout the year (and the local climate) to heat, cool, and light a building with the sun. *Passive solar* incorporates the following elements strategically to maximize the solar potential of any home or building (namely, maximizing solar heat gain in winter months and minimizing solar heat gain in summer months to reduce heating/cooling demand; and maximizing the use of

daylighting to reduce demand for electricity for lighting): strategic design and architecture, building materials, east-west and building lot orientation, windows, landscaping, awnings, ventilation

**Photovoltaic (PV) System**

A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole-mounted.

**PV-Direct Systems**

The simplest of solar photovoltaic electric systems with the fewest components (no battery back-up and not interconnected with the utility) designed to only provide electricity when the sun is shining. Typical system components include: PV panels, required electrical safety gear, and wiring.

**Racking**

Solar energy systems are attached securely and anchored to structural sections of the roof-mounted or pole-mounted systems. Specially designed metal plates called flashings prevent leaks and are placed under shingles and over bolts to create a water-tight seal.

**Roof-Mount System (aka rooftop mounted, building mounted)**

A solar energy system consisting of solar panels are installed directly on the roof of a home, commercial building, and/or an accessory structure, such as a garage, pergola, and/or shed. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage. Roof-mount systems can be mounted flush with the roof or tilted toward the sun at an angle.

**Solar Access** The ability of one property to continue to receive sunlight across property lines without obstruction from another’s property (buildings, foliage or other impediment).

**Solar Array** Multiple solar panels combined together to create one system.

**Solar Collector**

A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation electricity or transfer of stored heat.

**Solar Easement**

An easement recorded pursuant to Chapter IC 32-23-4, obtained for the purpose of insuring exposure of a solar energy device or a passive solar energy system to the direct rays of the sun. Solar Easements are further described and regulated in Subsections 19-6-2-9 and 19-7-6-6 Solar easements are to follow the State requirements of Recording (IC 32-23-2-5).

**Solar Energy System (SES)**

The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside

the perimeter of the system, which extends to any fencing, buffer and landscaping. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

**Solar Energy System, Commercial (C-SES)**

A utility-scale commercial facility that converts sunlight into electricity with the primary purpose of wholesale or retail sales of generated electricity. Concentrated Solar Thermal (CST) is not permitted or considered a C-SES for the purposes of this Ordinance.

**Solar Energy System, Noncommercial (NC-SES) Under or equal to 10 kW (total panel rating)**

Includes any photovoltaic, solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

**Solar Energy System, Non Commercial (NC-SES) Over 10 kW (total panel rating)**

Includes any photovoltaic, solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

**Solar Glare** The potential for solar panels to reflect sunlight, with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Solar Photovoltaic (Solar PV) System**

Solar systems consisting of photovoltaic cells, made with semiconducting materials, that produce electricity (in the form of direct current (DC) when they are exposed to sunlight. A typical PV system consist of PV panels (or modules) that combine to form an array; other system components may include racks and hardware, wiring for electrical connections, power conditioning equipment, such as an inverter and/or batteries.

**Solar Panel (or module)**

A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).

**Solar Thermal System (aka Solar Hot Water or Solar Heating Systems)**

A solar energy system that directly heats water or other liquid using sunlight. Consist of a series of tubes that concentrate light to heat either water or a heat-transfer fluid (such as food-grade propylene glycol, a non-toxic substance) in one of two types of collectors (flat-plate collectors and evacuated tube collectors). The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

**Visual Barrier**

As used in Article 19 it is a density of landscaping equal to Thuja Green Giant Arborvitae spaced 4' apart which initial planting size and density is expected to attaining a height of 7' in three years under normal growing conditions. A

minimum height of 15' is to be maintained thereafter. The intent is to completely exclude visual contact with solar panels and equipment.

**Waiver, Waiver Agreement**

An agreement to modify a standard required in this Ordinance which is entered into by and between the landowner burdened by lessening the standard required by the Ordinance and the landowner requesting the modification of the standard required by this Ordinance. An agreement to modify a standard required by this Ordinance, or “waiver agreement”, is permissible only when a waiver of such standard is specifically authorized by this Ordinance. In order to be valid, a “waiver agreement” must:

- a. be in writing;
- b. specifically state that the document is a waiver agreement;
- c. briefly describe the standard or requirement which is being modified;
- d. briefly describe the standard agreed upon by the parties to the waiver agreement;
- e. be executed in a manner free from coercion or duress;
- f. be executed by both parties to the waiver agreement;
- g. be subject to the approval of the Zoning Administrator; and
- h. filed with the Area Planning Office.

**Watts (W)** A measure of the use of electrical power (power (Watts) = voltage (volts) X current (Amps)).

**APPENDIX A:**

<b>SOLAR ENERGY SYSTEMS: ZONING DISTRICTS</b>										
	A-I <sup>4</sup>	A-L <sup>2,3</sup>	A-L <sup>1,3</sup>	A-R	R-1,2,3	C-1	C-2	C-3	M-1	M-2
NC-SES =/under 10 kW	P	P	P	P	P	P	P	P	P	P
NC-SES Over 10 kW	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
C-SES	P	SE	SE	X	X	SE	SE	SE	SE	SE

<sup>1</sup>Parcels zoned other than A-L (AR; R-1,2,3; C-1,2,3; M-1, 2; PD) camp grounds, or subdivisions within A-L zoning that do not adjoin incorporated areas of Randolph County as described in 3.01.B(2) and 3.01.B(3).

<sup>2</sup>A-L: areas within 1 mile of incorporated areas of Randolph County described in 3.01.B(1).

<sup>3</sup>A-L shall be limited to roof or ground mount NC-SES development.

<sup>4</sup>A-I shall follow procedures outlined in 19-6-2-11, and 19-6-3-2(e).

- P Permitted Use
- PL Permitted with Special Limitations in Article 19-7-1
- SE Special Exception Use
- X Not Permitted, No Variance Allowed

*This repeals all portions of Article XIX which are inconsistent with Amendment APC2025-2-A, Article XIX Solar Energy Systems Siting Regulations, Exhibit A.*

**Sign Code**  
**Randolph County Area Plan Commission**

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**A. Sign Standards.**

**1. General.**

- a. Repealer. This ordinance replaces the following sections of the current Zoning Ordinance that are in place on this date of passage:
  - i. Section 3.11 Signs in the Agricultural Limited District
  - ii. Section 3.I-11 Signs in the Agricultural Districts
  - iii. Section 4.11 Signs in the Residential Districts
  - iv. Section 5.13 Signs in the Commercial Districts
  - v. Section 6.13 Signs in the Industrial Districts
  - vi. Section 6.14 Additional Requirements and Standards
  - vii. Section 16.7.5 Signage for WECS
  - viii. The following terms within the Definitions section are deleted:
    - (a) Animated Sign
    - (b) Banner
    - (c) Beacon
    - (d) Billboard
    - (e) Building Marker
    - (f) Internal Lighting
    - (g) Sign
    - (h) Sign, Advertising
    - (i) Sign, Animated
    - (j) Sign, Announcement
    - (k) Sign Area
    - (l) Sign, Building
    - (m) Sign, Business Hours
    - (n) Sign, Canopy
    - (o) Sign, Changeable Copy
    - (p) Sign, Commercial or Industrial
    - (q) Sign, Deceptive
    - (r) Sign, Display Surface
    - (s) Sign, Electric
    - (t) Sign, Electronic Message
    - (u) Sign, Event Oriented
    - (v) Sign, Flashing
    - (w) Sign, Freestanding
    - (x) Sign, Garage Sale, Yard Sale, and Auction
    - (y) Sign, Gateway
    - (z) Sign, Hanging
      - (aa) Sign, Historic
      - (bb) Sign, Historic Place
      - (cc) Sign, Movable
      - (dd) Sign, Neon
      - (ee) Sign, Non-conforming
      - (ff) Sign, Obsolete
      - (gg) Sign, Official
      - (hh) Sign, Off-premise

- (ii) Sign, Off-premise Advertising
  - (jj) Sign, Obsolete Advertising
  - (kk) Sign, On-premise
  - (ll) Sign, “open” and “closed”
  - (mm) Sign, Outdoor Advertising
  - (nn) Sign, Parking
  - (oo) Sign, Permanent
  - (pp) Sign, Political Election
  - (qq) Sign, Portable
  - (rr) Sign, Prohibited
  - (ss) Sign, Public
  - (tt) Sign, Real Estate
  - (uu) Sign, Roof
  - (vv) Sign, Temporary
  - (ww) Sign, Time and Temperature
  - (xx) Sign, Two-sided
  - (yy) Sign, Wall
  - (zz) Sign, Window
- b. Application. These sign standards apply to uses that are permitted in each respective zoning district by right, special exception, or use variance.
- c. Intent of these Regulations. The intent of these sign standards is to:
- i. accomplish the goals of the Comprehensive Plan;
  - ii. regulate time, place, and characteristics of signs;
  - iii. avoid the proliferation of signs;
  - iv. provide businesses with appropriate identification;
  - v. create a consistent streetscape;
  - vi. maintain and enhance the aesthetic environment of the jurisdiction;
  - vii. eliminate potential hazards to motorists and pedestrians resulting from sign clutter; and
  - viii. promote the health, safety, and welfare of the residents of the jurisdiction.
- d. Sign Types. The different types of signs addressed in this ordinance are defined in *Section 7: Definitions*.
- i. Permitted Signs. The types of signs specifically permitted in each in each zoning district and their respective regulations are listed in this chapter.
  - ii. Prohibited Signs. Unless specifically permitted, all other types of signs are prohibited in each zoning district. In addition, the following types of signs are prohibited in all districts:
    - (a) Animated Signs: Signs that gain attention through animation, including:
      - (1) Signs that utilize any motion picture, laser, or visual projection of images or copy.
      - (2) Signs that emit audible sound, odor or visible matter.
      - (3) Signs that have blinking, flashing, or fluttering lights or which has a changing light intensity, brightness or color, or give such illusion.
    - (b) Misleading Signs: Signs that are misleading include:
      - (1) Signs that purport to be or are in imitation of, or resemble an official traffic sign or signal or which bear the words "Stop", "Slow", "Caution", "Danger", "Warning", or similar words.
      - (2) Signs that may be construed as or have on it a light of an emergency or road equipment vehicle.

- (c) Roof Signs: Signs to be placed on the roofs of structures and signs that extend above the roof line or parapet of a building.
  - (d) Vehicle Signs: Vehicle signs are prohibited when the vehicle is parked on public or private property for the primary purpose of displaying the sign. Prohibited vehicle signs are not to be construed as vehicles with signs on them that:
    - (1) are lawfully parked overnight or during nonbusiness hours for that operation, on public or private property;
    - (2) are making deliveries, sales calls, or customary practices relating to doing business;
    - (3) are making trips to transport persons or property; or
    - (4) are in conjunction with customary construction operations on a construction site.
  - (e) Other Prohibited Signs:
    - (1) Trailblazer or point of destination signs;
    - (2) Search lights;
    - (3) Pennants, streamers, and/or spinners;
    - (4) Bench signs; (Plaques up to 2 square feet area identifying donors may be attached.
    - (5) Signs with moving or movable parts; and
    - (6) Obscene signs that contain profane language, male genitalia, and/or female genitalia.
- iii. Devices Exempt from These Regulations. The following devices are not considered to be signs, do not require an ILP, are specifically exempt from these regulations, and their respective limitations include:
- (a) Building Addresses.
  - (b) Directional Devices: Directional devices if installed as follows:
    - (1) Use: Directional devices shall be used to indicate points of entry or exit for a business, public amenity, or off-street parking area.
    - (2) Area: Directional devices are limited to a maximum of four (4) square feet in area per entrance.
    - (3) Height: Directional devices are limited to a maximum of forty-two (42) inches in height above the ground.
    - (4) Placement:
      - a. Directional devices shall not interfere with safe vehicular or pedestrian traffic circulations.
      - b. Directional devices shall not obstruct the view of drivers entering or exiting the lot or parcel.
      - c. Directional devices shall not be placed within a public right-of-way.
      - d. Directional devices shall be on the property to which it refers.
    - (5) Quantity: No more than two (2) directional devices shall be used per street frontage, with a maximum of four (4) per lot or parcel.
    - (6) Message: Directional devices without a logo may contain information such as “in”, “enter”, “entrance”, “out”, “exit”, “do not enter” or directional arrows indicating desired traffic movement.
  - (c) Flags: The flag, pennant, or insignia of any nation, state, city or other political unit are exempt, but shall not be mounted more than thirty-five

- (35) feet in height and be more than forty (40) square feet in area (e.g. a five (5) foot by eight (8) foot flag).
- (d) **Holiday Decorations:** Holiday decorations are exempt and may include window painting, trees, wreaths, decorative lighting, and similar seasonal displays that do not contain the name or logo of an establishment or any type of advertising.
  - (e) **Murals:** Murals are exempt provided that the mural does not contain the name or logo of an establishment or any type of advertising. Murals with non-commercial messages require approval by the legislative body before being installed.
  - (f) **Scoreboards:** Scoreboards are exempt from needing a permit as follows:
    - (1) when used in conjunction with a legally established sport field, and (2) when not containing any commercial messages, and (3) when the scoreboard does not exceed twenty (20) feet in height above the ground, and (4) when the total scoreboard area does not exceed one hundred (100) square feet, and (5) when the scoreboards are single sided.
  - (g) **Wayfinding Structures:** Wayfinding structures if erected by the municipality.
  - (h) **Temporary Marker Signs:** Temporary marker signs shall only be permitted on a lot having 300 feet or more of street frontage, provided the following conditions are met.
    - (1) **Type:** Temporary marker signs shall be yard signs (An example of a temporary marker sign are seed signs)
    - (2) **Quantity:** Up to 30 temporary marker signs shall be permitted per lot.
    - (3) Each sign area shall not exceed six (6) square feet.
    - (4) No part of the sign shall be higher than four (4) feet above the ground
    - (5) A temporary marker sign may stay in place for the duration of the temporary event (e.g. planting through harvest), but shall be taken down within seven (7) days after the purpose of the sign no longer exists.
  - (i) **Operational or Information signs:** Posting of operational and information provided the sign is no larger than necessary for the intended reader. (Examples include hours of operation, admittance requirements, “Employees Only”, “Men”, “Women”, “Visitor Parking” and “Open/Closed”.)
  - (j) **Temporary Signs:** Temporary signs shall be exempt from obtaining an Improvement Location Permit but shall comply with all applicable standards (Examples are sale of property, garage sale, special sale, grand opening and supporting a sport team. The following standards shall be met:
    - (1) Temporary signs shall not be illuminated
    - (2) Shall be a sandwich board, self-standing signs, yard signs, banner or a window sign
    - (3) Quantity allowed as indicated in appropriate table.
    - (4) Maximum height as indicated in appropriate table.
    - (5) The clear-sight triangle shall be maintained at all intersections, driveways, alleys and railroad crossings as defined in Article XIII.
    - (6) Setback from any right-of-way, edge of pavement, and curb associated with any driveway or street as indicated in appropriate table.

- (7) A standard temporary sign may stay in place for the duration of the temporary event. The temporary sign may be placed up to seven (7) days prior to the temporary event. All temporary signs shall be taken down within five (5) days after the temporary sign's purpose no longer exists.
- (k) Signs erected by farm operators on their barns or other accessory buildings giving their name, the name of the farm and the year the farm was established are exempted. Also "barn quilts" are exempted on agriculture buildings.
- e. Sign Permits. A sign permit is required for all permanent signs located, erected, constructed, reconstructed, moved, and altered unless otherwise stated in the in this section.
- f. Installation. The ground shall not be raised or lowered to artificially change the point at which a sign height is measured.
- g. Location and Placement.
  - i. Signs may not be installed at any of the following locations:
    - (a) In any public right-of-way, unless specifically authorized by the legislative body or their designee;
    - (b) In any utility easement unless authorized by the legislative body or their designee;
    - (c) In any no-build or no-disturb zone;
    - (d) In any public park or other public property, with the exception of those signs specifically permitted in this ordinance;
    - (e) On any traffic control signs, highway construction signs, fences, utility poles, street signs, trees, or other natural objects;
    - (f) Obstructing any door, fire escape, stairway, or any opening intended to provide entrance or exit for any building or structure; or
    - (g) In a manner that obstructs or interferes with safe movement of vehicular or pedestrian traffic.
  - h. Computations.
    - i. Area.
      - (a) Individual Sign. The area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest rectangle that will encompass the extreme limits of the sign, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the regulations and is clearly incidental to the display itself.
      - (b) Multifaceted Sign. For purposes of calculating the permitted sign area, the average of the individual sign areas shall be used. *(For example, the average area of a two-faced sign with a cumulative total of 400sqft shall be 200sqft).* For purposes of calculating the permit fee for a multifaceted sign, the total cumulative area of the individual sign areas shall be used. *(For example, the permit fee of a two-faced sign with a cumulative total of 400sqft shall be based on 400sqft).*
    - ii. Height.
      - (a) The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign or structure supporting the sign.

- (b) Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot or parcel, whichever is lower.
- iii. Maximum Total Permitted Sign Area for a Lot or Parcel. The permitted sum of the area of all individual signs on a lot or parcel shall be computed by applying the regulations for the road frontage, building frontage, or wall area for each respective sign and zoning district in which the lot or parcel is located.
- i. Maintenance. All signs and components thereof shall be kept in good repair and in safe, neat, clean, and working condition.
- j. Abandoned Signs and Uses. All signs, their mounting, and related components shall be removed within thirty (30) days of the day the business which it identifies is no longer conducted. When a permanent, multi-tenant sign exists that allows a "face-out/face-in" change to identify a new business, said sign may be left in place, but must be covered with a durable and attractive material. Under no circumstances shall any permanent sign be left in place for more than three (3) months. The owner of the premise upon which the sign is located is responsible for its removal or covering.
- k. Legally non-conforming Signs. The sign which complied with the Unified Zoning Ordinance as of the date it was erected and is allowed to remain, but cannot be expanded and only replaced in like kind of area and height. If a sign is made less non-conforming then that becomes the new replacement standard for that sign as opposed to the original sign area and height.
- l. Violations and Penalties.
  - i. Failure to Comply. Failure to comply with the provisions of this ordinance will result in notices, enforcement, and applicable penalties.
  - ii. Repeat Violation: A repeat violation means a violation of a specific provision of this section by a person or property owner who has been previously found to have violated the same provision within a period of five (5) years prior to a subsequent violation. If a repeat violation is found, the Administrator shall document the violation, but is not required to notify the violator of the repeat violation or required to give the violator time to correct the violation before proceeding with enforcement measures and penalties.
- m. Table Interpretation
  - i. Total Permanent Signs: This is the cumulative total number of permanent signs that are permitted on the subject lot or parcel. Furthermore, the quantity of sign by type may be limited by the respective standards for the subject district.
  - ii. Total Temporary Signs: This is the cumulative total number of temporary signs that are permitted on the subject lot or parcel. Furthermore, the quantity of signs by type may be limited by the respective standards for the subject district.

- iii. Maximum Cumulative Area: This is the maximum cumulative area of permanent signs that are permitted on the subject lot or parcel, measured in square feet.
- iv. Permitted Signs: These are the types of permanent and temporary signs that are permitted on the subject lot or parcel.
- v. Prohibited Signs: These are the types of signs that are prohibited on the subject lot or parcel.

## 2. Agricultural Sign Standards for Districts: AG-L, AG-I

<b>Permitted and Prohibited Sign Types</b>			
	<b>Type</b>	<b>Total Quantity of Signs Permitted</b>	<b>Maximum Cumulative Area</b>
Permitted Permanent Signs	<ul style="list-style-type: none"> <li>• wall sign</li> <li>• free-standing sign</li> </ul>	NA	36 sqft (Temporary + permanent)
Permitted Temporary Signs	<ul style="list-style-type: none"> <li>• wall sign</li> <li>• free-standing sign</li> </ul>	NA	36 sqft (Temporary + permanent)
Prohibited Signs	all other signs not permitted	NA	NA
<b>Regulations for Permanent Signs</b>			
	<b>Wall Signs</b>	<b>Free-standing Signs</b>	
Maximum Area Per Sign	18 sqft	18 sqft	
Maximum Height*	25 feet above curb level	15 feet	
Setback	NA	20 feet	
Other Limitations	<ul style="list-style-type: none"> <li>• Located only on the same lot or parcel as the use/business</li> <li>• No sign shall project beyond the property line into the public right-of-way</li> </ul>		
<p><i>*Visibility triangle: where applicable, the maximum height of a free-standing sign shall be nine (9) feet if located within three (3) feet of a driveway, three (3) feet of a parking area, or within fifty (50) feet of the intersection of two (2) or more streets. Height is measured at the mean elevation of the finished grade of the adjoining ground or pavement.</i></p>			
<b>Regulations for Temporary Signs</b>			
	<b>Wall Signs</b>	<b>Free-Standing Signs</b>	
Maximum Area Per Sign	18 sqft	18 sqft	
Maximum Height*	25' Above curb level	6 feet	
Setback	NA	8 feet	
Other Limitations	<ul style="list-style-type: none"> <li>• Located only on the same lot or parcel as the use/business</li> <li>• No sign shall project beyond the property line into the public right-of-way</li> </ul>		
<p><i>*Visibility triangle: where applicable, the maximum height of a free-standing sign shall be nine (9) feet if located within three (3) feet of a driveway, three (3) feet of a parking area, or within fifty (50) feet of the intersection of two (2) or more streets. Height is measured at the mean elevation of the finished grade of the adjoining ground or pavement.</i></p>			

**Residential Sign Standards for Districts: A-R, R-1, R-2, R-3**

<b>Permitted and Prohibited Sign Types</b>			
	<b>Type</b>	<b>Total Quantity of Signs Permitted</b>	<b>Maximum Cumulative Area</b>
Permitted Permanent Signs	<ul style="list-style-type: none"> <li>• wall sign</li> <li>• free-standing sign</li> </ul>	NA	36 sqft (Temporary + permanent)
Permitted Temporary Signs	<ul style="list-style-type: none"> <li>• wall sign</li> <li>• free-standing sign</li> </ul>	NA	36 sqft (Temporary + permanent)
Prohibited Signs	all other signs not permitted	NA	NA
<b>Regulations for Permanent Signs</b>			
	<b>Wall Signs</b>	<b>Free-Standing Signs</b>	
Maximum Area Per Sign	18 sqft	18 sqft	
Maximum Height*	15 feet above curb level	6 feet	
Setback	NA	8 feet	
Other Limitations	<ul style="list-style-type: none"> <li>• Located only on the same lot or parcel as the use/business</li> <li>• No sign shall project beyond the property line into the public right-of-way</li> </ul>		
<p><i>*Visibility triangle: where applicable, the maximum height of a free-standing sign shall be nine (9) feet if located within three (3) feet of a driveway, three (3) feet of a parking area, or within fifty (50) feet of the intersection of two (2) or more streets. Height is measured at the mean elevation of the finished grade of the adjoining ground or pavement.</i></p>			
<b>Regulations for Temporary Signs</b>			
	<b>Wall Signs</b>	<b>Free-standing Signs</b>	
Maximum Area Per Sign	18 sqft	18 sqft	
Maximum Height*	15 feet above curb level	6 feet	
Setback	NA	8 feet	
Other Limitations	<ul style="list-style-type: none"> <li>• Located only on the same lot or parcel as the use/business</li> <li>• No sign shall project beyond the property line into the public right-of-way</li> </ul>		
<p><i>*Visibility triangle: where applicable, the maximum height of a free-standing sign shall be nine (9) feet if located within three (3) feet of a driveway, three (3) feet of a parking area, or within fifty (50) feet of the intersection of two (2) or more streets. Height is measured at the mean elevation of the finished grade of the adjoining ground or pavement.</i></p>			

**Table 4. Commercial and Industrial Sign Standards for Districts: C-1, C-2, C-3, M-1 and M-2 uses (other than Residential uses covered in Table 3)**

<b>Permitted and Prohibited Sign Types</b>			
	<b>Type</b>	<b>Total Quantity of Signs Permitted</b>	<b>Maximum Cumulative Area</b>
Permitted Permanent Signs	<ul style="list-style-type: none"> <li>• wall sign</li> <li>• free-standing sign</li> </ul>	<ul style="list-style-type: none"> <li>• 2 wall signs</li> <li>• 1 free-standing sign</li> </ul>	Per regulations by sign type in Tables below.
Permitted Temporary Signs	free-standing sign	1 per lot or business facade	per regulations by sign type in tables below
Prohibited Signs (see d.iii)	all other signs not permitted	NA	NA
<b>Regulations for Permanent Signs</b>			
	<b>Wall Signs<sup>1</sup></b>	<b>Free-standing Signs<sup>1, 2</sup></b>	
Maximum Quantity	<ul style="list-style-type: none"> <li>• Single-family or Two-family Residential Use: Table 3</li> <li>• Multi-family Residential Use: Table 3</li> <li>• Non-residential Use: 1 per primary structure or 1 per occupancy (separate façade)</li> <li>• Corner lot or parcel: 1 per street frontage, maximum 2</li> <li>• Through lot: 1 + 1 additional per RF over 150' ; maximum 4</li> </ul>	<ul style="list-style-type: none"> <li>• Single-family or Two-family Residential Use: Table 3</li> <li>• Multi-family Residential Use: Table 3</li> <li>• Non-residential Use: 1 sign</li> <li>• Corner lot or parcel: 1 sign</li> <li>• Through lot: 1 + 1 additional per RF over 150'; maximum 2; minimum separation of sign 1 from sign 2 is 250'</li> </ul>	
Maximum Area (sf) (additive total per RF)	LF x 1.6 Minimum 30sf; maximum 200sf	LF x 1.6 30sf minimum; 100sf maximum Through lot: max. area of sign1=max. area of sign2;	
Maximum Height	<b>25</b> feet above curb level	25 feet	
Setback	NA	5 feet	
Other Limitations	<ul style="list-style-type: none"> <li>• Sign illumination – see subsection N of this Section</li> <li>• Located only on the same or contiguous lot or parcel as the use/business</li> <li>• No sign shall project beyond the property line into the public right-of-way</li> </ul>		
<b>Regulations for Temporary Signs</b>			
	<b>Free-standing Signs</b>		
Maximum Quantity	1 per lot or parcel or business		
Maximum Area	15sqft		
Maximum Height	10 feet		
Setback	5 feet		

Other Limitations	<ul style="list-style-type: none"> <li>• Located only on the same or contiguous lot or parcel as the use/business</li> <li>• No sign shall project beyond the property line into the public right-of-way</li> <li>• Signs may only be displayed during hours of operation</li> </ul>
<b>Abbreviations: RF= road frontage; LF= length of façade; SF= square feet</b>	
<sup>1</sup> <b>Changeable Copy:</b> <ul style="list-style-type: none"> <li>• part of wall or ground sign</li> <li>• no more than 80% of area of sign</li> <li>• electronic script allowed but static message is limited to no less than 10 seconds with no blending of messages. Message shall transition instantly (Animation shall not be allowed).</li> </ul>	
<sup>2</sup> Permitted sign area calculated on a lot without a building (façade) shall be a maximum of 30sf	

N. Sign Illumination: The lighting restriction to and the night-time illumination of lighted signs and Electronic Messaging Centers (EMCs) shall conform with criteria set forth in this Subsection

- i. Signs may have constant internal or external illumination.
  - (a) External illumination shall be shielded from residences and the street.
  - (b) The Area Planning Department, upon receiving valid complaints from an adjoining land owner or individual driving near a permitted illuminated sign shall investigate and inform the owner or operator of said sign that the sign brightness (internal or external) shall be reduced during hours of low ambient light (dusk to dawn). Sign Illumination shall at no time exceed the standards set forth below but may be required to be reduced below such standards in specific situations as determined by the Administrator.
- ii. Shall be located on the same or contiguous lot as the use/business
- iii. Sign illumination Measurement: The illuminance of a sign shall be measured with an illuminance meter set to measure footcandles accurate to at least two decimals. Illuminance shall be measured with the light off, and again with the light on (displaying a white image on an EMC or a solid message for a single-color EMC) at a vertical height of approximately 5’ from grade. All measurements shall be taken as close to **perpendicular** to the sign face as possible and at a distance indicated by total square footage of the lit portion of the sign indicated in **Table 1**.
- iv. Illumination Limits: The difference between the light off and light on measurements, using the criteria in Table 1, shall not exceed 0.3 footcandles at night. In or adjacent to residential the difference shall not exceed 0.2 footcandles at night.
- v. All permitted EMCs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 footcandle measurements.
- vi. Existing signs shall meet the illuminance requirements set forth in this subsection excepting i(c) above.
- vii. Illumination of signs shall be static in color and intensity.
- viii. daytime internal illumination shall be no more than 5,000 nits (approximate sunlight illumination of a non-digital sign).

**Table 1. Sign Area Verses Measurement Distance**

<b>Area of Sign in Square Feet</b>	<b>Measurement Distance from Sign Face</b>
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100
110	105
120	110
130	114
140	118
150	122
160	126
170	130
180	134
190	138
200	141
220	148
240	155
260	161
280	167
300	173

*\*For signs with an area in square feet other than those listed in the table the measurement distance may be calculated with the following formulas: Measurement Distance =*

$$\sqrt{\text{Area of Sign Sq. Ft.} \times 100}$$

## **6. Definitions**

### **a. General.**

- i. **Terms.** The terms and words defined in this Section shall have the meanings herein ascribed to them.
- ii. **Undefined Terms.** Any words not defined in this Section shall be construed as defined in the current Zoning Ordinance. If not defined in the current Zoning Ordinance, then the definition shall be as established for normal dictionary usage.
- iii. **Tense and Form.** Words used or defined in one tense or form shall include other tenses and derivative forms.
- iv. **Number.** Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- v. **Gender.** The masculine gender shall include the feminine and neuter. The feminine gender shall include the masculine and neuter. The neuter gender shall include the masculine and feminine.
- vi. **Person.** The word “person” includes individuals, firms, partnerships, joint ventures, trusts, trustees, estates, corporations, associations, and any other similar entities.
- vii. **Captions, Illustrations, and Tables.** In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, or table, the text shall control and no caption, illustration, or table shall be construed to limit the scope or intent of the text of this ordinance.

### **Administrator**

The APC or a person designated by the APC to provide staff support to the APC and BZA and to enforce this ordinance under the supervision of the APC.

### **Internal illumination**

A means of sign illumination in which the characters, letters, fixtures, designs or outlines are illuminated from the inside or behind the sign by electric lights or tubes.

### **Lot**

A designated parcel of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

### **Parcel**

Any area of land formally described and recorded with block and lot numbers, by metes and bounds, by ownership, or in any other such a manner as to specifically identify the dimensions and/or boundaries.

### **Sign**

Any name, number, symbol, identification, description, display, graphic, or illustration which is affixed to, painted on, or is represented directly or indirectly upon a structure or lot/parcel, visible from any public right-of-way which directs attention to an object, product, place, activity, person, institution, organization, or business. Religious symbols on places of worship or structures owned and operated by religious organizations shall not be considered a sign unless accompanied with text. This definition includes backlighted plastic panels or strip lighting affixed to any wall or roof where any such panels or lighting serve to identify a business and attract attention rather than to illuminate space for human activity. For purposes of this ordinance, the following signs are defined:

**Animated Sign**

Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an “electronic sign”, an animated sign produces the illusion of movement by means of electronic, electrical, or electro-mechanical input and/or illumination capable of simulating movement through using the characteristics of one (1) or both of the following classifications:

flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds; and/or

patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.

Scrolling signs of 10 square feet or less are not considered Animated Signs.

**Awning**

A sign that is attached to an awning, canopy, or other fabric that serves as a structural protective cover over a door, entrance, window, or outdoor service area.

**Banner**

A non-rigid cloth, plastic, paper, flag, or canvas sign typically related to a special event or promotion that is cultural, educational, charitable, or recreational in its function, under the sponsorship of a for-profit establishment or business, or a public, private non-profit, or religious organization. Banners also include streamers or ribbon-shaped or cord-like rope which may have pennants and/or banners attached and which is stretched or hung between two (2) or more points of support intended to attract attention.

**Bench Sign**

Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public street.

**Billboard**

A sign, at least 300 square feet in area, that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**Changeable Copy**

A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.

**Electronic**

A sign activated by or illuminated by means of electrical energy whose variable message capability can be electronically programmed.

**Free-standing** A sign that is detached from a building and having a support structure.

**Hanging Sign** A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

**Inflatable**

Any device which is capable of being expanded by any gas and used on a permanent or temporary basis to attract attention to a product or event. This

definition includes both hot and cold-air balloons tethered or otherwise anchored to the ground.

**Informational**

Any on-premise sign which contains no commercial message of any sort and which provides, for example, directions for control of traffic, enter/exit, hours of operation, no smoking, beware of dog, no trespassing, security system present, or other necessary regulatory information. Informational signs shall not contain the name or logo of an establishment or any type of advertising for products or services offered on site.

**Marker**

A sign that:

indicates the name of a structure, date, or other incidental information about its construction that is cut into a masonry surface, cast in bronze, or made of other material; or

identifies a product in agricultural areas, typically used to identify seed types used in agricultural fields.

**Monument**

A type of free-standing sign in which the bottom edge of the sign face is permanently affixed to the ground.

**Pole Sign**

A type of free-standing sign that is supported by structures or supports that are placed on and anchored in the ground and that are independent from any structure. A pole sign uses said structures to raise the sign face above the ground more than four (4) inches.

**Portable Sign** Any sign not permanently attached to the ground, structure, or other permanent element. This includes signs that are designed to be:

moved/transported by means of wheels or other mechanisms;  
trailer signs that are attached to, supported by, or part of a structure which is designed to move on trailer wheels, skids, or other similar devices, or transported, pushed, or pulled by a motor vehicle;

converted to A-frames or T-frames such as menu or sandwich board signs;  
balloons used as signs;

umbrellas used for advertising; and/or other portable devices or structures used for signage.

**Projecting Sign**

A sign that is wholly or partly dependent upon a structure for support or suspended from a pole attached to a structure. Such signs must be perpendicular to the structure face upon which they are attached.

**Roof Sign**

Any sign partially or fully erected on or above the roof line of a structure.

**Scrolling Sign**

A sign which displays text that moves horizontally on a display screen with new text appearing at the same rate that old text disappears. (Permitted area of display is 10 square feet or less).

**Trailblazer Sign**

A series of signs directing the motoring public to a specific location on private property.

**Unified Development Sign**

A sign that representing a shopping center, office park, industrial park, or other development that contains three (3) or more uses within a single development. A unified development sign is allowed in addition to the permitted signs of the individual tenants.

**Vehicle Sign** A sign that is permanently affixed to the body of, an integral part of, or a fixture of a motor vehicle that is parked or left standing so that it is visible from a public street for a period of more than seventy-two (72) continuous hours for the intent of being used as advertisement. For the purpose of this definition, "permanently affixed" shall mean any of the following:

painted directly on the body of a vehicle; applied as a decal on the body of a vehicle; and/or

placed in a location on the body of the vehicle that was specifically designed by a vehicle manufacturer.

**Wall Sign** Any sign attached to or erected against the inside or outside wall of a structure with the exposed display surface of the sign in a plane parallel (or relatively parallel) to the plane of the structure.

**Wayfinding Sign**

A sign erected by the municipality or a multi-tenant development that displays necessary identification information for the convenience and safety of residents and visitors, and containing no advertising. This includes government-erected signs found along major streets that display company logos for lodging, gasoline stations, restaurants, and other such establishments. Also includes directional signs that provide information regarding location, instructions for use, or functional/directional information.

**Window Sign** Any sign, poster, symbol, or other type of identification or information about the use or premises directly attached to the window of a structure or erected on the inside or outside of the window, which is legible from any part of a public right-of-way or adjacent property. For purposes of this definition, a "window" is defined as an opening in the wall or roof of a structure or vehicle that is fitted with glass or other transparent material in a frame to admit light or air and allow people to see out.

**Sign area** The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure.

**Sign face** The surface intended for the display of information on the sign.

**Sign height above ground**  
The vertical measurement from the ground to the top of the sign. The height of all signs shall be measured from the established grade line to the highest point of the sign or its frame/support.

**Sign structure**  
The supporting unit of a sign face, including but not limited to frames, braces cabinets, and poles.

**Sign, abandoned**  
A sign that is: associated with an abandoned use; and/or remains after the termination of the business; and/or on its immediate premises but not adequately maintained or repaired.

**Sign, illuminated**  
Any sign lighted by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.

**Sign, legal non-conforming**  
A pre-existing, legally permitted sign, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

**Sign, permanent**  
A sign attached to a permanent structure, foundation, or mounted in the ground in a manner that enables the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign. The use of anchor bolts, ropes, stakes, chains, glue, or similar anchoring are not methods recognized by this ordinance as a permanent foundation.

**Sign, temporary**  
Any sign that is temporarily used for a specific duration of time and is not affixed to a permanent foundation or structure.

**Use, primary**  
The predominant use of any lot or parcel or as determined by the primary structure. In the absence of a primary structure, the primary activity occurring on the property is the primary use.

*Includes:  
Amendment 2022-1-A February 23, 2022  
Amendment 2022-2-A May 18, 2022*