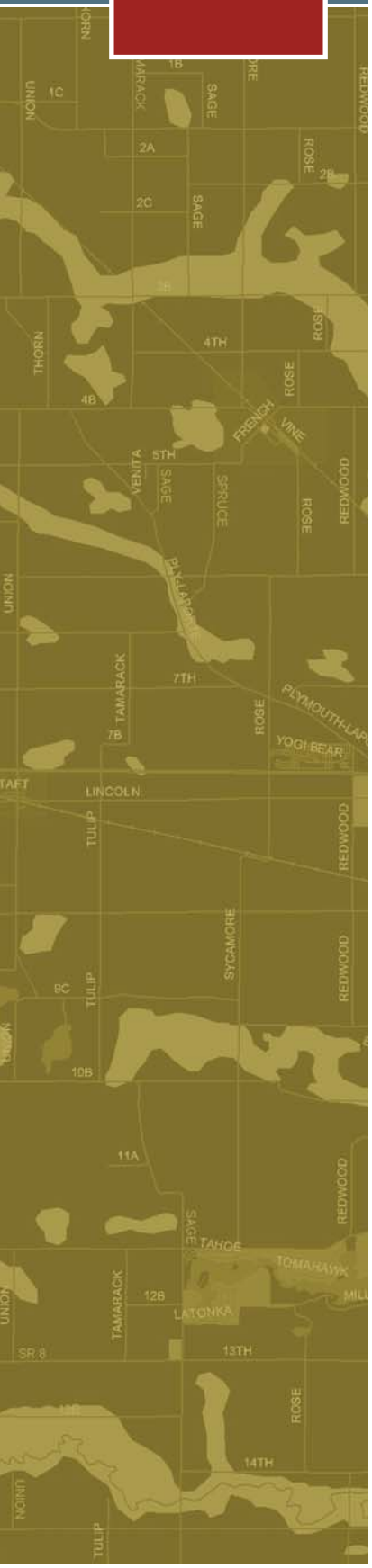
Marshall County, Indiana
Zoning Ordinance

Effective November 5, 2007



Marshall County Plan Commission

112 W. Jefferson St, Room 302
Plymouth IN, 46563
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Marshall County
Zoning Ordinance

Effective November 5, 2007

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Date	Ordinance #	Sections Affected	Description
6/9/2008	2008-08	Article 6, 030	Confined Feeding Standards
8/18/2008	2008-10	Article 13, Dcefinitions	Concentrated Animal Feeding Operations(CAFOs) Definition
10/20/08	2008-11	Articles 3,6 & 13	Wind energy Conversion Systems (WECS)
4/20/2009	2009-03	Articles 6 & 13	Flood Hazard Standards & Definitions
8/3/2009	2009-05	Article 4, section 010	Convention/Academic Overly District

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Preamble

010 *Title*

This Ordinance shall be formally known as the "Marshall County Zoning Ordinance," and it may be cited and referred to as the "Zoning Ordinance" or "Ordinance".

020 *Defined Words & Rules of Construction*

A. Defined Words

Words used in a special sense in this Ordinance are defined in the Definitions section of the Marshall County, Indiana Zoning Ordinance. The general meaning of all terms not specifically defined by this Ordinance shall be consistent with the definitions provided by Glossary of Zoning, Development, and Planning Terms published by the American Planning Association as PAS Report #491/492 and any subsequent amendments. All other words, terms, and/or phrases not specifically defined by this Ordinance and not generally defined by the glossary noted above shall have the meaning inferred from their context in this Ordinance or their ordinarily accepted definitions.

B. The following rules of construction shall apply to the text of the Ordinance:

1. The particular will control the general.

2. The words "shall" and "will" are always mandatory and not discretionary. The word "may" is permissive.

3. Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.

4. A building or structure includes any part thereof.

5. The phrase "used for" includes "arranged for, designed for, intended for, maintained for, or occupied for."

6. The word person includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

7. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and, or," or "either . . . or," the use of the conjunction is defined as follows:

   a. "And" means that all the connected items, conditions, provisions, and events apply together and not separately.

   b. "Or" means that the connected items, conditions, provisions, or events apply separately or in any combination.

   c. "Either . . . or" means that the connected items, conditions, provisions, or events shall apply separately but not in combination.

8. The word "includes" does not limit a term to the specified examples, but is intended to extend the term's meaning to all other instances or circumstances of like kind or character.

9. The word "county" means Marshall County, Indiana. The word "state" means the State of Indiana.

030 *Document Format*

The structure of the text of this Ordinance is as follows: Article (indicated by 1, 2, etc.), Chapter (indicated by 010, 020, etc.), Section (indicated by A, B, etc.), and subsequent Subsections (indicated by 1, a, i, etc.)

040 *Authority*

This Zoning Ordinance is adopted by Marshall County pursuant to its authority under the laws of the State of Indiana, 36-7-4 et seq. Whenever codes cited in this Ordinance refer to Indiana Code which has been amended or superseded, this Ordinance shall be deemed amended in reference to the new or revised Indiana Code.

050 *Jurisdiction*

This Ordinance shall apply to all of Marshall County except those land within a City or Town jurisdiction consistent with the provisions of IC 36-7-4-205.

A. Federal and State Property
This Ordinance shall not apply to any property owned by the government of the State of Indiana or the United States of America.

B. Heritage Markers
In no instance shall this Ordinance be interpreted as prohibiting sites, memorials, edifices, and/or monuments in commemoration of persons or objects of historical or architectural interest

060 *Purpose*

This Ordinance is intended to guide the growth and development of the County in accordance with the Marshall County Comprehensive Plan and for the following purposes:

A. To secure adequate light, air, and convenience of access; and safety from fire, flood, and other dangers.

B. To promote the public health, safety, comfort, convenience, morals and general welfare.

C. To plan for the future development of the County to the end:

(cont.)

060 *Purpose (cont.)*

1. that the community grows only with adequate public ways, utilities, health, education, and recreation facilities;

2. that the needs of agriculture, housing, industry, and business be recognized in future growth;

3. that residential areas provide healthful surroundings for family life;

4. that the growth of the community is commensurate with and promotes the efficient and economical use of public funds; and

5. that the community strives for high aesthetic value and quality planning and design.

070 *Conflicting Requirements*

The provisions of this Ordinance shall be held to be the minimum requirements for the protection of the health, safety, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment. If two or more provisions within this Ordinance are in conflict or are inconsistent with one another, then the provision which is most restrictive shall control.

080 *Overlapping Regulations*

When this Ordinance along with private covenants, private contracts, commitments, permits, agreements, state laws, federal laws or other regulations regulates a structure or parcel of land, the greater restriction shall control. In no instance shall this Ordinance be interpreted as altering or negating any other applicable regulations.

090 *Compliance*

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used or existing use be expanded, except in full compliance with all provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance.

100 *Transition Rules*

A. Prior Improvement Location Permit Filing

Any application for an Improvement Location Permit that has been filed with the Plan Commission or its designees and is full and complete, three (3) years or less prior to the effective date of this Ordinance, shall be regulated by the terms and conditions of the Zoning Ordinance that was in place at the time of filing.

B. Prior Zoning Map Amendment Filing

Any application for a Zoning Map Amendment that was filed with the Plan Commission or its designees, and is full and complete prior to the effective date of this Ordinance, shall continue through the process to completion pursuant to the terms and conditions of the Zoning Ordinance that was in place at the time of filing. However, if the proposed use would no longer be permitted in the proposed zoning district or the proposed zoning district no longer exists in this Ordinance, the Plan Commission shall amend the application such that the request for rezoning would accomplish the same end goal for the applicant.

C. Prior BZA Petition Filing

Any application before the Board of Zoning Appeals (i.e. special use, use variance, development standards variance) that has been filed with the Board of Zoning Appeals or its designees and is full and complete, three (3) years or less prior to the effective date of this Ordinance, shall continue the process pursuant to the terms and conditions of the Zoning Ordinance that was in place at the time of filing, provided that:

1. If such application is no longer required by the terms of this Ordinance, the application will be dismissed; or

2. If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms of this Ordinance that were not required under the previous Ordinance, the application will be amended to include only those additional approvals that are now required and within the jurisdiction of the Board of Zoning Appeals.

D. Expiration of Previous Approvals

All variances, special uses (special exception), rezonings, and other petitions regulated by this Ordinance which were approved three (3) years or less prior to the effective date of this Ordinance and not executed through the proper receipt of an Improvement Location Permit shall expire and become void seven (7) years after the effective date of this Ordinance.

1. All Improvement Location Permits issued three (3) years or less prior to the effective date of this Ordinance shall be void two (2) years after their date of issue if construction has not begun.

2. Improvement Location Permits issued three (3) years prior to the effective date of this Ordinance for which construction has begun shall become void if construction is abandoned for a period of six (6) consecutive months or if, in the opinion of the Zoning Administrator, construction has otherwise ceased.

3. All approvals which expire and/or become void shall comply with all applicable provisions of this ordinance if re-issued.

110 *Computation of Time*

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day of the specified period of time. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time is less then seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded.

1

Preamble

120 *Conditions*

The attachment of reasonable conditions to the use and development of land within the County Jurisdictional Area as part of the approval of rezoning petitions, Special Exceptions, conditional uses, home occupations, temporary uses, variances, outline plans, development plans, plat vacations, and amendments, or as otherwise authorized, is an exercise of valid police power delegated to the County by the State. The applicant has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the County and to the safety and general welfare of present and future land owners and residents of the County. The failure to comply with any such conditions may be cause for denial of the permits and approvals prescribed by these regulations and shall constitute a violation of the Zoning Ordinance.

130 *Repealer*

The Marshall County, Indiana Zoning Ordinance dated July 1, 1974, and its associated Zoning Map and any amendments and/or revisions are hereby repealed. This Marshall County, Indiana Zoning Ordinance and the referenced and updated Official Zoning Map replace the repealed ordinance.

140 *Severability*

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

150 *Saving Provision*

This Ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning ordinance. Also, this Ordinance shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

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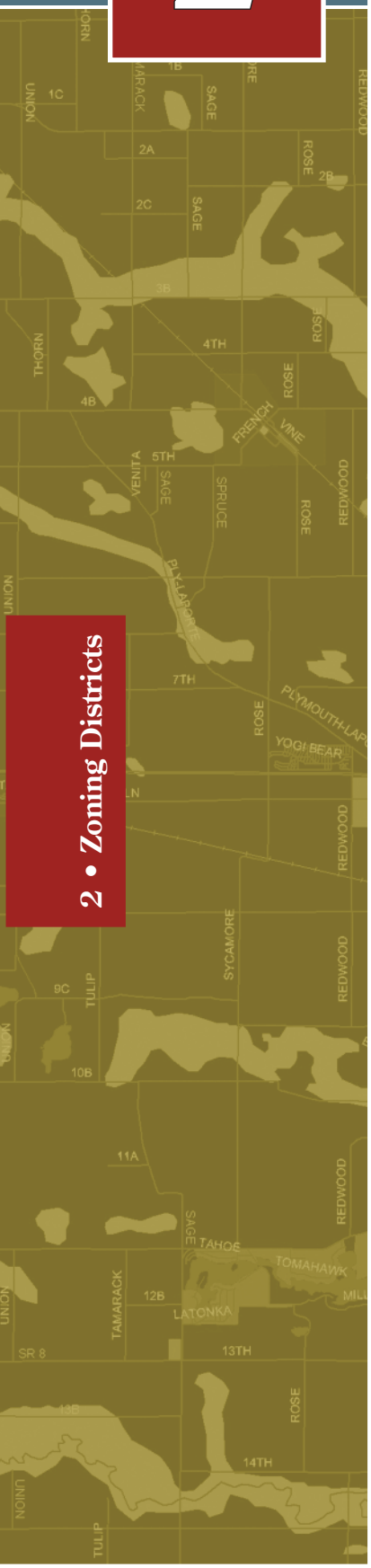

010 *Establishment of Zoning Districts*

A A-1, Agricultural

The Agricultural designation denotes land that is meant to remain largely rural, with uses focusing on farming operations. The Agricultural land use category is intended to allow for some residential development. Agricultural land use areas are found in locations that are viable for farming but may also be feeling growth pressures from nearby urban communities. The following policies should guide future land use in Agricultural areas:

1. The Agricultural District shall have a maximum residential density of one home per five acres.

2. Urban-type services and infrastructure should not be provided to agricultural areas. Farms and other development should be able to be served by individual well and septic systems.

3. Agricultural uses appropriate for these areas include traditional farming uses, as well as agricultural product storage and distribution facilities (commercial grain elevators), stables, natural preserves, and other animal or food production related activities.

4. Cluster subdivisions should be utilized to maximize rural land preservation and minimize the investment required for roads and other infrastructure.

5. Small-scale home-based businesses may also be appropriate provided they have minimal impacts on adjacent agricultural and residential uses.

B A-2, Agricultural Conservation

The Agricultural Conservation land use category is a voluntary district intended to preserve the rural nature of the county and allow large-scale farm operations. Designating land specifically for agricultural uses will help to slow the turnover of land to non-farm uses, such as residential subdivisions. It is not desirable, and in many cases, not physically or economically feasible to provide the infrastructure required to support such development. Land in the Agricultural Conservation designation should remain in farm use, although very limited rural residential uses may be allowed as well. The following policies should guide future land use in Agricultural Conservation areas:

1. Urban-type services and infrastructure should not be provided to Agricultural Conservation areas. Farms and other development should be able to be served by individual well and septic systems.

2. Agricultural uses appropriate for these areas include traditional farming uses, as well as agricultural product storage and distribution facilities (commercial grain elevators), stables, natural preserves, and other animal or food production related activities.

3. Small-scale home-based businesses may also be appropriate.

C A-3, Agricultural Residential

The Agricultural Residential designation provides the opportunity for limited housing development in certain areas of the county. This land use is appropriate in areas where septic systems can function efficiently or in areas where natural features or towns are stimulating development. It is also appropriate in areas where soil conditions or topography limit the viability of agricultural uses. One style of rural residential development that should be encouraged is cluster subdivisions, where smaller lots are grouped together to preserve large areas of natural amenities or farmland. The following policies should guide future land use in Agricultural Residential areas:

1. The Agricultural Residential District shall have a maximum residential density of one home per one acre.

2. Agricultural residential areas should not require urban utilities and infrastructure. They should be constructed in such a way as to rely on individual or group well and septic facilities such as central sewage plants.

3. Cluster subdivisions should be utilized to maximize rural land preservation and minimize the investment required for roads and other infrastructure.

4. New agricultural residential areas should be created with careful consideration of growth patterns, natural features, agricultural operations and infrastructure capacities.

D T-1, Town Residential

The Town Residential category is intended to preserve and maintain the character of Marshall County's unincorporated communities. Specifically, this designation is given to the communities of Burr Oak, Donaldson, Hibbard, Inwood, Linkville, Old Tip Town, Rutland, Teegarden, Tippecanoe, Tyner, and Walnut. Historically, these small communities have developed at the intersections of transportation routes, concentrating commercial and residential activities in a focused area. Some once held thriving sawmills or gristmills. These villages are no longer significant centers of railroad or commercial activity, but do remain important historic settlements and can provide housing alternatives to the larger towns in the county.

The Town Residential areas are intended to provide a variety of community-oriented neighborhood commercial services and to allow for mixed residential and commercial activities. Focusing new growth around these rural communities will reduce residential sprawl in the county, maximize public infrastructure expenditures, and protect farms and the environment from residential encroachment.

Town Residential may contain small-scale commercial uses at their core, located at prominent road intersections. These should be surrounded by high-density single-family residential neighborhoods. It may also be appropriate to locate institutional uses and limited industrial uses here as well.

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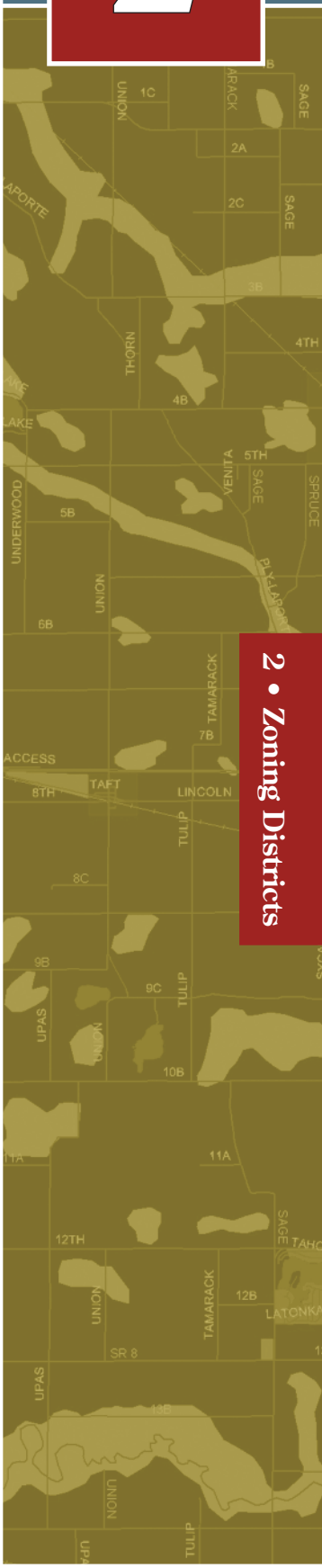
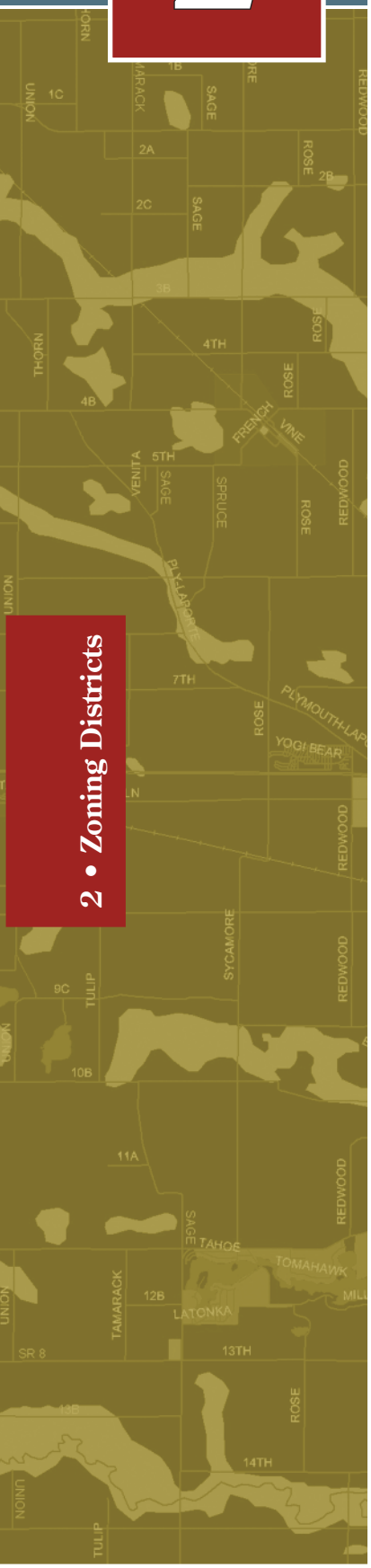




010 *Establishment of Zoning Districts (cont.)*

E L-1, Lake Residential

Areas designated Lake Residential contain significant, high density residential development focused around a lake. This includes areas immediately adjacent to the lakes, and potentially other areas with a relationship to the lakes. The following policies should guide future land use in Lake Residential areas:

1. Lake Residential should be residential in nature and should not contain commercial uses that would draw significant traffic. Limited neighborhood-scale commercial uses serving the lake communities are appropriate.

2. Septic systems shall not be encouraged around lakes in order to protect the quality of the water. Sewer systems shall be utilized wherever possible.

3. Public access and easements to the lakes are important and shall be preserved as residential growth continues around the lakes.

4. Due to its relatively high residential density, particular attention should be paid to protecting property line setbacks and view sheds to the lake.

F MH, Manufactured Home

Areas designated as Manufactured Home are able to support the heavy infrastructure and transportation needs of these typically high residential density neighborhoods. These area shall be adequately served by municipal sewer and water service and be in close proximity to emergency services.

G C-1, General Commercial

The C-1, General Commercial district is intended to accommodate a broad range of retail sales and service uses. These uses would include either small lot business activities of a general nature or downtown businesses designed to serve as the core for the primary retail center of a community with personal service establishments and government offices.

H C-2, Highway Commercial

In certain locations, it is appropriate to provide for the development of a collection of commercial uses serving both county residents as well as those traveling through the area. These locations are most frequently at the intersections of major transportation corridors, and shall contain uses such as gasoline stations, convenience stores, restaurants, hotels and other highway-oriented uses. However, major commercial development should be left to occur within established communities rather than at these locations throughout the county. The following policies shall guide future land use in Highway Commercial areas:

1. Highway Commercial uses should be developed in nodes or centers around major intersections rather than extending in a strip along the roadway.

2. Driveway cuts onto major roadways should be minimized in order to maintain safety and traffic flow on these routes.

3. In the event that Highway Commercial development is adjacent to residential uses, there should be heavy screening to reduce any light and noise impacts on the residential areas. Care must also be taken to protect residential and

agricultural areas from vandalism and litter.

4. Highway Commercial areas should be served with adequate infrastructure, including road access and utilities, to support the expected uses.

I I-1, Industrial

The Industrial category is intended to provide areas for industrial activity, contracting, warehousing, and wholesaling that are low in impact because they are operated entirely indoors and have little or no negative effects, such as noise, dust, or vibration, on surrounding properties. The following policies should guide future land use in Industrial areas:

1. Industrial uses will require a complete range of infrastructure in order to remain viable. Convenient access to quality transportation facilities is also important.

2. Industrial uses should be heavily buffered from adjacent uses, and in general should be separated substantially from residential uses.

J I-2, Heavy Industrial

The Heavy Industrial category is intended to provide areas for industrial activity, contracting, warehousing, and wholesaling that are heavy in impact because they are operated outdoors and/or have moderate or heavy negative effects, such as noise, dust, or vibration, on surrounding properties. The following policies should guide future land use in Industrial areas:

1. Heavy Industrial uses will require a complete range of infrastructure in order to remain viable. Convenient access to quality transportation facilities is also important.

2. Heavy Industrial uses should be heavily buffered from adjacent uses, and in general should be separated substantially from residential uses.

K PUD, Planned Unit Development

The Planned Unit Development district provides areas for creative and innovative design and development that might not be able to occur in one given district. This would include the mixing of land uses as well as innovative design in one land use. This should not be viewed as a way to circumvent existing districts but to provide for truly unique areas in the community.

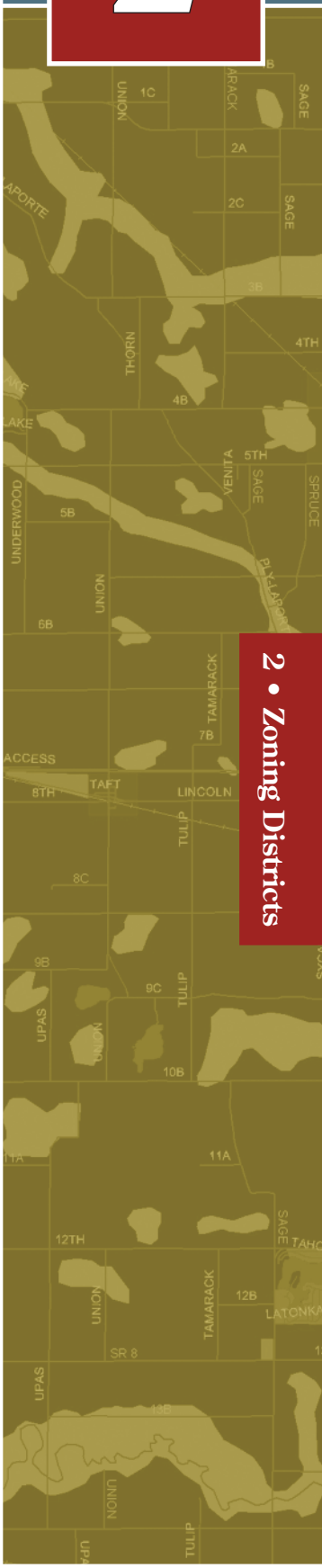
020 *Unlisted or Questionable Uses*

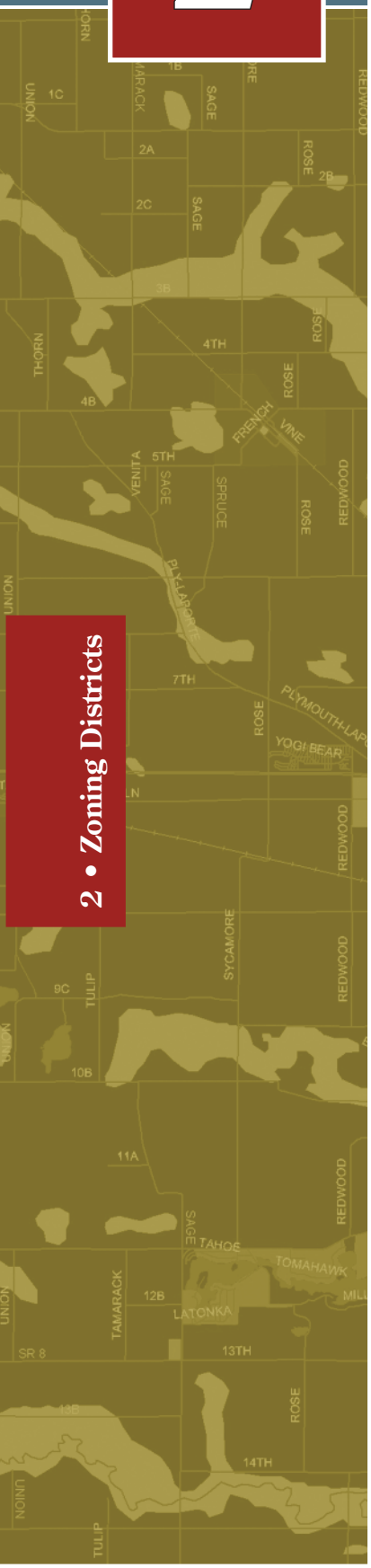
Any use not listed as a permitted use or a special exception is considered not permitted unless the Planning Director makes a determination otherwise. The Planning Director may determine into which category any questionable use be placed if it is not specifically listed but similar to another use that is a permitted use or special exception. This determination may be appealed to the Board of Zoning Appeals.

030 *Official Zoning Map*

The zoning map for Marshall County, officially labeled “Marshall County Zoning Map”, is hereby included as part of this Ordinance. The map may also be known as and referred to as the “Official Zoning Map.”

(cont.)





030 *Official Zoning Map (cont.)*

A. Official Zoning Map Copies

Copies of the Official Zoning Map may be made and distributed to interested persons. The Official Zoning Map copies shall be labeled as copies and have the date which they were last modified printed on them.

B. Location of the Official Zoning Map

1. The location and boundaries of the zoning districts are hereby established on a map entitled "Official Zoning Map," as it may be amended from time to time, which accompanies and is hereby incorporated in and made a part of this Zoning Ordinance. The Official Zoning Map is a geographic coverage layer entitled "Zoning" that is maintained as part of the County's geographic information system (GIS) under the direction of the Planning Director.

2. The Planning Director may authorize printed copies of the Official Zoning Map to be produced, and shall maintain digital or printed copies of superseded versions of the Official Zoning Map for historical reference.

3. Two (2) copies of the Official Zoning Map shall be on file and available for public inspection in the Planning Department.

C. Zoning District Boundaries

The Zoning District boundaries shall be shown on the Official Zoning Map. The abbreviations for the zoning districts appearing in this Ordinance shall be used to identify the zoning districts on the Official Zoning Map.

D. Regular Revisions

The Official Zoning Map should be formally revised annually, or as the Plan Commission determines necessary. During interim periods of time, hand drawn lines and text on the Official Zoning Map will be appropriate to note zoning changes. Copies may be made after the amendments are noted, and each copy shall be noted as an update with the "date last changed" noted on the map. Other revisions may be made to correct drafting or other errors or omissions in the prior map, but shall not have the effect of amending the Official Zoning Map except as adopted by the Board of County Commissioners.

E. Damaged, Destroyed, or Lost Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the County Commissioners may, by resolution, adopt a new Official Zoning Map which shall, to the extent possible, duplicate the accuracy of the damaged, destroyed or lost map.

F. Official Zoning Map Standards

District boundaries on the Official Zoning Map shall be interpreted as follows:

1. District boundaries shown within the lines of roads, easements, and transportation rights-of-way shall be deemed to follow the center lines.

2. District boundaries indicated as following section or fractional sectional lines, platted lot lines, or city or town corporation lines shall be construed as following

such lines.

3. District boundaries indicated as parallel to or extensions of the above listed features shall be construed as so.

4. District boundaries indicated as approximately following the center line of streams, rivers, or other bodies of water shall be construed to follow such center lines.

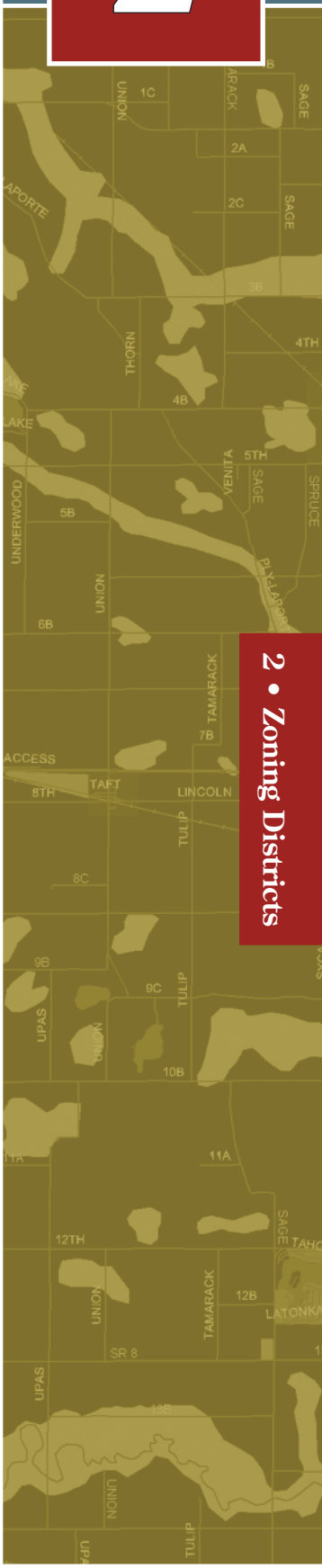
5. Where a district boundary line divides a lot at the time such line is adopted, the district in which the majority of the area of the property is included shall apply to the entire property. In cases where a property is divided equally between two or more zoning districts, the most restrictive district shall apply to the entire property. The Planning Director shall determine the applicable zoning for properties divided into several zoning districts consistent with this section.

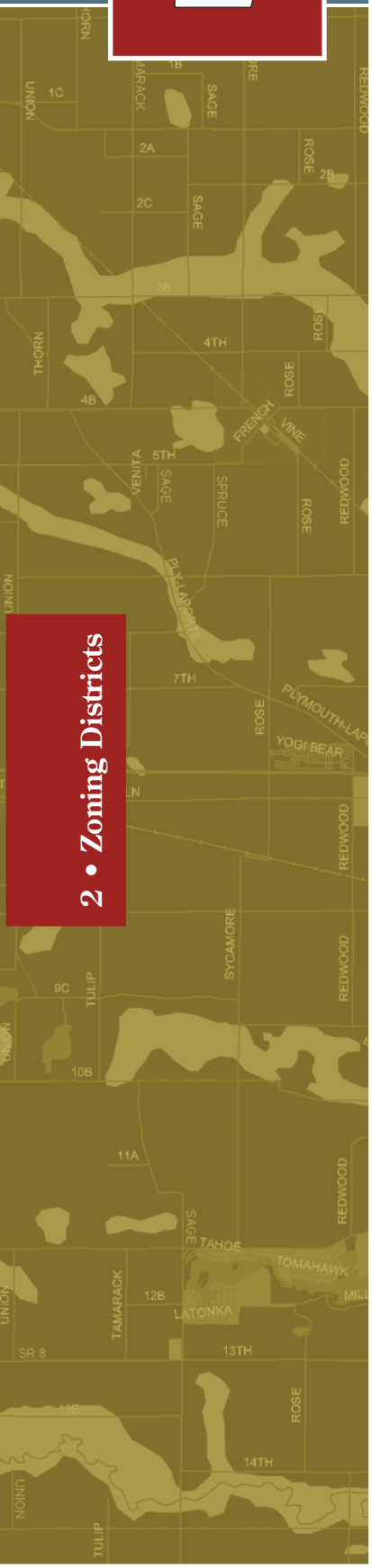
6. If the Planning Director cannot definitely determine the location of a district boundary by such center lines, by scale or dimensions stated on the Official Zoning Map, or by the fact that it does not clearly coincide with a property line, immediate action on any application shall be tabled and the Plan Commission shall interpret the location of the district boundary with reference to the scale of the Official Zoning Map and the purposes set forth in all relevant provisions of this Ordinance.

7. Any ruling of the Planning Director pertaining to the district boundaries may be appealed to the Board of Zoning Appeals.

G. Effect of Vacation on Zoning

Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the zoning districts adjoining each side of vacated areas shall be extended automatically to the center of the vacated area. All areas included in the vacation shall then be subject to all appropriate regulations of the extended zoning districts. In the event of a partial vacation, the adjoining zoning district, or zoning district nearest the portion vacated, shall be extended automatically to include all of the vacated area. The resolution of any disputes as to the exact zoning district boundaries shall be determined by the Planning Director. Appeals of the Planning Director's determination may be brought before the Board of Zoning Appeals.




UNION
1C
TAMARACK
1B
SAGE
REDWOOD
2A
ROSE
2B
2C
SAGE
3B
4TH
ROSE
THORN
4B
ROSE
FRENCH
VINE
5TH
VENITA
SAGE
SPRUCE
ROSE
REDWOOD
PLYMOUTH-LAP
7TH
ROSE
YOGI BEAR
REDWOOD
SYCAMORE
REDWOOD
9C
TULIP
10B
11A
REDWOOD
SAGE
TAHOE
TOMAHAWK
12B
LATONKA
TAMARACK
SR 8
13TH
ROSE
14TH
UNION
TULIP

Notes

Notes

Suggestions for Future Changes

3

Standard Zoning District Intent, Uses, & Standards

A-1

Agricultural District

The Agricultural designation denotes land that is meant to remain largely rural, with uses focusing on farming operations. The Agricultural land use category is intended to allow for some residential development. Agricultural land use areas are found in locations that are viable for farming but may also be feeling growth pressures from nearby urban communities.

Development Standards

Minimum Lot Area Per Residential unit:
- 5 Acres

Minimum Lot Area:
- 1 Acres

Minimum Lot Width:
- 210 Feet

Maximum Lot Width to Depth Ratio:
- 1:3; 3 times the lot width

Minimum Single Family Residence Area:
- None

Minimum Lot Frontage:
- 50 Feet

Sewer and Water:
- May use private well and septic systems

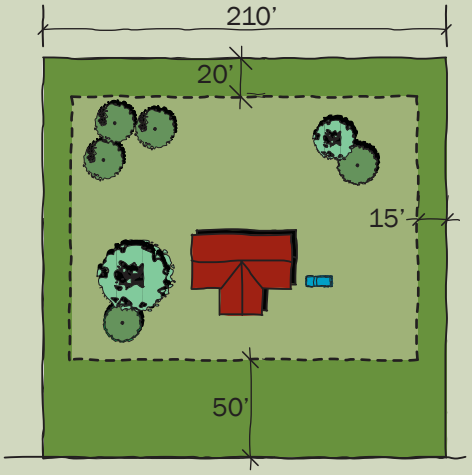
Minimum Front Yard Setback:
- 75 Feet when adjacent to Arterial Road
- 60 Feet when adjacent to Collector Road
- 50 Feet when adjacent to Local Road

Minimum Rear Yard Setback:
- 20 Feet

Minimum Side Yard Setback:
- 15' Feet

Maximum Structure Height:
- None

Maximum Lot Coverage:
- 30%



Some of the Additional Development Standards that Apply

5-010 Planned Unit Development . 58

6-010 Accessory Structures and Use Standards 74

6-020 Bed and Breakfast Standards 75

6-030 Confined Livestock Feeding Standards 76

6-040 Environmental Standards 79

6-060 Fences, Hedges, Walls . . 88

6-070 Flood Hazard Area Standards 89

6-080 Garage Sales/Yard Sales106

6-090 Home Occupation 107

6-100 Home Based Business . 108

6-110 Home Workshop. 109

6-130 Kennel Standards 113

6-150 Manufactured Home Community, RV Park, and Campground Standards 120

6-160 Manufactured Homes . . 129

6-170 Open Space Standards . 130

6-210 Telecommunication Facility Standards 149

6-220 Vehicle Sales From Residence 155

9-040 Use Variances 189

9-050 Special Exceptions. 190

9-060 Administrative Appeals . 192

11-060 Improvement Location Permit 229

11-070 Certificate of Occupancy232

A-1 Agricultural District

Permitted Uses

Residential Uses
- Single Family Residential
- Modular Home
- Manufactured Home - Type A
- Manufactured Home - Type B
- Child Day Care Services (in home)
- Home Occupation
- Accessory Structure

Agricultural Uses
- Animal Production
- Animal Production (Limited)
- Confined Livestock Feeding
- Crop Production
- Forestry and Logging
- Horses and Other Equine Production
- Livestock Auction
- Livestock Composting (accessory use to livestock production or confined feeding)
- Livestock Incineration (accessory use to livestock production or confined feeding)
- Nursery and Greenhouse
- Sawmill (Portable

Public Administration
- Government Parks and Recreation

Services
- Nature Parks and Other Similar Institutions

Special Uses

Residential Uses
- Home Based Business
- Home Workshop

Agricultural Uses
- Dangerous and Exotic Animals
- Farm Implement Sales and Service
- Livestock Distribution

Manufacturing
- Furniture and Related Product Manufacturing
- Sawmill (Permanent)
- Warehouse for Vehicle Storage

Public Administration
- Community Center / Building for Govt. Services

Retail Trade
- Electronic Shopping and Mail Order House

Services
- Bed-and-Breakfast Inns
- Caterers
- Cemeteries and Crematories
- Child Day Care Services
- Churches
- Colleges, Universities, and Junior Colleges
- Commercial Amusement and Recreation (Outdoor)
- Drive-In Motion Picture Theaters
- Elementary and Secondary Schools
- Golf Courses and Country Clubs
- Home and Garden Equipment Repair and Maintenance
- Kennel
- Landscaping Services
- Libraries and Archives
- Museums
- Private Clubs and Organizations
- Racetracks
- Recreational and Vacation Camps (except Campgrounds)
- Recreational Goods Rental
- Religious Organizations
- Reupholstery and Furniture Repair
- RV (Recreational Vehicle) Parks and Recreational Camps
- Septic Tank and Related Services
- Shooting Ranges
- Spectator Sports
- Welding Shop
- Zoos and Botanical Gardens

Transportation, Communications, Utilities
- Aircraft Landing Strip
- Communication Towers
- Electric Power Generation, Transmission and Distribution
- Liquefied Petroleum Gas (Bottled Gas) Dealers
- Mining (except Oil and Gas)
- Large Wind System
- Wind Farm

Wholesale Trade
- Feed Mills and Grain Elevators
- Fertilizer Sales and Storage

A-2

Agricultural Conservation District

The Agricultural Conservation land use category is a voluntary district intended to preserve the rural nature of the county and allow large-scale farm operations. Designating land specifically for agricultural uses will help to slow the turnover of land to non-farm uses, such as residential subdivisions. It is not desirable, and in many cases, not physically or economically feasible to provide the infrastructure required to support such development. Land in the Agricultural Conservation designation should remain in farm use, although very limited rural residential uses may be allowed as well.

Development Standards

Minimum Lot Area Per Residential unit:
- 40 Acres

Minimum Lot Area:
- 1 Acres

Minimum Lot Width:
- 210' Feet

Maximum Lot Width to Depth Ratio:
- 1:3; 3 times the lot width

Minimum Single Family Residence Area:
- None

Minimum Lot Frontage:
- 50 Feet

Sewer and Water:
- May use private well and septic systems

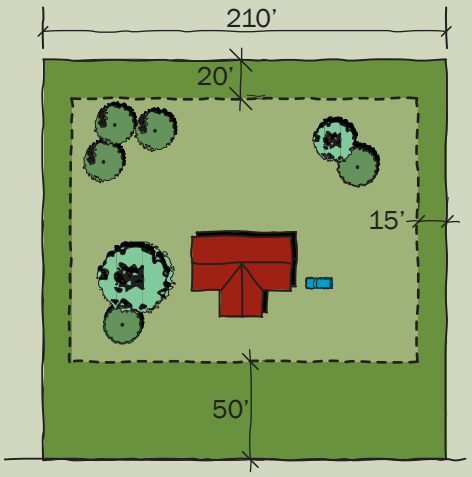
Minimum Front Yard Setback:
- 75 Feet when adjacent to Arterial Road
- 60 Feet when adjacent to Collector Road
- 50 Feet when adjacent to Local Road

Minimum Rear Yard Setback:
- 20 Feet

Minimum Side Yard Setback:
- 15' Feet

Maximum Structure Height:
- None

Maximum Lot Coverage:
- 30%



Some of the Additional Development Standards that Apply

5-010 Planned Unit Development . 58

6-010 Accessory Structures and Use Standards 74

6-030 Confined Livestock Feeding Standards 76

6-040 Environmental Standards 79

6-060 Fences, Hedges, Walls . . 88

6-070 Flood Hazard Area Standards 89

6-080 Garage Sales/Yard Sales106

6-130 Kennel Standards 113

6-170 Open Space Standards . 130

6-210 Telecommunication Facility Standards 149

6-220 Vehicle Sales From Residence 155

9-040 Use Variances 189

9-050 Special Exceptions. 190

9-060 Administrative Appeals . 192

11-060 Improvement Location Permit 229

11-070 Certificate of Occupancy232

A-2 Agricultural Conservation District

Permitted Uses

Residential Uses
- Single Family Residential
- Modular Home
- Manufactured Home - Type A
- Manufactured Home - Type B
- Child Day Care Services (in home)
- Home Occupation
- Accessory Structure

Agricultural Uses
- Animal Production
- Animal Production (Limited)
- Confined Livestock Feeding
- Crop Production
- Forestry and Logging
- Horses and Other Equine Production
- Livestock Composting (accessory use to livestock production or confined feeding)
- Livestock Incineration (accessory use to livestock production or confined feeding)
- Nursery and Greenhouse
- Sawmill (Portable)

Services
- Nature Parks and Other Similar Institutions

Special Uses

Residential Uses
- Home Based Business
- Home Workshop

Agricultural Uses
- Dangerous and Exotic Animals
- Livestock Composting (Commercial)
- Livestock Composting (Commercial)

Manufacturing
- Sawmill (Permanent)

Public Administration
- Government Parks and Recreation

Services
- Bed-and-Breakfast Inns
- Cemeteries and Crematories
- Child Day Care Services
- Commercial Amusement and Recreation (Outdoor)
- Home and Garden Equipment Repair and Maintenance
- Kennel
- Septic Tank and Related Services
- Welding Shop
- Zoos and Botanical Gardens

Transportation, Communications, Utilities
- Aircraft Landing Strip
- Communication Towers
- Large Wind System
- Wind Farm

A-3

Agricultural Residential District

The Agricultural Residential designation provides the opportunity for limited housing development in certain areas of the county. This land use is appropriate in areas where septic systems can function efficiently or in areas where natural features or towns are stimulating development. It is also appropriate in areas where soil conditions or topography limit the viability of agricultural uses. One style of rural residential development that should be encouraged is cluster subdivisions, where smaller lots are grouped together to preserve large areas of natural amenities or farmland.

Development Standards

Minimum Lot Area Per Residential unit:
- 1 Acres

Minimum Lot Area:
- 1 Acres

Minimum Lot Width:
- 210 Feet

Maximum Lot Width to Depth Ratio:
- 1:3; 3 times the lot width

Minimum Single Family Residence Area:
- None

Minimum Lot Frontage:
- 50 Feet

Sewer and Water:
- May use private well and septic systems

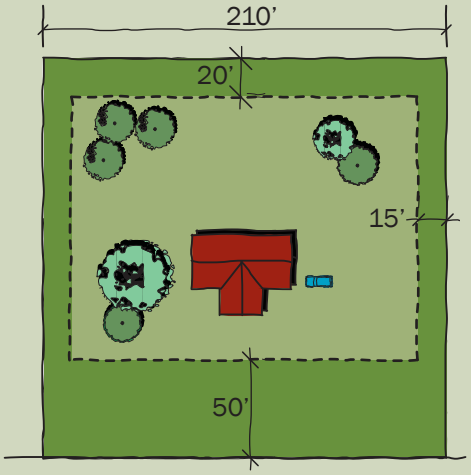
Minimum Front Yard Setback:
- 60 Feet when adjacent to Arterial Road
- 50 Feet when adjacent to Collector Road
- 40 Feet when adjacent to Local Road

Minimum Rear Yard Setback:
- 20 Feet

Minimum Side Yard Setback:
- 10 Feet

Maximum Structure Height:
- 35 Feet

Maximum Lot Coverage:
- 30%



Some of the Additional Development Standards that Apply

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6-010 Accessory Structures and Use Standards 74

6-020 Bed and Breakfast Standards 75

6-030 Confined Livestock Feeding Standards 76

6-040 Environmental Standards 79

6-060 Fences, Hedges, Walls . . 88

6-070 Flood Hazard Area Standards 89

6-080 Garage Sales/Yard Sales106

6-090 Home Occupation 107

6-100 Home Based Business . 108

6-110 Home Workshop. 109

6-130 Kennel Standards 113

6-150 Manufactured Home Community, RV Park, and Campground Standards 120

6-160 Manufactured Homes . . 129

6-170 Open Space Standards . 130

6-210 Telecommunication Facility Standards 149

6-220 Vehicle Sales From Residence 155

9-040 Use Variances 189

9-050 Special Exceptions. 190

9-060 Administrative Appeals . 192

11-060 Improvement Location Permit 229

11-070 Certificate of Occupancy232

A-3 Agricultural Residential District

Permitted Uses

Residential Uses
- Single Family Residential
- Modular Home
- Manufactured Home - Type A
- Manufactured Home - Type B
- Child Day Care Services (in home)
- Home Occupation
- Accessory Structure

Agricultural Uses
- Animal Production (Limited)
- Crop Production
- Forestry and Logging

Services
- Nature Parks and Other Similar Institutions

Special Uses

Agricultural Uses
- Animal Production

Public Administration
- Community Center / Building for Govt Service
- Government Parks and Recreation

Services
- Bed-and-Breakfast Inns
- Cemeteries and Crematories
- Child Day Care Services
- Churches
- Colleges, Universities, and Junior Colleges
- Elementary and Secondary Schools
- Golf Courses and Country Clubs
- Libraries and Archives
- Museums

T-1

Town Residential District

The Town Residential areas are intended to provide a variety of community-oriented neighborhood commercial services and to allow for mixed residential and commercial activities. Focusing new growth around these rural communities will reduce residential sprawl in the county, maximize public infrastructure expenditures, and protect farms and the environment from residential encroachment.

Development Standards

Minimum Lot Area Per Residential unit:
- 6,000 sq ft - Single Family with public sewer
- 1 acre - Single Family without public sewer
- 4,000 sq ft - Two-Family with public sewer
- 1 acre - Two-Family without public Sewer
- 5,000 sq ft - Multi-Family with public sewer

Minimum Lot Area:
- 6,000 sq ft - Single Family with public sewer
- 1 acre - Single Family without public sewer
- 8,000 sq ft - Two-Family with public sewer
- 1 acre - Two-Family without public Sewer
- .5 Acre - Multi-Family with public sewer

Minimum Lot Width:
- 60 Feet - Single Family
- 125 Feet - Two-Family
- 150 Feet - Multi-Family

Maximum Lot Width to Depth Ratio:
- 1:3; 3 times the lot width

Minimum Single Family Residence Area:
- 1,281 square feet

Minimum Lot Frontage:
- 50 Feet

Sewer and Water:
- Single Family and Two-Family may use private well and septic systems
- Multi-Family must use public sewer system

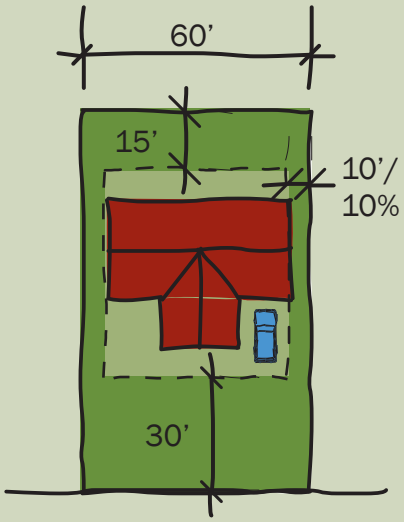
Minimum Front Yard Setback:
- 30 Feet

Minimum Rear Yard Setback:
- 15 Feet

Minimum Side Yard Setback:
- 10 Feet or 10% of lot width, whichever is less

Maximum Structure Height:
- 35 Feet

Maximum Lot Coverage:
- 30%



Single-Family
Without Sewer

Some of the Additional Development Standards that Apply

5-010 Planned Unit Development . 58

6-010 Accessory Structures and Use Standards 74

6-020 Bed and Breakfast Standards 75

6-040 Environmental Standards 79

6-060 Fences, Hedges, Walls . . 88

6-070 Flood Hazard Area Standards 89

6-080 Garage Sales/Yard Sales106

6-090 Home Occupation 107

6-100 Home Based Business . 108

6-110 Home Workshop. 109

6-130 Kennel Standards 113

6-150 Manufactured Home Community, RV Park, and Campground Standards 120

6-160 Manufactured Homes . . 129

6-170 Open Space Standards . 130

6-220 Vehicle Sales From Residence 155

9-040 Use Variances 189

9-050 Special Exceptions. 190

9-060 Administrative Appeals . 192

11-060 Improvement Location Permit 229

11-070 Certificate of Occupancy232

T-1 Town Residential District

Permitted Uses

Residential Uses
- Single Family Residential
- Modular Home
- Manufactured Home - Type B
- Child Day Care Services (in home)
- Accessory Structure
- Two-family residential
- Multifamily residential

Agricultural Uses
- Crop Production
- Forestry and Logging

Services
- Private Clubs and Organizations
- Religious Organizations

Special Uses

Residential Uses
- Assisted Living Facility
- Group Home
- Home Based Business
- Home Occupation
- Manufactured Home - Type A
- Residential Mental Retardation, Mental Health and Substance Abuse Facilities

Public Administration
- Community Center / Building for Govt Service
- Government Parks and Recreation

Services
- Bed-and-Breakfast Inns
- Caterers
- Cemeteries and Crematories
- Child Day Care Services
- Churches
- Colleges, Universities, and Junior Colleges
- Commercial Parking Lots
- Elementary and Secondary Schools
- Libraries and Archives
- Museums
- Nursing Care Facilities
- Vocational Schools

L-1 Lake Residential District

Areas designated Lake Residential contain significant, high density residential development focused around a lake. This includes areas immediately adjacent to the lakes, and potentially other areas with a relationship to the lakes.

Development Standards

Minimum Lot Area Per Residential unit:
- 6,000 sq ft with public sewer
- 1 Acre without public sewer

Minimum Lot Area:
- 6,000 sq ft with public sewer
- 1 Acre without public sewer

Minimum Lot Width:
- 60 Feet with public sewer
- 125 Feet without public sewer

Maximum Lot Width to Depth Ratio:
- 1:3; 3 times the lot width

Minimum Single Family Residence Area:
- 1,281 square feet

Minimum Lot Frontage:
- 30 Feet

Sewer and Water:
May use private well and septic systems

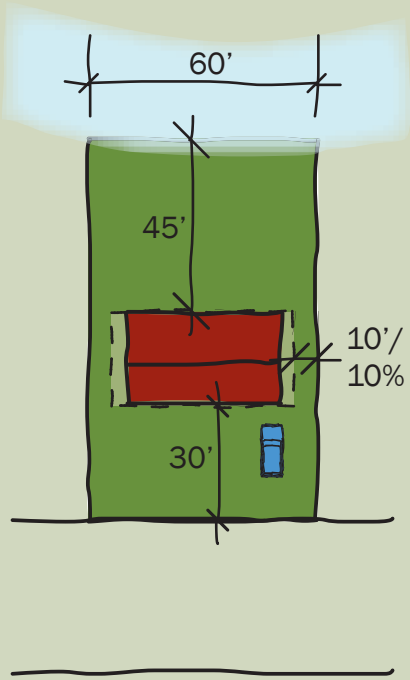
Minimum Front Yard Setback:
- 30 Feet

Minimum Rear Yard Setback:
- 20 Feet when next to a lot line
- 45 Feet when next to lake frontage; from high water mark

Minimum Side Yard Setback:
- 10 Feet or 10% of the lot width, whichever is less

Maximum Structure Height:
- 35 Feet

Maximum Lot Coverage:
- 45% with public sewer
- 30% without public sewer



Some of the Additional Development Standards that Apply

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6-010 Accessory Structures and Use Standards 74

6-020 Bed and Breakfast Standards 75

6-040 Environmental Standards 79

6-060 Fences, Hedges, Walls . . 88

6-070 Flood Hazard Area Standards 89

6-080 Garage Sales/Yard Sales106

6-090 Home Occupation 107

6-100 Home Based Business . 108

6-110 Home Workshop. 109

6-130 Kennel Standards 113

6-150 Manufactured Home Community, RV Park, and Campground Standards 120

6-160 Manufactured Homes . . 129

6-170 Open Space Standards . 130

6-220 Vehicle Sales From Residence 155

9-040 Use Variances 189

9-050 Special Exceptions. 190

9-060 Administrative Appeals . 192

11-060 Improvement Location Permit 229

11-070 Certificate of Occupancy232

L-1 Lake Residential District

Permitted Uses

Residential Uses
- Single Family Residential
- Modular Home
- Manufactured Home - Type B
- Child Day Care Services (in home)
- Accessory Structure

Agricultural Uses
- Crop Production
- Forestry and Logging

Special Uses

Residential Uses
- Assisted Living Facility
- Home Occupation

Public Administration
- Community Center / Building for Govt Service
- Government Parks and Recreation

Services
- Bed-and-Breakfast Inns
- Child Day Care Services
- Churches
- Commercial Parking Lots
- Libraries and Archives
- Marinas
- Museums
- Nature Parks and Other Similar Institutions
- Nursing Care Facilities
- Recreational and Vacation Camps (except Campgrounds)
- Recreational Goods Rental
- Religious Organizations
- RV (Recreational Vehicle) Parks and Recreational Camps
- Self Storage Units

MH

Manufactured Home District

Areas designated as Manufactured Home are able to support the heavy infrastructure and transportation needs of these typically high residential density neighborhoods. These area shall be adequately served by municipal sewer and water service and be in close proximity to emergency services.

Development Standards

Minimum Lot Area Per Residential unit:
- 3,000 sq ft

Minimum Lot Area:
- 5 Acres

Minimum Lot Width:
- 300 Feet

Maximum Lot Width to Depth Ratio:
- 1:3; 3 times the lot width

Minimum Lot Frontage:
- 100 Feet

Sewer and Water:
- Must use public sewer and water system

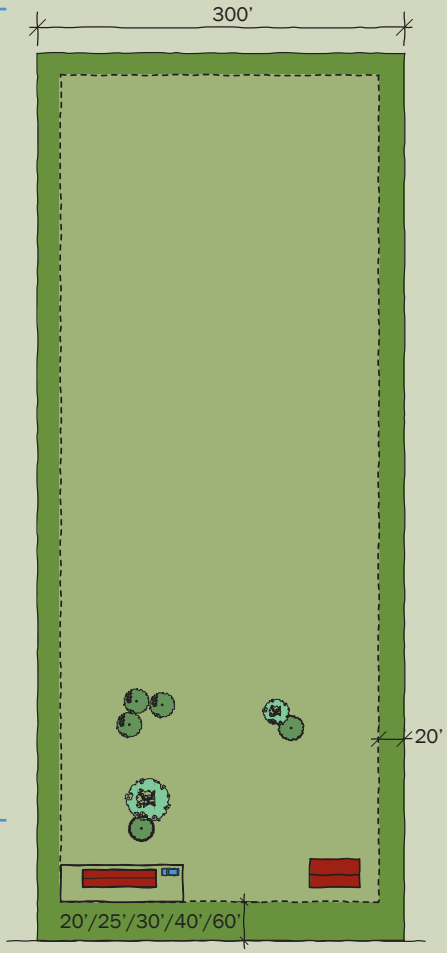
Minimum Front Yard Setback:
- 30 Feet

Minimum Rear Yard Setback:
- 20 Feet

Minimum Side Yard Setback:
- 20 Feet

Maximum Structure Height:
- 25 Feet

Maximum Lot Coverage:
- 65%



Some of the Additional Development Standards that Apply

6-010 Accessory Structures and Use Standards 74

6-040 Environmental Standards 79

6-060 Fences, Hedges, Walls . . 88

6-070 Flood Hazard Area Standards 89

6-080 Garage Sales/Yard Sales106

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6-150 Manufactured Home Community, RV Park, and Campground Standards 120

6-160 Manufactured Homes . . 129

6-170 Open Space Standards . 130

6-220 Vehicle Sales From Residence 155

9-040 Use Variances 189

9-050 Special Exceptions. 190

9-060 Administrative Appeals . 192

11-060 Improvement Location Permit 229

11-070 Certificate of Occupancy232

MH Manufactured Home District

Permitted Uses

Residential Uses
- Manufactured Home Park
- Manufactured Home - Type A
- Manufactured Home - Type B
- Accessory Structure
- Home Occupation

Agricultural Uses
- Crop Production
- Forestry and Logging

Services
- Laundries and Drycleaners (Coin-Operated)

Special Uses

Residential Uses
- Modular Home
- Multifamily residential
- Single Family Residential
- Two-family residential

Public Administration
- Government Parks and Recreation

Retail Trade
- Manufactured (Mobile) Home Dealers

Services
- Child Day Care Services

C-1

General Commercial District

The C-1, General Commercial district is intended to accommodate a broad range of retail sales and service uses. These uses would include either small lot business activities of a general nature or downtown businesses designed to serve as the core for the primary retail center of a community with personal service establishments and government offices.

Development Standards

Minimum Lot Area:
- .5 Acres

Minimum Lot Width:
- 150 Feet

Maximum Lot Width to Depth Ratio:
- None

Minimum Lot Frontage:
- 100 Feet

Sewer and Water:
- May use private well and septic systems

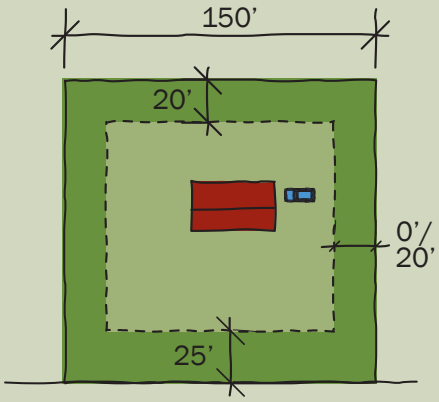
Minimum Front Yard Setback:
- 25 Feet

Minimum Rear Yard Setback:
- 20 Feet

Minimum Side Yard Setback:
- 0 Feet when the adjoining property is in a C-1 District
- 20 Feet when the adjoining property is not in a C- 1 District

Maximum Structure Height:
- 45 Feet

Maximum Lot Coverage:
- 70%



Some of the Additional Development Standards that Apply

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6-010 Accessory Structures and Use Standards 74

6-040 Environmental Standards 79

6-050 Exterior Lighting Standards84

6-060 Fences, Hedges, Walls . . 88

6-070 Flood Hazard Area Standards 89

6-120 Industrial Standards . . . 110

6-140 Landscaping Standards. 114

6-170 Open Space Standards . 130

6-180 Parking, Parking Access, and Loading Standards 131

6-190 Public Improvement Standards 138

6-200 Sign Standards. 140

6-210 Telecommunication Facility Standards 149

7-000 Site Development Plans 160

C-1 General Commercial District

Permitted Uses

Residential Uses
- Accessory Structure

Agricultural Uses
- Crop Production
- Forestry and Logging
- Livestock Auction
- Farm Implement Sales and Service

Finance, Insurance, and Real Estate
- Commercial Banking
- Insurance Carriers and Related Activities
- Offices of Real Estate Agents and Brokers
- Offices of Real Estate Appraisers
- Securities, Commodity Contracts, and Other Financial Investments and Related Activities

Manufacturing
- Computer and Electronic Product Assembly
- Warehouse for Vehicle Storage

Public Administration
- Community Center / Building for Govt Service

Retail Trade
- Electronic Shopping and Mail-Order Houses
- Automobile Sales
- Automotive Parts, Accessories, and Tire Stores
- Building Material and Garden Equipment and Supplies Dealers
- Clothing and Clothing Accessories Stores
- Commercial Bakeries
- Electronics and Appliance Stores
- Florists
- Food and Beverage Stores
- Furniture and Home Furnishings Stores
- Gasoline Stations
- Health and Personal Care Stores
- Manufactured (Mobile) Home Dealers
- Office Supplies, Stationery, and Gift Stores
- Pet and Pet Supplies Stores
- Retail Bakeries
- Sporting Goods, Hobby, Book, and Music Stores

Services
- Appliance Repair and Maintenance
- Automotive Repair and Maintenance
- Bowling Centers
- Carpet and Upholstery Cleaning Services
- Caterers
- Commercial Parking Lots
- Electronic and Precision Equipment Repair and Maintenance
- Exterminating and Pest Control Services
- Fitness and Recreational Sports Centers
- Full-Service Restaurants
- Funeral Homes and Funeral Services
- Hair, Nail, and Skin Care Services
- Home and Garden Equipment Repair and Maintenance
- Hospitals
- Hotels (except Casino Hotels) and Motels
- Landscaping Services
- Laundries and Drycleaners
- Laundries and Drycleaners (Coin-Operated)
- Medical and Diagnostic Laboratories
- Motion Picture Theaters (except Drive-Ins)
- Motor Vehicle Towing
- Offices of Dentists
- Offices of Physicians
- Passenger Car Rental
- Personal and Household Goods Repair and Maintenance
- Photofinishing
- Photography Studios, Portrait
- Printing and Related Support Activities
- Private Clubs and Organizations
- Recreational Goods Rental
- Religious Organizations
- Rental and Leasing Services
- Reupholstery and Furniture Repair
- Self Storage Units
- Septic Tank and Related Services
- Telephone Call Centers
- Travel Arrangement and Reservation Services
- Veterinary Services
- Video Tape and Disc Rental
- Vocational Schools

Transportation, Communication, Utilities
- Radio and Television Broadcasting

Wholesale Trade
- Feed Mills and Grain Elevators
- Fertilizer Sales and Storage

Special Uses

Agricultural Uses
- Livestock Distribution

Public Administration
- Government Parks and Recreation

Services
- Child Day Care Services
- Churches
- Colleges, Universities, and Junior Colleges
- Commercial Amusement and Recreation (Indoor)
- Commercial Amusement and Recreation (Outdoor)
- Drive-In Motion Picture Theaters
- Elementary and Secondary Schools
- Libraries and Archives
- Marinas
- Museums

Transportation, Communication, Utilities
- Large wind System
- Wind Farm

C-2

Highway Commercial District

In certain locations, it is appropriate to provide for the development of a collection of commercial uses serving both county residents as well as those traveling through the area. These locations are most frequently at the intersections of major transportation corridors, and shall contain uses such as gasoline stations, convenience stores, restaurants, hotels and other highway-oriented uses. However, major commercial development should be left to occur within established communities rather than at these locations throughout the county.

Development Standards

Minimum Lot Area:
- .5 Acres

Minimum Lot Width:
- 150 Feet

Maximum Lot Width to Depth Ratio:
- None

Minimum Lot Frontage:
- 100 Feet

Sewer and Water:
- May use private well and septic systems

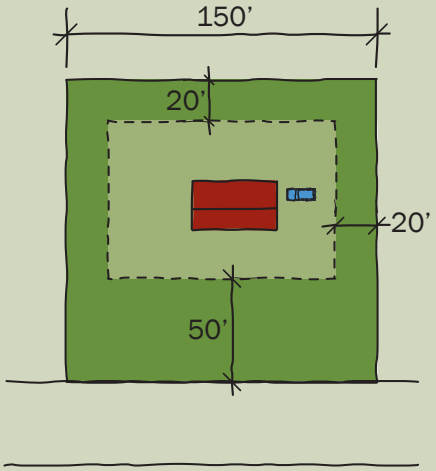
Minimum Front Yard Setback:
- 50 Feet

Minimum Rear Yard Setback:
- 20 Feet

Minimum Side Yard Setback:
- 20 Feet

Maximum Structure Height:
- 45 Feet

Maximum Lot Coverage:
- 70%



Some of the Additional Development Standards that Apply

5-010 Planned Unit Development58

6-010 Accessory Structures and Use Standards 74

6-040 Environmental Standards 79

6-050 Exterior Lighting Standards84

6-060 Fences, Hedges, Walls . . 88

6-070 Flood Hazard Area Standards 89

6-120 Industrial Standards . . . 110

6-140 Landscaping Standards. 114

6-170 Open Space Standards . 130

6-180 Parking, Parking Access, and Loading Standards 131

6-190 Public Improvement Standards 138

6-200 Sign Standards. 140

6-210 Telecommunication Facility Standards 149

7-000 Site Development Plans 160

C-2 Highway Commercial District

Permitted Uses

Residential Uses
- Accessory Structure

Agricultural Uses
- Crop Production
- Farm Implement Sales and Service
- Forestry and Logging
- Livestock Auction
- Nursery and Greenhouse

Finance, Insurance, and Real Estate Uses
- Commercial Banking
- Insurance Carriers and Related Activities
- Offices of Real Estate Agents and Brokers
- Offices of Real Estate Appraisers
- Securities, Commodity Contracts, and Other Financial Investments and Related Activities

Manufacturing
- Computer and Electronic Product Assembly
- Warehouse for Vehicle Storage
- Warehousing and Storage

Public Administration
- Community Center / Building for Govt Service
- Government Parks and Recreation

Retail Trade
- Automobile Sales
- Automotive Parts, Accessories, and Tire Stores
- Building Material and Garden Equipment and Supplies Dealers
- Clothing and Clothing Accessories Stores
- Commercial Bakeries
- Electronic Shopping and Mail-Order Houses
- Electronics and Appliance Stores
- Florists
- Food and Beverage Stores
- Furniture and Home Furnishings Stores
- Gasoline Stations
- Health and Personal Care Stores
- Manufactured (Mobile) Home Dealers
- Office Supplies, Stationery, and Gift Stores
- Pet and Pet Supplies Stores
- Retail Bakeries
- Sporting Goods, Hobby, Book, and Music Stores

Services
- Appliance Repair and Maintenance
- Automotive Repair and Maintenance
- Bowling Centers
- Carpet and Upholstery Cleaning Services
- Caterers
- Commercial Parking Lots
- Electronic and Precision Equipment Repair and Maintenance
- Exterminating and Pest Control Services
- Fitness and Recreational Sports Centers
- Full-Service Restaurants
- Funeral Homes and Funeral Services
- Hair, Nail, and Skin Care Services
- Home and Garden Equipment Repair and Maintenance
- Hospitals
- Hotels (except Casino Hotels) and Motels
- Landscaping Services
- Laundries and Drycleaners
- Laundries and Drycleaners (Coin-Operated)
- Medical and Diagnostic Laboratories
- Motion Picture Theaters (except Drive-Ins)
- Motor Vehicle Towing
- Offices of Dentists
- Offices of Physicians
- Packaging and Labeling Services
- Passenger Car Rental
- Personal and Household Goods Repair and Maintenance
- Photofinishing
- Photography Studios, Portrait
- Printing and Related Support Activities
- Private Clubs and Organizations
- Recreational Goods Rental
- Religious Organizations
- Rental and Leasing Services
- Reupholstery and Furniture Repair
- Self Storage Units
- Septic Tank and Related Services
- Telephone Call Centers
- Travel Arrangement and Reservation Services
- Veterinary Services
- Video Tape and Disc Rental
- Vocational Schools
- Welding Shop

Transportation, Communications, Utilities
- General Freight Trucking
- Radio and Television Broadcasting

Wholesale Trade
- Feed Mills and Grain Elevators
- Fertilizer Sales and Storage
- Merchant Wholesalers, Durable Goods

Special Uses

Agricultural Uses
- Livestock Distribution

Manufacturing
- Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing
- Wood Product Manufacturing

Public Administration
- Government Parks and Recreation

Retail Trade
- Fireworks Sales
- Sexually Oriented Business

Services
- Child Day Care Services
- Churches
- Colleges, Universities, and Junior Colleges
- Commercial Amusement and Recreation (Indoor)
- Commercial Amusement and Recreation (Outdoor)
- Drive-In Motion Picture Theaters
- Elementary and Secondary Schools
- Kennel
- Libraries and Archives
- Marinas
- Museums
- Shooting Ranges
- Zoos and Botanical Gardens

Transportation, Communications, Utilities
- Communication Towers
- Liquefied Petroleum Gas (Bottled Gas) Dealers
- Large Wind System
- Wind Farm

I-1 Industrial District

The Industrial category is intended to provide areas for industrial activity, contracting, warehousing, and wholesaling that are low in impact because they are operated entirely indoors and have little or no negative effects, such as noise, dust, or vibration, on surrounding properties.

Development Standards

Minimum Lot Area:
- .5 Acres

Minimum Lot Width:
- 150 Feet

Maximum Lot Width to Depth Ratio:
- None

Minimum Lot Frontage:
- 100 Feet

Sewer and Water:
- May use private well and septic systems

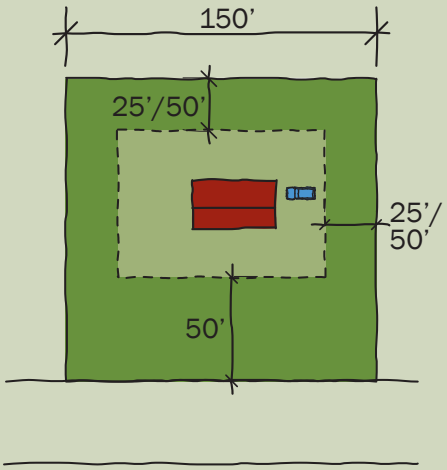
Minimum Front Yard Setback:
- 50 Feet

Minimum Rear Yard Setback:
- 25 Feet when the adjoining property is in an I-1 or I-2 District
- 50 Feet when the adjoining property is not in a I-1 or I-2 District

Minimum Side Yard Setback:
- 25 Feet when the adjoining property is in an I-1 or I-2 District
- 50 Feet when the adjoining property is not in a I-1 or I-2 District

Maximum Structure Height:
- 45 Feet

Maximum Lot Coverage:
- 70%



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6-180 Parking, Parking Access, and Loading Standards 131

6-190 Public Improvement Standards 138

6-200 Sign Standards. 140

6-210 Telecommunication Facility Standards 149

7-000 Site Development Plans 160

I-1 Industrial District

Permitted Uses

Residential Uses
- Accessory Structure

Agricultural Uses
- Crop Production
- Forestry and Logging
- Sawmill (Portable)

Manufacturing
- Animal Food Manufacturing
- Apparel Manufacturing
- Beverage Manufacturing
- Computer and Electronic Product Assembly
- Computer and Electronic Product Manufacturing
- Electrical Equipment, Appliance, and Component Manufacturing
- Food Manufacturing
- Furniture and Related Product Manufacturing
- Leather and Allied Product Manufacturing
- Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing
- Machinery Manufacturing
- Medical Equipment and Supplies Manufacturing
- Nonmetallic Mineral Product Manufacturing
- Plastics and Rubber Products Manufacturing
- Sawmill (Permanent)
- Textile Product Mills
- Transportation Equipment Manufacturing
- Warehouse for Vehicle Storage
- Warehousing and Storage
- Wood Product Manufacturing

Public Administration
- Community Center / Building for Govt Service

Retail Trade
- Electronic Shopping and Mail-Order Houses

Services
- Electronic and Precision Equipment Repair and Maintenance
- Exterminating and Pest Control Services
- Fitness and Recreational Sports Centers
- Medical and Diagnostic Laboratories
- Motor Vehicle Towing
- Packaging and Labeling Services
- Printing and Related Support Activities
- Publishing Industries (except Internet)
- Telephone Call Centers
- Vocational Schools
- Welding Shop

Transportation, Communication, Utilities
- General Freight Trucking

Wholesale Trade
- Merchant Wholesalers, Durable Goods

Special Uses

Manufacturing
- Storage of Explosive Material

Public Administration
- Government Parks and Recreation

Services
- Appliance Repair and Maintenance
- Child Day Care Services
- Shooting Ranges
- Solid Waste Collection

Transportation, Communication, Utilities
- Communication Towers
- Electric Power Generation, Transmission and Distribution
- Liquefied Petroleum Gas (Bottled Gas) Dealers
- Large Wind System
- Wind Farm

Wholesale Trade
- Auto Salvage Yard

I-2 Heavy Industrial District

The Heavy Industrial category is intended to provide areas for industrial activity, contracting, warehousing, and wholesaling that are heavy in impact because they are operated outdoors and/or have moderate or heavy negative effects, such as noise, dust, or vibration, on surrounding properties.

Development Standards

Minimum Lot Area:
- 2 Acres

Minimum Lot Width:
- 300 Feet

Maximum Lot Width to Depth Ratio:
- None

Minimum Lot Frontage:
- 100 Feet

Sewer and Water:
- May use private well and septic systems

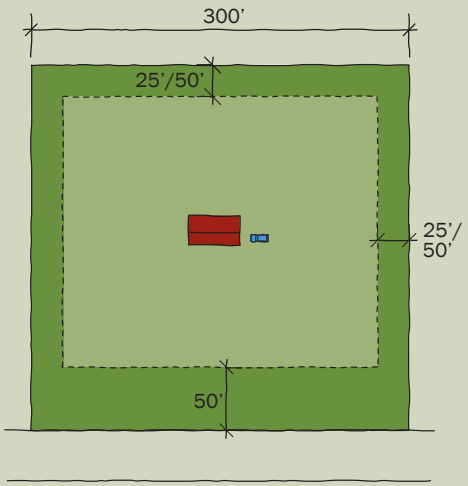
Minimum Front Yard Setback:
- 50 Feet

Minimum Rear Yard Setback:
- 25 Feet when the adjoining property is in an I-1 or I-2 District
- 50 Feet when the adjoining property is not in a I- 1 or I-2 District

Minimum Side Yard Setback:
- 25 Feet when the adjoining property is in an I-1 or I-2 District
- 50 Feet when the adjoining property is not in a I-1 or I-2 District

Maximum Structure Height:
- 45 Feet

Maximum Lot Coverage:
- 70%



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6-190 Public Improvement Standards 138

6-200 Sign Standards. 140

6-210 Telecommunication Facility Standards 149

7-000 Site Development Plans 160

I-2 Heavy Industrial District

Permitted Uses

Residential Uses
- Accessory Structure

Agricultural Uses
- Crop Production
- Forestry and Logging
- Sawmill (Portable)

Manufacturing
- Animal Food Manufacturing
- Apparel Manufacturing
- Beverage Manufacturing
- Cement and Concrete Product Manufacturing
- Chemical Manufacturing
- Computer and Electronic Product Assembly
- Computer and Electronic Product Manufacturing
- Electrical Equipment, Appliance, and Component Manufacturing
- Food Manufacturing
- Furniture and Related Product Manufacturing
- Leather and Allied Product Manufacturing
- Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing
- Machinery Manufacturing
- Medical Equipment and Supplies Manufacturing
- Nonmetallic Mineral Product Manufacturing
- Paper Manufacturing
- Petroleum and Coal Products Manufacturing
- Plastics and Rubber Products Manufacturing
- Primary Metal Manufacturing
- Sawmill (Permanent)
- Textile Mills
- Textile Product Mills
- Transportation Equipment Manufacturing
- Warehouse for Vehicle Storage
- Warehousing and Storage
- Wood Product Manufacturing

Public Administration
- Community Center / Building for Govt Service

Retail Trade
- Electronic Shopping and Mail-Order Houses

Services
- Electronic and Precision Equipment Repair and Maintenance
- Fitness and Recreational Sports Centers
- Printing and Related Support Activities
- Publishing Industries (except Internet)
- Vocational Schools
- Welding Shop

Transportation, Communication, Utilities
- Electric Power Generation, Transmission and Distribution
- General Freight Trucking
- Large Wind System
- Wind Farm

Wholesale Trade
- Merchant Wholesalers, Durable Goods

Special Uses

Manufacturing
- Fabricated Metal Product Manufacturing
- Foundries
- Rendering and Meat Byproduct Processing
- Storage of Explosive Material

Public Administration
- Government Parks and Recreation

Services
- Appliance Repair and Maintenance
- Child Day Care Services
- Hazardous Waste Collection
- Solid Waste Collection
- Solid Waste Combustors and Incinerators
- Solid Waste Landfill
- Waste Collection
- Waste Treatment and Disposal

Transportation, Communication, Utilities
- Bulk storage of petroleum products
- Communication Towers
- Liquefied Petroleum Gas (Bottled Gas) Dealers
- Large Wind Systems
- Wind Farm

Wholesale Trade
- Auto Salvage Yard
- Materials Recovery Facilities

110 *Unlisted or Questionable Uses*

Any use not listed as a permitted use or a special exception is considered not permitted unless the Planning Director makes a determination otherwise. The Planning Director may determine into which category any questionable use be placed if it is not specifically listed but similar to another use that is a permitted use or special exception. This determination may be appealed to the Board of Zoning Appeals.

120 *Land Use Matrix*

p - Permitted Use; s - Special Exception; d - Development Plan Req.

Table 3-A, Land Use Matrix

Use	A-1	A-2	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
Agricultural											
Animal Production	p	p	s								d
Animal Production (Limited)	p	p	p								
Confined Livestock Feeding	p	p									d
Crop Production	p	p	p	p	p	p	p	p	p	p	d
Dangerous and Exotic Animals	s	s									d
Farm Implement Sales and Service	s					p	p				d
Forestry and Logging	p	p	p	p	p	p	p	p	p	p	d
Horses and Other Equine Production	p	p									d
Livestock Auction	p					p	p				d
Livestock Composting (accessory use to livestock production or confined feeding)	p	p									
Livestock Composting (Commercial)		s									
Livestock Distribution	s					s	s				d
Livestock Incineration (accessory use to livestock production or confined feeding)	p	p									
Livestock Incineration (Commercial)		s									
Nursery and Greenhouse	p	p					p				d
Sawmill (Portable)	p	p						p	p		d
Finance, Insurance, and Real Estate											
Commercial Banking						p	p				d
Insurance Carriers and Related Activities						p	p				d
Offices of Real Estate Agents and Brokers						p	p				d
Offices of Real Estate Appraisers						p	p				d
Securities, Commodity Contracts, and Other Financial Investments and Related Activities						p	p				d
Manufacturing											
Animal Food Manufacturing								p	p		d
Apparel Manufacturing								p	p		d
Beverage Manufacturing								p	p		d

Use	A-1	A-2	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
Cement and Concrete Product Manufacturing									p		d
Chemical Manufacturing									p		d
Computer and Electronic Product Assembly						p	p	p	p		d
Computer and Electronic Product Manufacturing								p	p		d
Electrical Equipment, Appliance, and Component Manufacturing								p	p		d
Fabricated Metal Product Manufacturing									s		d
Food Manufacturing								p	p		d
Foundries									s		d
Furniture and Related Product Manufacturing	s							p	p		d
Leather and Allied Product Manufacturing								p	p		d
Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing							s	p	p		d
Machinery Manufacturing								p	p		d
Medical Equipment and Supplies Manufacturing								p	p		d
Nonmetallic Mineral Product Manufacturing								p	p		d
Paper Manufacturing									p		d
Petroleum and Coal Products Manufacturing									p		d
Plastics and Rubber Products Manufacturing								p	p		d
Primary Metal Manufacturing									p		d
Rendering and Meat Byproduct Processing									s		d
Sawmill (Permanent)	s	s						p	p		d
Storage of Explosive Material								s	s		d
Textile Mills									p		d
Textile Product Mills								p	p		d
Transportation Equipment Manufacturing								p	p		d
Warehousing and Storage							p	p	p		d
Warehouse for Vehicle Storage	s					p	p	p	p		
Wood Product Manufacturing							s	p	p		d
Public Administration											
Community Center / Building for Govt Service	s		s	s	s	p	p	p	p		d
Government Parks and Recreation	p	s	s	s	s	s	s	s	s	s	d
Residential											
Single Family Residential	p	p	p	p	p					s	d
Modular Home	p	p	p	p	p					s	d
Manufactured Home - Type A	p	p	p	s						p	d
Manufactured Home - Type B	p	p	p	p	p					p	d
Two-family residential				p						s	d
Multifamily residential				p						s	d
Group Home				s							d

120 *Land Use Matrix (cont.)*

p - Permitted Use; s - Special Exception; d - Development Plan Req.

Use	A-1	A-2	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
Assisted Living Facility				s	s						d
Residential Mental Retardation, Mental Health and Substance Abuse Facilities				s							d
Manufactured Home Park										p	d
Child Day Care Services (in home)	p	p	p	p	p						d
Home Based Business	s	s		s							d
Home Occupation	p	p	p	s	s					p	d
Home Workshop	s	s									d
Accessory Structure	p	p	p	p	p	p	p	p	p	p	d
Retail Trade											
Automobile Sales						p	p				d
Automotive Parts, Accessories, and Tire Stores						p	p				d
Building Material and Garden Equipment and Supplies Dealers						p	p				d
Clothing and Clothing Accessories Stores						p	p				d
Commercial Bakeries						p	p				d
Electronic Shopping and Mail-Order Houses	s					p	p	p	p		d
Electronics and Appliance Stores						p	p				d
Fireworks sales							s				d
Florists						p	p				d
Food and Beverage Stores						p	p				d
Furniture and Home Furnishings Stores						p	p				d
Gasoline Stations						p	p				d
Health and Personal Care Stores						p	p				d
Manufactured (Mobile) Home Dealers						p	p			s	d
Office Supplies, Stationery, and Gift Stores						p	p				d
Pet and Pet Supplies Stores						p	p				d
Retail Bakeries						p	p				d
Sexually Oriented Business							s				
Sporting Goods, Hobby, Book, and Music Stores						p	p				d
Services											
Appliance Repair and Maintenance						p	p	s	s		d
Automotive Repair and Maintenance						p	p				d
Bed-and-Breakfast Inns	s	s	s	s	s						d
Bowling Centers						p	p				d
Carpet and Upholstery Cleaning Services						p	p				d
Caterers	s			s		p	p				d
Cemeteries and Crematories	s	s	s	s							d
Child Day Care Services	s	s	s	s	s	s	s	s	s	s	d
Churches	s		s	s	s	s	s				d

Use	A-1	A-2	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
Colleges, Universities, and Junior Colleges	s		s	s		s	s				d
Commercial Amusement and Recreation (Outdoor)	s	s				s	s				d
Commercial Amusement and Recreation (Indoor)						s	s				
Commercial Parking Lots				s	s	p	p				d
Drive-In Motion Picture Theaters	s					s	s				d
Electronic and Precision Equipment Repair and Maintenance						p	p	p	p		d
Elementary and Secondary Schools	s		s	s		s	s				d
Exterminating and Pest Control Services						p	p	p			d
Fitness and Recreational Sports Centers						p	p	p	p		d
Full-Service Restaurants						p	p				d
Funeral Homes and Funeral Services						p	p				d
Golf Courses and Country Clubs	s		s								d
Hair, Nail, and Skin Care Services						p	p				d
Hazardous Waste Collection									s		d
Home and Garden Equipment Repair and Maintenance	s	s				p	p				d
Hospitals						p	p				d
Hotels (except Casino Hotels) and Motels						p	p				d
Kennel	s	s					s				d
Landscaping Services	s					p	p				d
Laundries and Drycleaners						p	p				d
Laundries and Drycleaners (Coin-Operated)						p	p			p	d
Libraries and Archives	s		s	s	s	s	s				d
Marinas					s	s	s				d
Medical and Diagnostic Laboratories						p	p	p			d
Motion Picture Theaters (except Drive-Ins)						p	p				d
Motor Vehicle Towing						p	p	p			d
Museums	s		s	s	s	s	s				d
Nature Parks and Other Similar Institutions	p	p	p		s						d
Nursing Care Facilities				s	s						d
Offices of Dentists						p	p				d
Offices of Physicians						p	p				d
Packaging and Labeling Services							p	p			d
Passenger Car Rental						p	p				d
Personal and Household Goods Repair and Maintenance						p	p				d
Photofinishing						p	p				d
Photography Studios, Portrait						p	p				d
Printing and Related Support Activities						p	p	p	p		d

120 *Land Use Matrix (cont.)*

p - Permitted Use; s - Special Exception; d - Development Plan Req.

Use	A-1	A-2	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
Private Clubs and Organizations	s			p		p	p				d
Publishing Industries (except Internet)								p	p		d
Racetracks	s										d
Recreational and Vacation Camps (except Campgrounds)	s				s						d
Recreational Goods Rental	s				s	p	p				d
Religious Organizations	s			p	s	p	p				d
Rental and Leasing Services						p	p				d
Reupholstery and Furniture Repair	s					p	p				d
RV (Recreational Vehicle) Parks and Recreational Camps	s				s						d
Self Storage Units					s	p	p				d
Septic Tank and Related Services	s	s				p	p				d
Shooting Ranges	s						s	s			d
Solid Waste Collection								s	s		d
Solid Waste Combustors and Incinerators									s		d
Solid Waste Landfill									s		d
Spectator Sports	s										d
Telephone Call Centers						p	p	p			d
Travel Arrangement and Reservation Services						p	p				d
Veterinary Services						p	p				d
Video Tape and Disc Rental						p	p				d
Vocational Schools				s		p	p	p	p		d
Waste Collection									s		d
Waste Treatment and Disposal									s		d
Welding Shop	s	s					p	p	p		
Zoos and Botanical Gardens	s	s					s				d
Transportation, Communications, Utilities											
Aircraft Landing Strip	s	s									
Bulk storage of petroleum products									s		d
Communication Towers	s	s					s	s	s		d
Electric Power Generation, Transmission and Distribution	s							s	p		d
General Freight Trucking							p	p	p		d
Large Wind System	s	s				s	s	s	s		d
Liquefied Petroleum Gas (Bottled Gas) Dealers	s						s	s	s		d
Micro Wind System	p	p	p	p	p	p	p	p	p	p	p
Mining (except Oil and Gas)	s										d
Radio and Television Broadcasting						p	p				d

Use	A-1	A-2	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
Small Wind System	p	p				p	p	p	p		
Wind Farm	s	s				s	s	s	s		
Wholesale Trade											
Auto Salvage Yard								s	s		d
Feed Mills and Grain Elevators	s					p	p				d
Fertilizer Sales and Storage	s					p	p				d
Materials Recovery Facilities									s		d
Merchant Wholesalers, Durable Goods							p	p	p		d

(cont.)

Table 3-B, Distance Standards

	Front Yard [1]	Rear Yard	Side Yard	Maximum Building Height	From Regulated Drain
A-1, Agricultural	50'/60'/75' [2]	20'	15'	None	75'
A-2, Agricultural Conservation	50'/60'/75' [2]	20'	15'	None	75'
A-3, Agricultural Residential	40'/50/60' [2]	20'	10'	35'	75'
T-1, Town Residential	30'	15'	10'/10% [3]	35'	75'
L-1, Lake Residential	30'	20'/45' [4]	10'/10% [3]	35'	75'
MH, Manufactured Home [7]	30'	20'	20'	25'	75'
C-1, General Commercial	25'	20'	0'/20' [5]	45'	75'
C-2, Highway Commercial	50'	20'	20'	45'	75'
I-1, Industrial	50'	25'/50' [6]	25'/50' [6]	45'	75'
I-2, Heavy Industrial	50'	25'/50' [6]	25'/50' [6]	45'	75'
PUD, Planned Unit Development [7]	50'	20'	15'	35'	75'

[1] Measured from the road or street right-of-way; On a lake, the Front Yard is the road or street side

[2] From Local Road / From Collector Road / From Arterial Road; as defined by the Marshall County 2004 Comprehensive Plan, Thoroughfare Plan Map

[3] 10' or 10% of the lot width, whichever is less

[4] If lot has no lake frontage / If lot has lake frontage; From the high water mark

[5] When adjoining property is in a C-1 District / When adjoining property is in other than a C-1 District

[6] When adjoining property is in either an I-1 or I-2 District / When adjoining property is in other than an I-1 or I-2 District

[7] From the boundary of the PUD or Manufactured Home Community. Additional interior setbacks apply

130 *Zoning District Distance Standards (cont.)*

A. Setback Requirements

1. Height Modification
   Church Spires, belfries, and domes, silos, water towers, and television and radio towers for personal use may be erected above the height limits specified in this section.

2. Visual Setback on Corner Lots
   A visual setback shall be provided for all lots located at road right-of-way intersections in all zoning districts.

   a. This triangular visual setback is measured along the right-of-way lines of the two intersecting rights-of-way. The distance from the corner of the intersection shall be fifty (50) feet in each direction. A diagonal connecting those two fifty (50) foot segments closes the triangle.

   b. Nothing shall be erected, placed, planted, or allowed to grow within this visual setback in such a manner as to impede vision between a height of two and one half (2.5) feet and ten feet above the centerline grades of the intersection.

3. Averaging Setbacks Along Road or Street Frontages
   Where the Zoning Administrator has determined that an average front yard setback line has been established prior to the adoption of this ordinance, the minimum front yard setback shall be that established average front yard setback; or ten (10) feet, whichever is greater.

4. Buffer Setbacks
   A thirty (30) foot buffer setback from all property lines shall be provided in A-1, A-2, and A-3 Zoning Districts.

   a. There shall be no gardens, flowers, trees, landscaping, or other vegetative material deemed by the Zoning Administrator which would restrict the normal agronomic practices of crop or horticulture production.

   b. The buffer setback shall not apply to Crop or horticulture Production or Forestry.

   c. The buffer setback shall not be required when the property adjoining the property line is five (5) acres or less in area.

Table 3-C, Area Standards

	Minimum Area Per Residential Unit	Minimum Lot Area	Minimum Lot Width	Maximum Width to Depth Ratio	Minimum Single Family Residence Area	Maximum Lot Coverage	Minimum Access to Public ROW	Sewer & Water	Minimum Common Space
A-1, Agricultural	5 acres	1 acre	210'	1:3	None	30%	50'	Private	0%
A-2, Agricultural Conservation	40 acre	1 acre	210'	1:3	None	30%	50'	Private	0%
A-3, Agricultural Residential	1 acre	1 acre	210'	1:3	None	30%	50'	Private	0%
T-1, Town Residential									
Single Family									
T-1 Single Family with Sanitary Sewers	6,000 sqft	6,000 sqft	60'	1:3	1,281 sqft	55%	50'	Pub/Priv	0%
T-1 Single Family without Sanitary Sewers	1 acre	1 acre	125'	1:3	1,281 sqft	30%	50'	Private	0%
Two Family									
T-1 Two Family with Sanitary Sewers	4,000 sqft	8,000 sqft	60'	1:3	None	55%	50'	Pub/Priv	0%
T-1 Two Family without Sanitary Sewers	1 acre	1 acre	125'	1:3	None	30%	50'	Private	0%
Multi-Family	5,000 sqft	.5 acres	150'	1:5	None	70%	50'	Public	10%
L-1, Lake Residential									
L-1 with Sanitary Sewers	6,000 sqft	6,000 sqft	60'	1:3	1,281 sqft	45%	30'	Public	0%
L-1 without Sanitary Sewers	1 acre	1 acre	125'	1:3	1,281 sqft	30%	30'	Private	0%
MH, Manufactured Home	3,000 sqft	5 acres	300'	1:3	None	65%	100'	Public	0%
C-1, General Commercial	NA	.5 acres	150'	None	NA	70%	100'	Pub/Priv	0%
C-2, Highway Commercial	NA	.5 acres	150'	None	NA	70%	100'	Pub/Priv	0%
I-1, Industrial	NA	.5 acres	150'	None	NA	70%	100'	Pub/Priv	0%
I-2, Heavy Industrial	NA	2 acres	300'	None	NA	70%	100'	Pub/Priv	0%
PUD, Planned Unit Development	NA	5 acres	300'	None	NA	NA	100'	Pub/Priv	10%

Pub/Priv = Public or Private Sewer & Water Systems

NA = Not Applicable

UNION
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UNDERWOOD
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ACCESS
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TAFT
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UPAS
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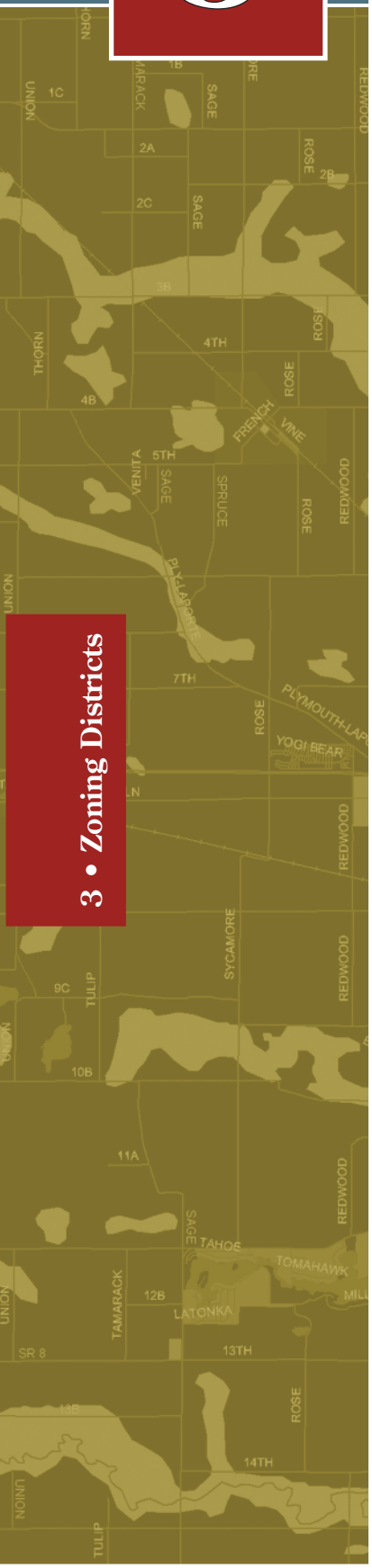
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TOMAHAWK
TAMARACK
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Notes

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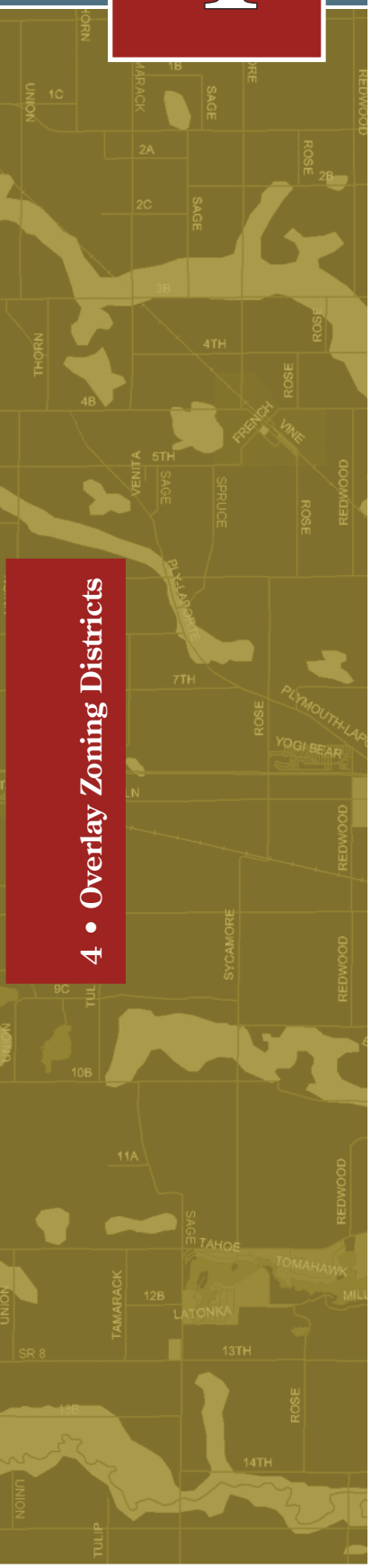
Suggestions for Future Changes

4

Overlay Zoning Districts Intent, Uses, & Standards

Reserved for Future Us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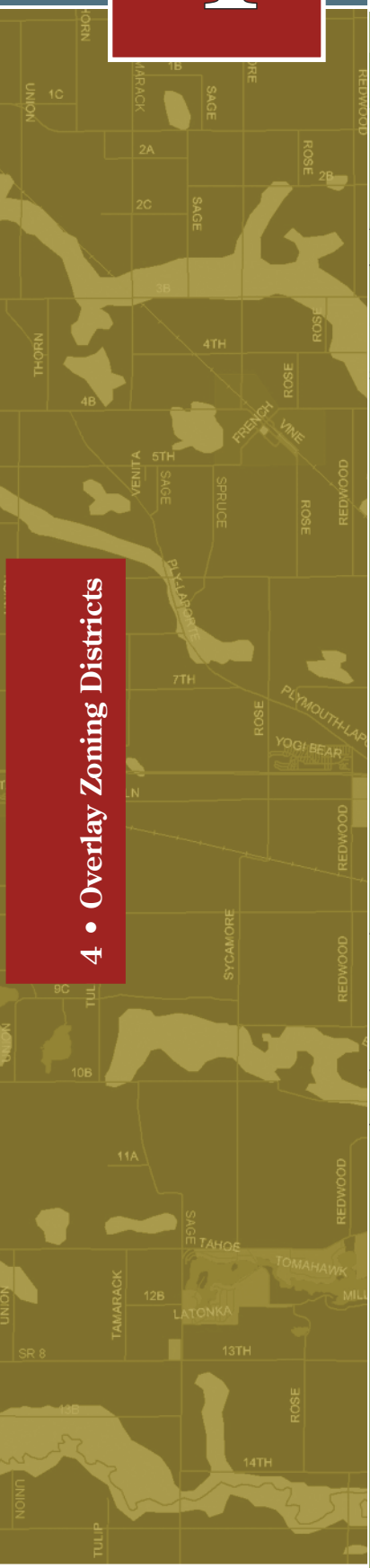
Suggestions for Future Changes



010 *Convention/Academic Overlay District*

A. Purpose

The Convention/Academic Overlay District is an area to provide multiple services in specific areas of the county to serve the community. The services can range from recreational activities, educational services, convention centers, nursing homes and assisted living, and religious institutions.

B. Uses

1. Permitted Uses

- Colleges, Universities, and Junior Colleges
- Convention Centers
- Nursing Homes and assisted living homes.
- Park, Playgrounds, Athletic Fields

C. Site Plan Review

New buildings and uses within this district shall be reviewed by the Technical Review Committee in Accordance with Article 7, Site Development Plans of this ordinance.

D. Development Standards

The development shall be found to be compatible with surrounding land uses. The following design elements shall be incorporated into the proposed Development Plan and utilized to determine the development's compatibility with surrounding uses:

1. Architectural Review

Buildings must match the architectural style of buildings in the area. Buildings are required to be of like material and construction as existing buildings in the area of the development.

2. Landscaping & Vegetative Buffering

Landscaping shall meet the requirements of this ordinance.

3. Lighting

Outdoor lighting shall meet the requirements of this ordinance and shall not otherwise create negative impacts on the surrounding neighborhood.

4. Signs

Must meet requirements of the Marshall County Zoning Ordinance.

5. Environmental Standards

Each new development must meet all the requirements of Article 6, 040 Environmental Standards of the Marshall County Zoning Ordinance.

5

Planned Unit Development

010 *Purpose* 60

020 *Definition* 60

030 *Requirements for Planned Unit Development* 60

040 *Procedure for Approval of Planned Unit Development* 62

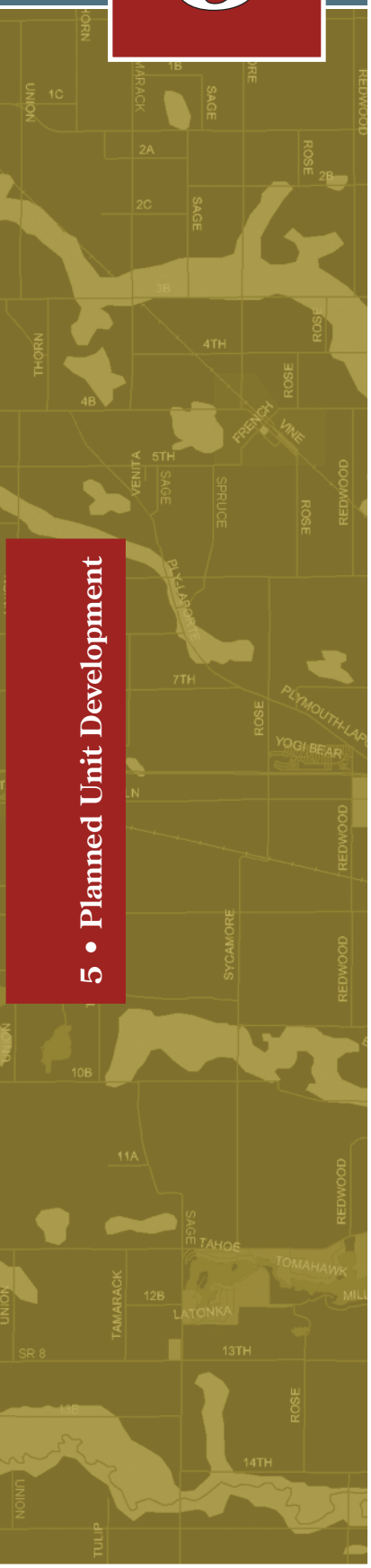
050 *Specific Content of Plans* 65

060 *Review Considerations* 68

070 *Changes in the Planned Unit Development* 69

5

Planned Unit Development



010 *Purpose*

The purpose of the planned unit development is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities and community services; to preserve the natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is anticipated that Planned Unit Developments will offer one or more of the following advantages:

A. Reflect the policies of the Comprehensive Plan specific to the area in which the PUD is to be located;

B. Provide substantial buffers and transitions between areas of different land use and development densities;

C. Enhance the appearance of Marshall County by conserving areas of natural beauty, and natural green spaces;

D. Counteract urban monotony and congestion on streets;

E. Promote architecture that is compatible with the surroundings;

F. Buffer differing types of land use and intensities of development from each other so as to minimize any adverse impact which new development may have on existing or zoned development;

G. Promote and protect the environmental integrity of the site and its surroundings and provide suitable design responses to the specific environmental constraints of the site and surrounding area; and

H. Pursue implementation of the Comprehensive Plan.

020 *Definition*

A Planned Unit Development is an area under single ownership or control to be developed in conformance with an approved Secondary Plan, consisting of a map showing the development area and all improvements to the development area, a text which sets forth the uses and the development standards to be met, and exhibits setting forth any aspects of the plan not fully described in the map and text. The uses and standards expressed in the Secondary Plan constitute the use and development regulations for the Planned Unit Development site in lieu of the regulations for the underlying district.

030 *Requirements for Planned Unit Development*

A. The area designated in the Planned Unit Development map must be a tract of land under single ownership or control. Single control of property under multiple ownership may be accomplished through the use of enforceable covenants and commitments which run to the benefit of the Zoning Jurisdiction.

B. The plan shall indicate the land use, development standards, and other applicable Marshall County specifications which shall govern the Planned Unit Development. If the plan is silent on a particular land use, development standard, or other specification of Marshall County, the standard of the underlying district or the applicable regulations shall apply.

C. The Planned Unit Development map shall show the location of all improvements. The location of Planned Unit Developments shall be designated on the Zoning Map and adopted pursuant to this Ordinance.

D. The Planned Unit Development must comply with all required improvements, construction standards, design standards, and all other Marshall County standards and other pertinent regulations, except where specifically varied through the provisions of this Section of the Ordinance.

E. Designation and Conveyance of Permanent Open Space.

1. Definition
   Permanent open space shall be defined as parks, playgrounds, landscaped green space, and natural areas, not including schools, community centers or other similar areas in public ownership.

2. Designation
   No plan for a Planned Unit Development shall be approved, unless such plan provides for permanent landscaped or natural open space. A minimum of ten (10) percent of the proposed Planned Unit Development area shall be designated as Permanent Open Space.

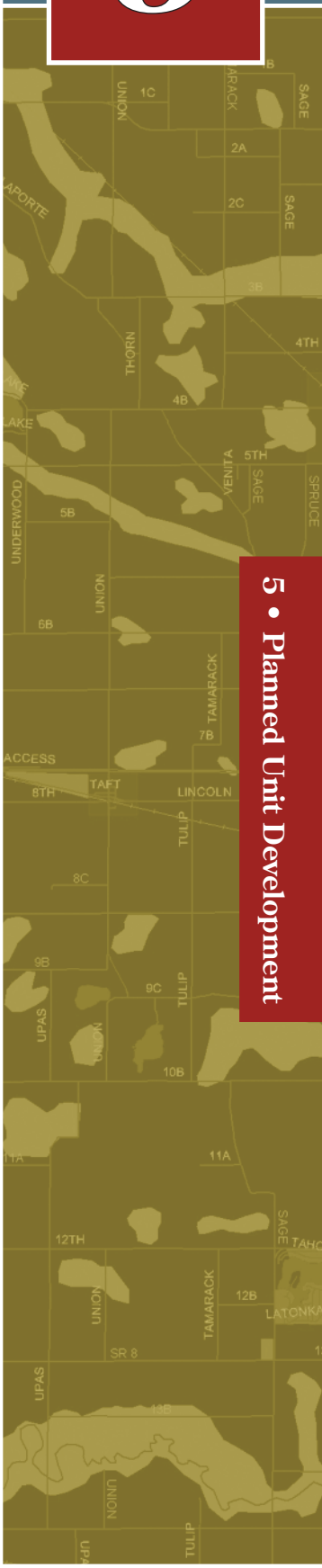
3. Phasing
   If the Primary Plan provides for the Planned Unit Development to be constructed in stages, open space must be provided for each stage of the Planned Unit Development in proportion to that stage.

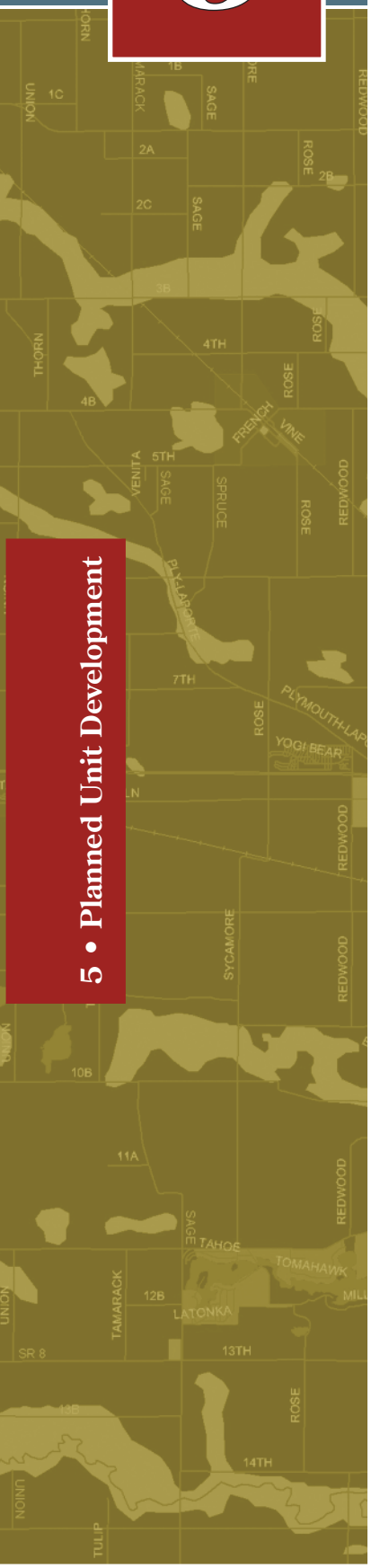
4. Conveyance
   Permanent open space shall be conveyed in one of the following forms:

   a. To a municipal or public corporation; or

   b. To a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the Planned Unit Development or, where appropriate and where approved by the Plan Commission and the Board of Commissioners, adjoining property owners, or both. All conveyances hereunder shall be structures to insure that the grantee has the obligation and the right to effect maintenance and improvement of the common open space; and that such duty of maintenance and improvement is enforced by the owners and tenants of the Planned Unit Development and, where applicable, by adjoining property owners; or

(cont.)





030 *Requirements for Planned Unit Development (cont.)*

c. To owners other than those specified in Subsections (a) and (b) above, and subject to restrictive covenants describing and guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the Planned Unit Development or adjoining property owners, or both; or

d. Included in single family residential lots under the control of lot owners.

F. Uses permitted in a Planned Unit Development may be any use which is found in *Article 3-120, Land Use Matrix* of this Ordinance, subject to the approval of the Plan Commission and Board of County Commissioners.

040 *Procedure for Approval of Planned Unit Development*

A. Introduction

Applications shall be accompanied by all plans and documents required by *Article 5-050, Specific Content of Plans* of this Ordinance. A three step application process shall be used. The steps in the process are:

1. Pre-Design Conference;
2. Primary Plan Review; and
3. Secondary Plan Review.

B. Pre-Design Conference

Prior to filing a formal application for approval of a Planned Unit Development, the applicant shall schedule a pre-design conference with the Technical Review Committee. The purpose of the pre-application conference shall be to:

1. Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted County policies.
2. Allow the Technical Review Committee to inform the applicant of applicable policies, standards and procedures for the Planned Unit Development.
3. The pre-design conference is intended only for the above purposes; neither the developer nor the jurisdiction is bound by any decision made during a pre-application conference.

C. Procedure for Primary Plan Review

1. The Primary Plan and application for the Planned Unit Development shall be submitted to the planning staff which will review and certify the application to be complete.
2. The Technical Review Committee will review the Primary Plan in accordance with *Article 10-030, Technical Review Committee* of this Ordinance.
3. The Primary Plan and application, Planning Department report, and such other documents as may be pertinent to the Planned Unit Development shall then be

forwarded to the Plan Commission for its consideration.

4. The Plan Commission shall hold a public hearing in accordance with its Rules of Procedure.

5. Where there are environmentally sensitive features on the site or the Secondary Plan is expected to be complex, or there are other important planning implications involved, the Plan Commission may reserve the right to review the Secondary Plan. And, where the Plan Commission recommends denial of a Primary Plan and the Board of Commissioners approves the plan, the Plan Commission shall review the Secondary Plan.

6. Upon completion of its review, the Plan Commission shall certify the application to the Board of Commissioners with a favorable recommendation, an unfavorable recommendation, or no recommendation.

7. The Board of Commissioners shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposal. The Board may adopt or reject the proposal. If the Plan Commission has given the proposal a favorable recommendation and the Board fails to act on the proposal within ninety (90) days, the Ordinance takes effect as if it had been adopted as certified ninety (90) days after certification. If the Plan Commission has failed to make a recommendation or has given the proposal an unfavorable recommendation and the Board fails to act on the proposal within ninety (90) days, the proposal is defeated.

D. Effect of Approval of Primary Plan

1. When a Primary Plan for a Planned Unit Development has been approved by the Board, the Plan shall become effective and its location shall be shown on the Zoning Map. The Zoning Map shall be amended to designate the site as a Planned Unit Development.

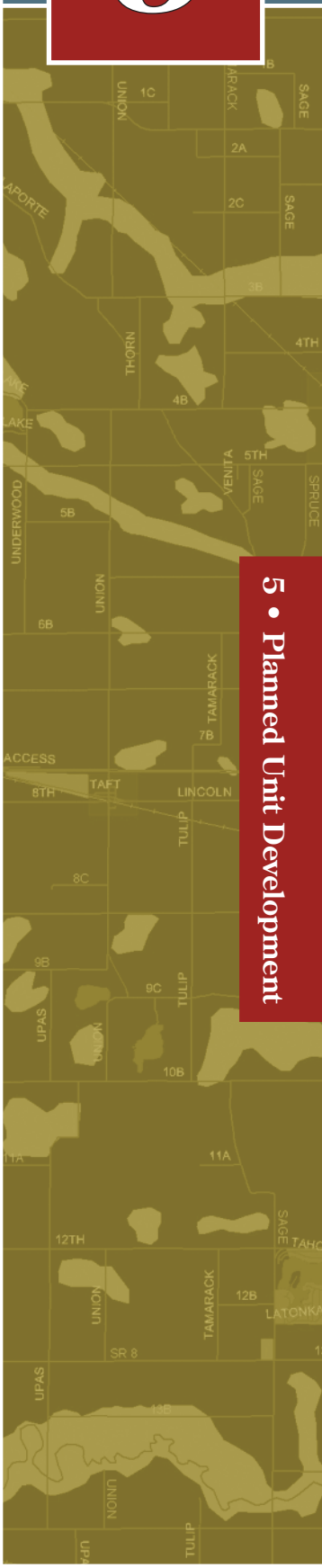
2. Upon such amendment of the zoning map, the use and development of the site shall be governed by the Planned Unit Development Primary Plan, subject to approval of a Secondary Plan.

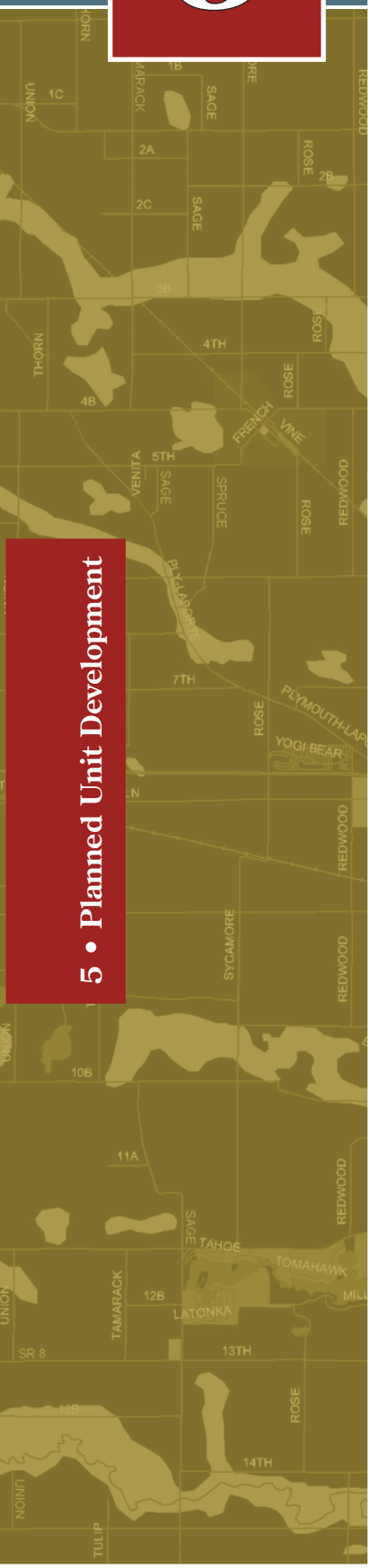
3. No permit of any kind shall be issued until the Secondary Plan has been approved.

E. Secondary Plan:

1. Purpose of Secondary Plan Review
   The purpose of the Secondary Plan is to designate the controls for development of the Planned Unit Development. The Secondary Plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses to which each building shall be put.

(cont.)





040 *Procedure for Approval of Planned Unit Development (cont.)*

2. Time Limit for Approval of Secondary Plan
   The Secondary Plan shall be submitted to the Planning Department not more than 18 months following Board of Commissioners approval of the Primary Plan. The Primary and Secondary Plans may be submitted as a single plan if all requirements of *Article 5-050.B, Primary Plan Requirements* and *Article 5-050.C, Secondary Plan Requirements* of this Ordinance are met. The Secondary Plan may be submitted and approved in stages, with each stage representing a portion of the Primary Plan, at the discretion of the Plan Commission. The time limit for submitting each stage for approval may be set forth in the Primary Plan, in which case that schedule shall control the timing of development, rather than the time period contained in this paragraph. The Plan Commission may extend the time for application for approval of Secondary Plan for good cause, consistent with the purposes of this Ordinance.

3. Expiration of Time Limit
   Periodically, the planning staff shall report to the Plan Commission on Planned Unit Developments whose time limits have expired. The applicants shall be notified. The Plan Commission shall determine whether to consider extending the time or to initiate action to amend the Zoning Map so as to rescind the Planned Unit Development designation.

4. Relationship of Secondary and Primary Plan
   The Secondary Plan shall conform to the Primary Plan as approved.

5. Procedure for approval of a Secondary Plan shall be:

   a. Secondary Plan Submission
      The Secondary Plan and supporting data shall be filed with the planning staff.

   b. Staff Review
      The planning staff shall review the Secondary Plan to include site plan review, in accordance with the requirements of this Ordinance.

   c. Staff Approval
      It shall generally be the responsibility of staff to review Secondary Plans, unless the Plan Commission reviews the Secondary Plans as provided in *Article 5-040.C(5), Procedure for Primary Plan Review* of this Ordinance or where a new Secondary Plan is required.

   d. Plan Commission Review
      If the Plan Commission has retained Secondary Plan Review authority, the Plan Commission shall hold a public hearing in accordance with its Rules of Procedure. The Commission may approve, deny or approve with modifications.

6. Expiration of Secondary Plan
   The Secondary Plan shall expire two (2) years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a Secondary Plan approved in stages. The time limit for completion may be set forth in the Secondary Plan,

in which case that schedule shall control the timing of development, rather than the time period contained in this paragraph. The approving authority may extend the time for commencement of the Secondary Plan for good cause, consistent with the purposes of this Ordinance.

7. Effect of Approval of Secondary Plan
No permit of any kind shall be issued for any purpose within a Planned Unit Development except in accordance with the approved Secondary Plan, and after acceptance by the County of all required guarantees for improvements pursuant to *Article 5-050.C(6), Guarantee of Performance for Completion of Improvements* of this Ordinance.

050 *Specific Content of Plans*

Planned Unit Secondary Plans and supporting data shall include all documentation listed in this Section of the Zoning Ordinance unless certain documentation is deemed superfluous by the planning staff due to the specific circumstances of the particular request.

A. Pre-Design Conference Requirements

1. A written letter of intent from the applicant describing the applicant's intention for developing the site.

2. A scaled drawing of the site, in simple sketch form, showing the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic or geologic constraints.

B. Primary Plan Requirements

1. A drawing of the Planned Unit Development shall be prepared at a scale not less 1"=50', or as considered appropriated by the planning staff, and shall show in concept major circulation; generalized location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall include:

   a. A site location map.

   b. The name of the development, with the words "Primary Plan".

   c. Boundary lines and acreage of each land use component.

   d. Existing easements, including location, width and purpose.

   e. Existing land use on abutting properties.

   f. Other conditions on adjoining land

      i. topography (at two (2) foot contours) including any embankments or retaining walls;

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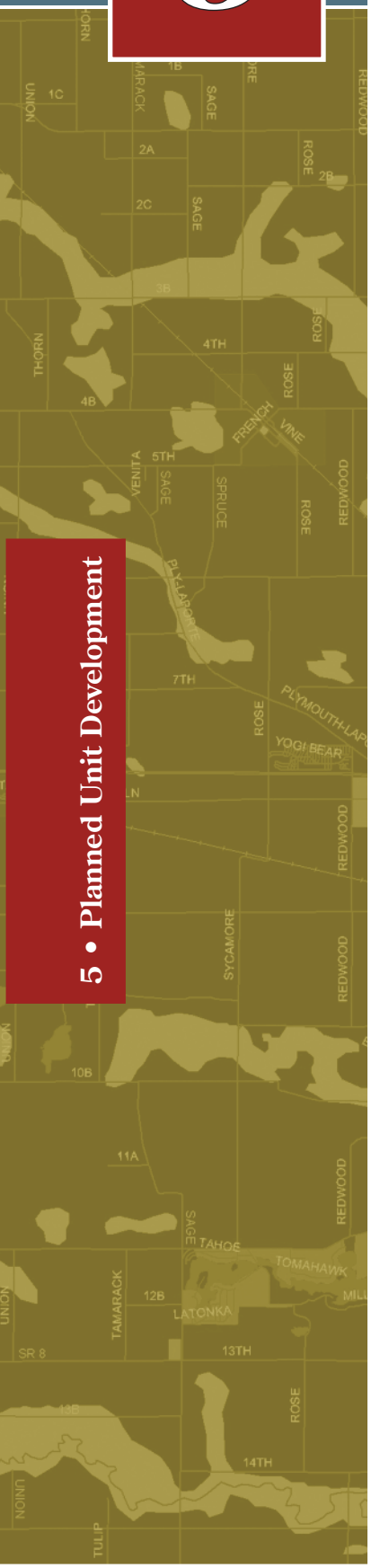

050 *Specific Content of Plans (cont.)*

ii. use and location of major buildings, railroads, power lines, towers and other influences; and

iii. name of any adjoining subdivision plat.

g. Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, curbs, gutters, and culverts.

h. Proposed public improvements
Including streets and other major improvements planned by the public for future construction on or adjacent to the tract.

i. Existing utilities on the tract.

j. Any land on the tract within the 100-year floodplain.

k. Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, isolated trees 6 inches or more in diameter, existing structures and other significant features.

l. Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.

m. Map data such as north point, scale and date of preparation.

2. Miscellaneous
The Planning Staff shall inform the applicant of any additional documents or data requirements after the pre-application conference.

3. Written Statement of Character of the Planned Unit Development
An explanation of the character of the Planned Unit Development and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement shall include:

a. A specific explanation of how the proposed Planned Unit Development meets the objectives of all adopted land use policies which affect the land in question.

b. Ownership
a statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

c. Development scheduling indicating:

i. Stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped.

ii. Projected dates for beginning and completion of each stage.

d. Proposed Uses

i. Residential Uses
   - gross area, architectural concepts (narrative, sketch, or representative photo), number of units, bedroom breakdown, and proposed occupancy limits for each residential component;

ii. Nonresidential Uses

   - specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.

e. Facilities Plan
   Preliminary concepts and feasibility reports for:

   i. Roads

   ii. Sidewalks

   iii. Sanitary sewers

   iv. Stormwater management

   v. Water supply system

   vi. Street lighting

   vii. Public utilities

4. Traffic Analysis
   If requested by the planning staff or the Plan Commission, a study of the impact caused by the Planned Unit Development and any measures proposed to accommodate that impact.

C. Secondary Plan Requirements
The application for Secondary Plan Review shall include, but not be limited to, the following documents:

1. Such additional information as may have been required by the Primary Plan Review.

2. An accurate map exhibit of the entire phase for which Secondary Plan Review is being requested, showing the following:

   a. Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show setback and other bulk constraints.

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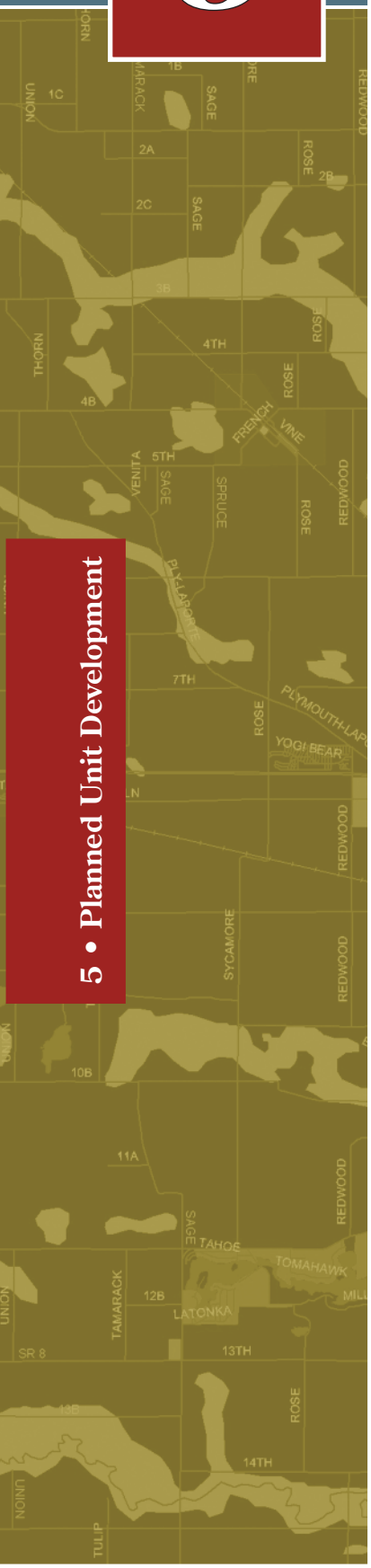

050 *Specific Content of Plans (cont.)*

b. Design and precise location of all streets, drives, and parking areas, including construction details, centerline elevations, pavement type, curbs, gutters, and culverts.

c. Location of all utility lines and easements.

d. A final detailed landscape plan, in conformance with *Article 6-140, Landscaping Standards* of this Ordinance.

e. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.

3. If lands to be subdivided are included in the Planned Unit Development, a subdivision plat meeting the requirements of a preliminary plat, as modified by the Primary Plan Review, is required where platting is to be done concurrent with the Secondary Plan Review.

4. Projected construction schedule.

5. Agreements and covenants which govern the use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads.

6. Guarantee of Performance for Completion of Improvements
A bond or other guarantee acceptable to the County shall be provided for all required improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities which shall become public, and may include other facilities or improvements as may be specified in the Primary or Secondary Plan Review. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase. The guarantee shall specify the time for completion of improvements, and shall be in an amount of one hundred ten (110) percent of the estimated cost of the improvements.

060 *Review Considerations*

A. In their consideration of a Planned Unit Development Primary Plan, the Technical Review Committee in its report to the Plan Commission, the Plan Commission in its recommendation, and the Board of Commissioners in its decision, shall consider as many of the following as may be relevant to the specific proposal:

1. The extent to which the Planned Unit Development meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the County.

2. The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.

3. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited

to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.

4. The proposal will not be injurious to the public health, safety, and general welfare.

5. The physical design of the Planned Unit Development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation and visual enjoyment.

6. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.

7. The desirability of the proposed plan to the County's physical development, tax base and economic well-being.

8. The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.

9. The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.

070 *Changes in the Planned Unit Development*

A. Changes Requiring New Primary Plan Review

Changes which alter the concept or intent of the Planned Unit Development including but not limited to:

1. Increases in density not to exceed 10%;

2. Changes in the proportion or allocation of land uses;

3. Changes in the list of approved uses;

4. Changes in the locations of uses;

5. Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or

6. Changes in the final governing agreements where such changes conflict with the Primary Plan Review.

B. Changes Requiring New Secondary Plan Review.

These changes shall include the following:

1. Changes in lot arrangement, or addition of buildable lots which do not change approved density of the development;

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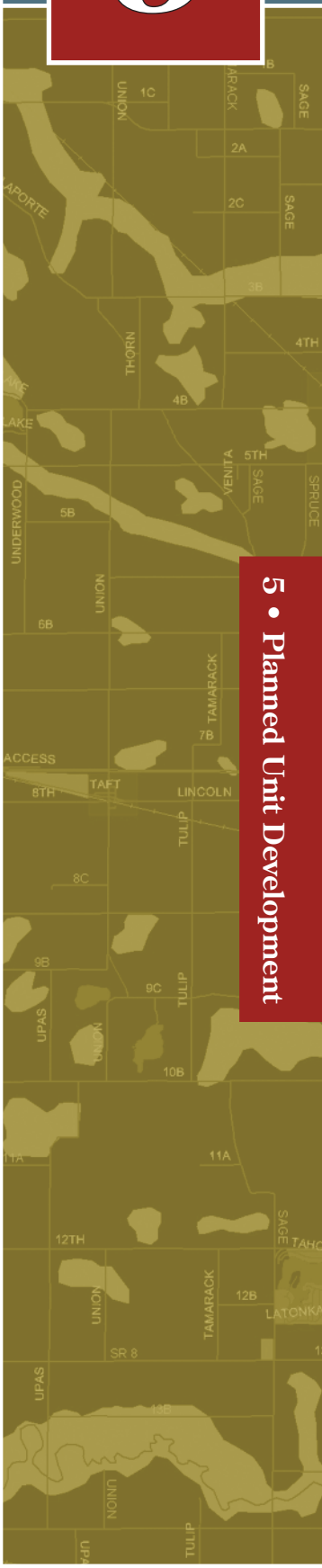
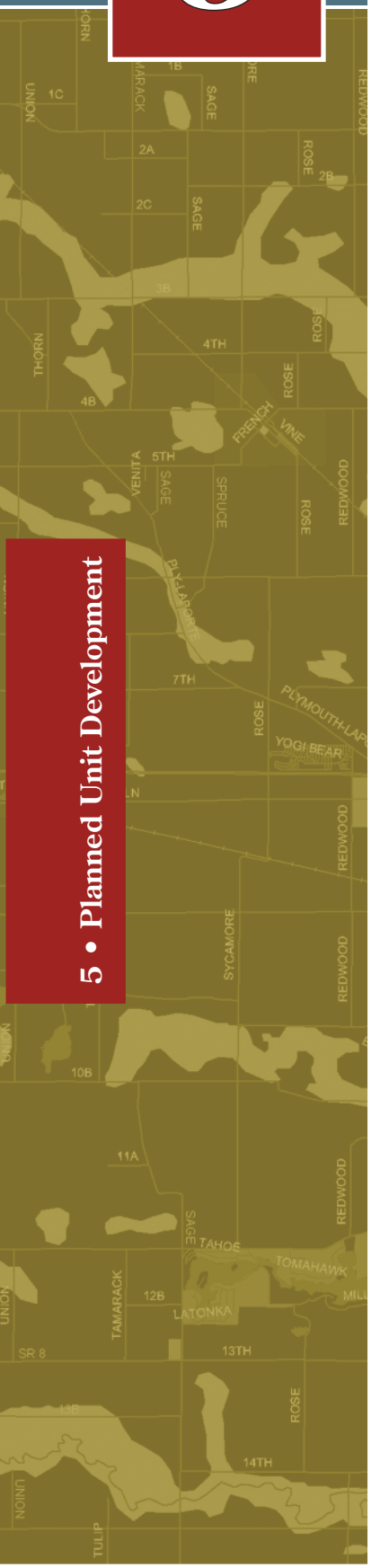




070 *Changes in the Planned Unit Development (cont.)*

2. Changes in site design requirements, such as location of required landscaping, signage, building height, cube and/or footprint, or other such requirements of this ordinance;

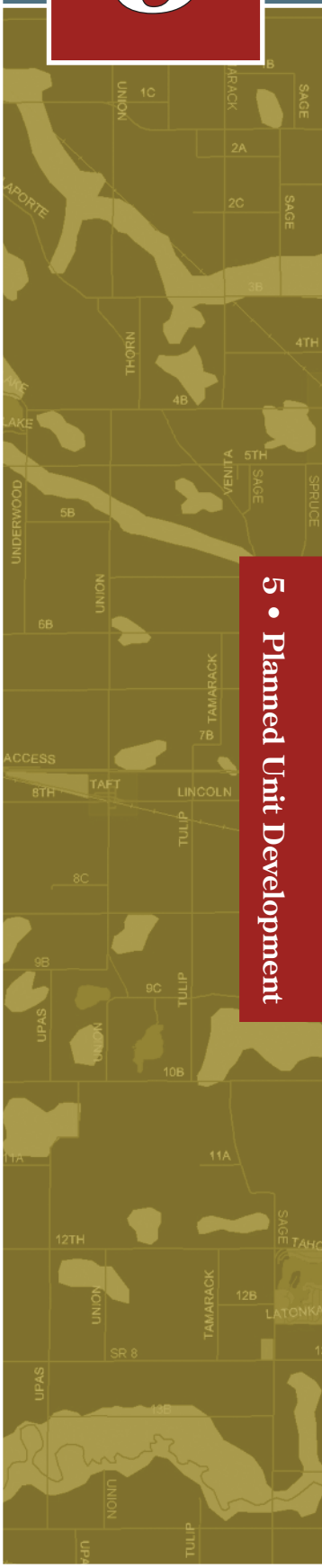
3. Changes to the internal street system or off-street parking areas;

4. Changes in drainage management structures;

5. Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or

6. All other changes not expressly addressed under *Article 5-070.A, Changes Requiring New Primary Plan Review* of this Ordinance, shall require new Secondary Plan Review.

5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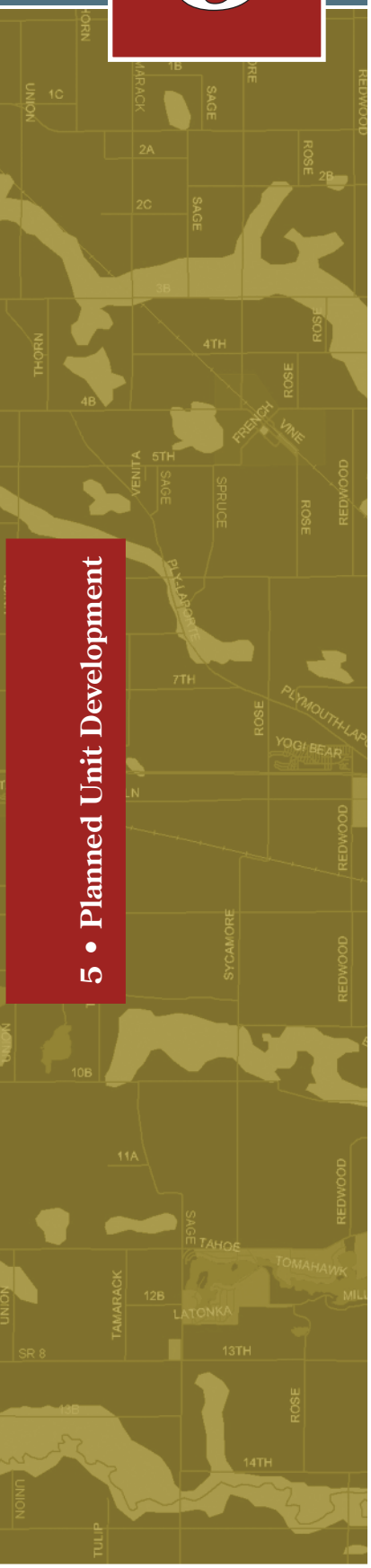
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TAMARACK
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14TH
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Notes

Notes

Suggestions for Future Changes

6

Development Standards

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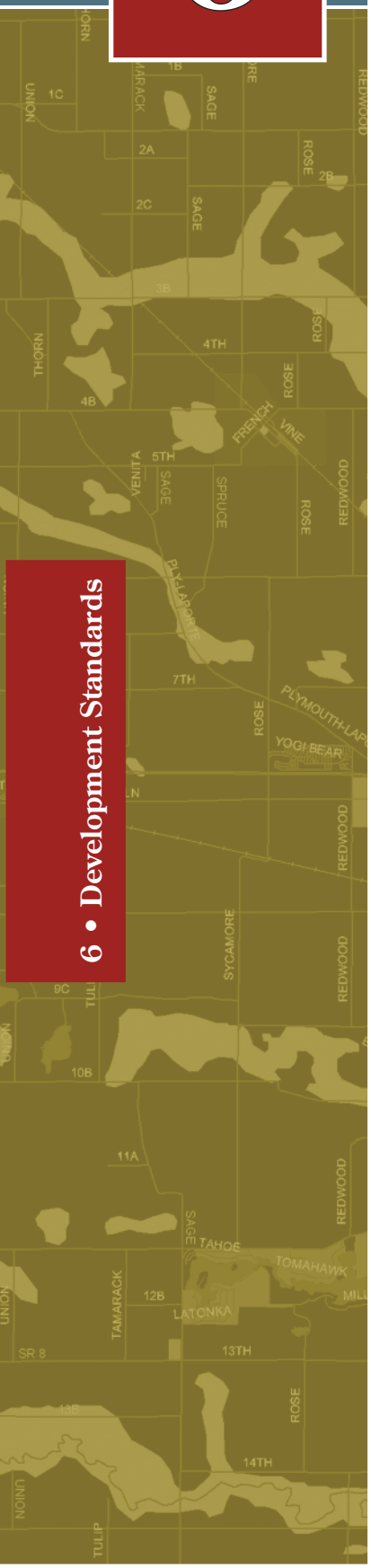


010 *Accessory Structures and Use Standards*

A. Definition

A use, building, or structure, the use of which is customarily incidental and subordinate to the use of the primary building or primary use of the land on which the accessory use, building, or structure is located. By way of example only, some typical accessory uses, buildings, and structures include: garages, carports, porches, decks, awnings, canopies, mini-barns, storage sheds, outdoor fireplaces, outdoor furnaces, children's playhouses, swings, game courts, fences, swimming pools, hot tubs, grain bins, grain dryers, and storage buildings. Some uses that shall not be considered accessory uses, buildings, or structures include mobile homes, manufactured homes, construction trailers, recreational vehicles, and semi-trailers.

B. Where Permitted

Accessory Uses, Buildings, and Structures shall be permitted in all districts, provided that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district to which a lot is zoned.

C. Construction Prior to Primary Structure

Except in A-1 and A-2 Districts, accessory uses, buildings, and structures shall not be permitted on a lot prior to the erection of the primary building.

D. Development Standards

Accessory uses, buildings, and structures shall comply with all development standards of the applicable zoning district unless an exception is specifically provided for in this section.

E. Dumpsters, Compactors, and Trash Receptacles

Dumpsters, compactors, and other trash receptacles are not regulated as accessory structures.

F. Swimming Pools

Swimming pools must abide by this zoning ordinance as well as Indiana State Code (675 IAC 20).

020 *Bed and Breakfast Standards*

A. Definition

A Bed & Breakfast is an accessory use to a residential dwelling carried out for gain by the residents of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes.

B. Number of Rooms and/or Units

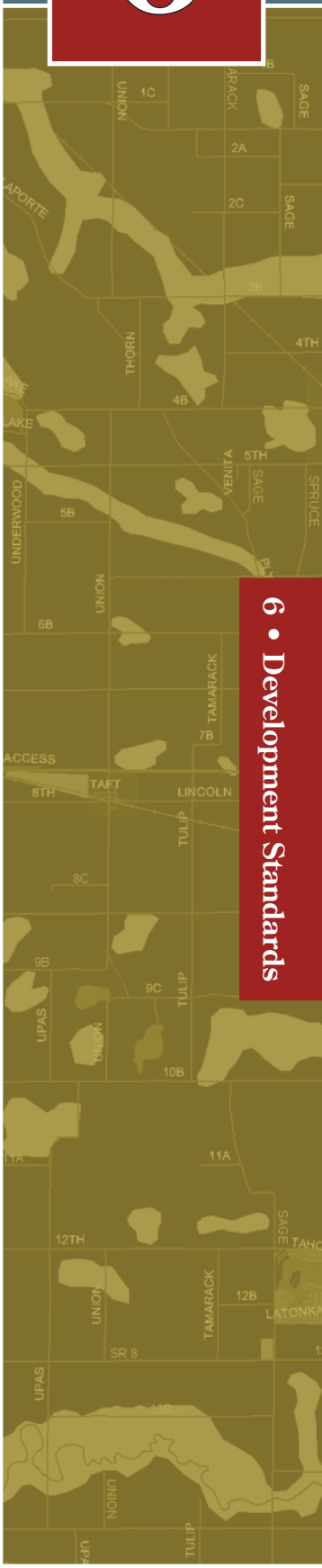
Up to five (5) rooms may be rented to guests, whether in the residence or some other appropriate structure on the property.

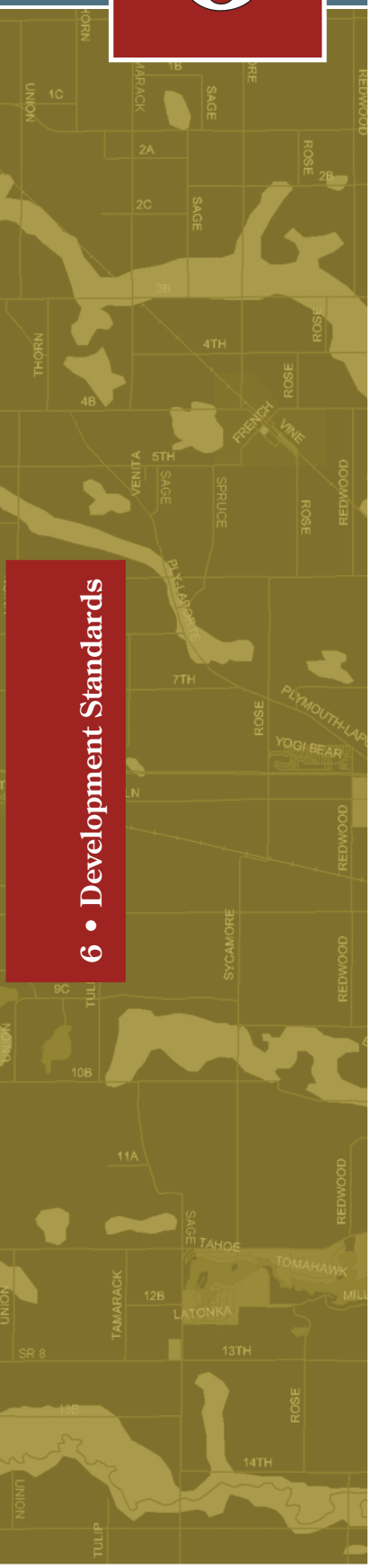
C. Limitation on stay

A Bed and Breakfast Establishment is not a rooming house or multi-family dwelling. Guests occupying rented rooms shall stay at the Bed and Breakfast Establishment for no more than fourteen (14) consecutive days

D. Food service

A Bed and Breakfast Establishment is not a restaurant. Food service is limited to breakfast; and breakfast shall only be provided to guests occupying rented rooms.





030 *Confined Livestock Feeding Standards (CFOs and CAFOs)*

A. IDEM Permit Required

All Confined Animal Feeding Operations (CFOs and CAFOs) must be issued an Indiana Department of Environmental Management (IDEM) permit before an Improvement Location Permit for the CFO or CAFO may be issued.

B. Route Permit Required

All CAFOs must obtain a "Route Permit" from the Marshall County Highway Department.

C. Water Wells and Ground Water

All CAFOs must abide by 312 AIC 12 Water Well Drilling and Ground Water. All wells capable of withdrawing over 100,000 gallons per day or 70 gallons per minute must be registered

D. Water Wells Testing

All CAFOs must submit an annual report of a private well water test. This test must be an approved test taken by an official approved by the Zoning Administrator.

E. Manure Application

All CAFOs must comply with all IDEM manure application regulations. All surface spread manure must be incorporated within 24 hours unless applied to a growing crop.

F. Irrigation of Manure

Irrigation of manure, except low nutrient water, is prohibited.

G. Odor Control

All CAFOs must provide a detailed odor control plan that includes the use of current, proven odor control technology. The plan may be updated from time to time by the producer to include the latest proven technology The plan shall address the following areas:

1. Confinement building
2. Manure storage
3. Manure application
4. Carcass disposal in compliance with Indiana State Board of Health Regulations.
5. Dust and particle matter

H. Setbacks From CAFO Structures

1. The minimum setback of a CFO and CAFO structures from the nearest adjacent residence shall be one-thousand three-hundred twenty (1,320) feet . CAFO's must employ one of the following following odor control technologies:

   a. Biofilters

b. Oil spray for dust control

c. Shelterbelts

d. Wet scrubbers

e. Catalytic convertors

f. Windbreak walls

g. Aerodynamic deduster

h. Biomass filter

I. Ozonation

j. Digester

k. Diet manipulation

l. Reducing manure loading rates for lagoons

m. Surface of lagoon aerated

n. Permeable cover for manure storage and lagoon

o. Impermeable covers

p. Composting

q. Solids separation

r. Acidification of manure to keep in ammonium form

s. Dry manure storage

t. Urine/feces segregation

u. Other proven strategies as described in an approved odor control plan

2. For CAFO's the setback shall be increased by two-hundred (200) feet for every additional one-thousand (1,000) animals units for those operations which do not employ an additional odor control technology.

I. Shelterbelt Requirements for CAFO's

1. Shelterbelts shall be a minimum of two rows of trees or shrubs

2. Shelterblets must achieve a minimum height level to have the desired effect on odor before CAFO operations may start.

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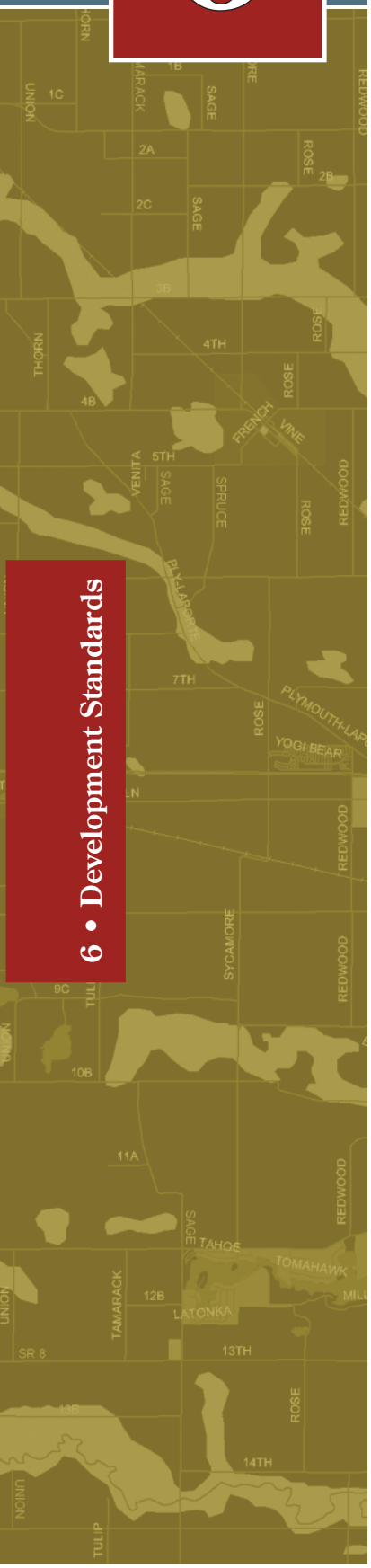

J. Resolution of Existing Violations

Any producer who has in the past five years committed CFO or CAFO violations in Indiana or any other state must resolve such violations before an Improvement Location Permit may be issued.

K. CAFOs in Special Flood Hazard Area

CFO and CAFO facilities are not permitted in Special Flood Hazard Areas.

M. Other Use Separation Distances

Any new dwelling, other than quarters provided for hired help with the CFO or CAFO, or any new church, business, school, recreational area (Public or Private), or public building shall have a separation distance of not less than 1,320 feet from any CFO or CAFO that has a state (Indiana) IDEM confined feeding approval. An exception to this Section may be sought by requesting a Variance of Developmental Standard. If, or when, such a variance is granted by the Board of Zoning Appeals, the party obtaining the variance shall be required to either attach to the recorded deed of conveyance a convenant protecting the CFO's or CAFO"s rights to operate, or if no contemporaneous conveyance is contemplated, incorporate a similar recorded covenant by cross-referenced affidavit in aid of title. Said covenants shall read as follows:

> For deed of conveyance: "In accepting this deed, grantees do hereby acknowledge that surrounding land is agricultural in usage; and grantees, and their successors in interest are precluded from complaining and/or attempting to enjoin any farm operation within 1,320 feet because of nuisances which might result from said operation.
>
> Then for cross-reference: "The undersigned owners of the following described real estate: (HI) do hereby acknowledge that surrounding land is agricultural in usage; and affiants, and their successors in interest, are precluded from complaining and/or attempting to enjoin any farm operation within 1,320 feet because of nuisances which might result from said operation."

N. Site Plan

All CFOs and CAFO's submit a site plan containing the following:

1. Boundaries of the operation and manure application areas.
2. General topography of the area.
3. Location of waste treatment/control facilities.
4. Location of the streams, drainage ditches, highways, lakes and recreational areas.
5. Location of all residential dwellings, businesses, public buildings and recreational areas within 1,320 feet of the operation.

040 *Environmental Standards*

A. Purpose

The following standards are intended to encourage protection of unique Marshall County environmental features and protect persons and property from dangers presented by both the natural and built environment. Some of the following standards refer to complimentary state regulations which are not enforced by Marshall County but are listed in order to increase awareness of existing regulations in addition to local law.

B. Land Suitability

No land should be used, or structure erected where the land is unsuitable for such use or structure due to slopes, adverse soil or rock formations, erosion susceptibility, or any other feature as determined by the Zoning Administrator, Technical Review Committee, or Plan Commission likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the community.

C. Preservation of Natural Features

Existing natural features which would add value to the development of Marshall County, such as mature trees, streams, lakes, wetlands, stream-side forests (riparian areas), floodplains, and similar irreplaceable assets should be preserved through harmonious and careful design. Land to be developed shall be designed and improved as far as practical in conformity to existing topography in order to minimize storm water runoff, and conserve the natural cover and soil.

D. Wetlands

Wetland areas shall be managed consistent with all applicable standards of the U.S. Army Corps of Engineers and the Indiana Department of Environmental Management.

1. Stream-side Forests (Riparian Areas)
   Stream-side forests should be managed consistent with standards adopted by the National Resource Conservation service as expressed in the Conservation Practice Standard for riparian Forest Buffer (Code 391) and all subsequent amendments and revisions.

2. Floodplains
   Floodplains shall be managed consistent with the Flood Hazard Area Standards.

E. Conservation of Historic Features

Existing historic features which would add value to the development of Marshall County, specifically historic landmarks and similar irreplaceable assets should be preserved through harmonious and careful design.

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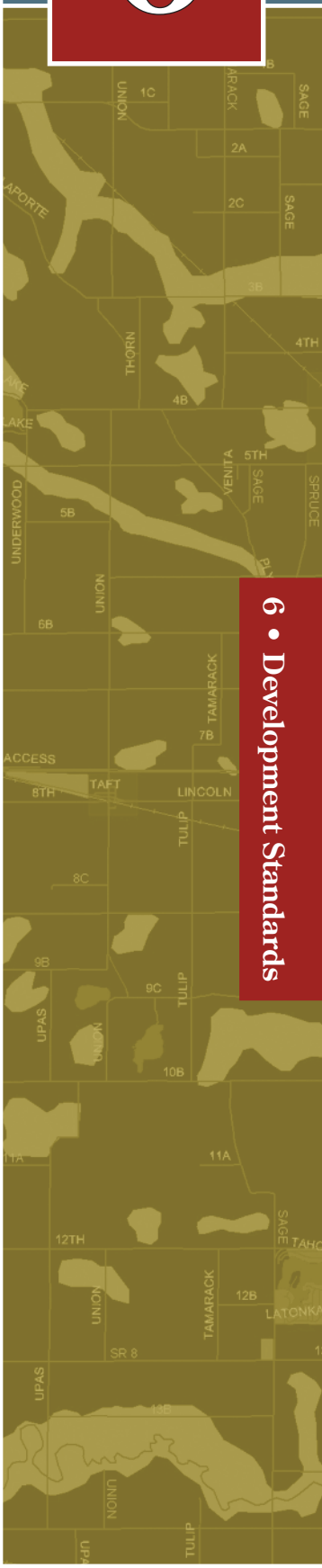

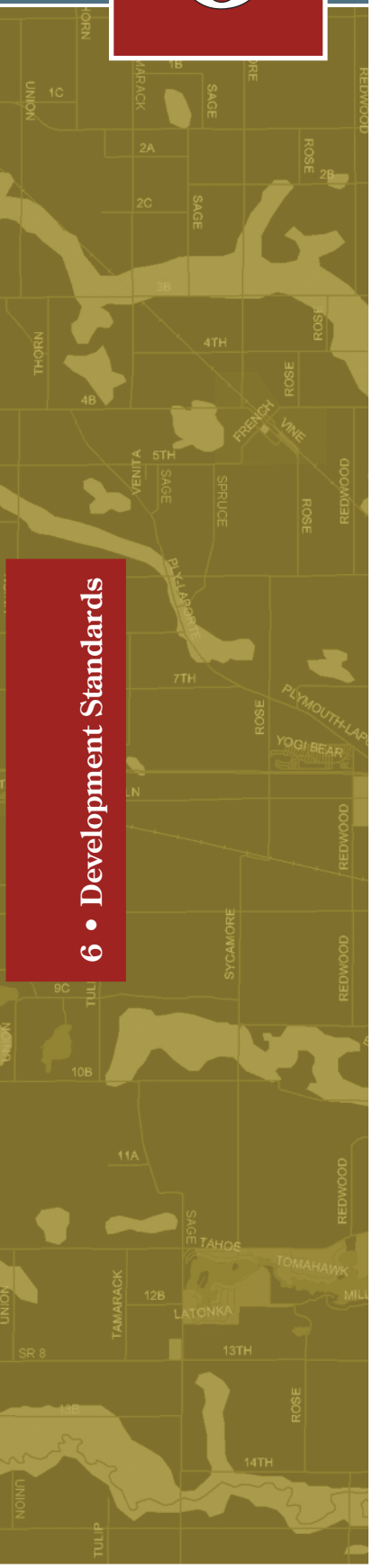

040 *Environmental Standards (cont.)*

F. Ground Cover

Any part or portion of a non-farm parcel which is not used for structures, loading or parking spaces, sidewalks and accessory uses shall be landscaped or left in a natural state that complies with the applicable weed and nuisance ordinances of Marshall County. If landscaped, it shall be planted with an all season ground cover and with trees and shrubs in accordance with the requirements of this Ordinance and in keeping with natural surroundings.

G. Cut/Fill Grade

No cut or fill grade should exceed a slope of 3/1 or 33 1/3. This provision shall apply to all cuts and fills exceeding 100 square feet in exposed surface area, including cuts or fills on land naturally exceeding 3:1 (rise:run) in slope. Cut and fill grade exceeding 3:1 (rise:run) in slope may be permitted using retaining walls and/or terraces. Cut and fill practices which remove natural topography and/or alter natural drainage shall be minimized.

H. Prompt Treatment of Fill

Material used for fill where permitted by this Ordinance and/or by the Indiana Department of Environmental Management, Indiana Department of Natural Resources, or other governmental agency, shall be promptly covered and seeded in a timely manner to prevent erosion.

I. Erosion Prevention

All land, regardless of slope, from which structures or natural cover has been removed or otherwise destroyed, shall be appropriately graded and seeded within 30 days after the removal or destruction of the natural cover and shall meet all Indiana Department of Environmental Management Standards for erosion control. Generally all erosion control measures should make use of best management practices which ensure the long-term operation and maintenance of the control features.

J. Surface Water

It shall be the responsibility of the owner of any lot or parcel of land developed for any use other than for agriculture cultivation to provide for adequate surface water drainage.

1. Any construction which disturbs more than four-thousand (4,000) square feet of surface are must comply with the Marshall County Drainage and Sediment Control Ordinance.

2. Existing natural surface drainage should be utilized where practical

3. Whenever the evidence available indicates that the natural surface drainage is inadequate, the owner shall provide the parcel with an adequate surface water drainage system which shall be integrated into the drainage patterns of surrounding properties.

4. Swales which provide drainage to a property or properties other than that upon which they are located are required to be placed in an easement meeting the specifications of the Marshall County Surveyor to prohibit future filling or

constructing.

5. On-site detention for a one hundred (100) year storm event shall be required in accordance with the Marshall County Storm Water Drainage Ordinance, unless a written statement by the Marshall County Surveyor indicates that it is not necessary to prevent harm to adjoining properties.

6. All drainage plans are subject to review and approval by the Marshall County Drainage Board.

7. Drainage Swales
   Drainage swales along dedicated streets and within the right-of-way, or within dedicated drainage easements are not to be altered, except for maintenance as originally constructed and approved by the Marshall County Surveyor or the Indiana Department of Transportation. Driveways may be constructed over these swales subject to the requirements of this Ordinance and the approval of the Marshall County Highway Superintendant and/or Indiana Department of Transportation (INDOT approval is required for driveways accessing State highways).

K. Alterations to Bodies of Water
No alteration of the shoreline or bed of a river, wetland, or public lake shall be made until written approval is obtained from the Indiana Department of Environmental Management and/or Indiana Department of Natural Resources and any necessary approvals are obtained from the U.S. Army Corp. of Engineers. Alterations include, among other things, filling of a pond, river or wetland.

L. Retention, Detention, and Pond Edges
All retention, detention, and pond edges must be maintained with a buffer of natural plantings within twenty (20) feet of the point of peak elevation.

M. Environmental Quality
All development must be in compliance with Title 13 of the Indiana Code, as amended, as it relates to air pollution control, water pollution control, solid waste management, and other issues of environmental quality.

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

O. Waste/Debris
All properties shall at all times be maintained and used only in a clean, neat and well-groomed conditions, free from all natural and man-made debris, junk, rubbish, trash, weeds, and similar items.

1. Waste Stored Outdoors
   No waste materials such as, but not limited to, garbage, rubbish, household appliances, inoperable vehicles, furniture designed for interior use, gasoline, oil, flammables, soils, tars, chemicals, greases, dead plant material, noxious weeds, industrial or agricultural waste, or any other material of such nature,

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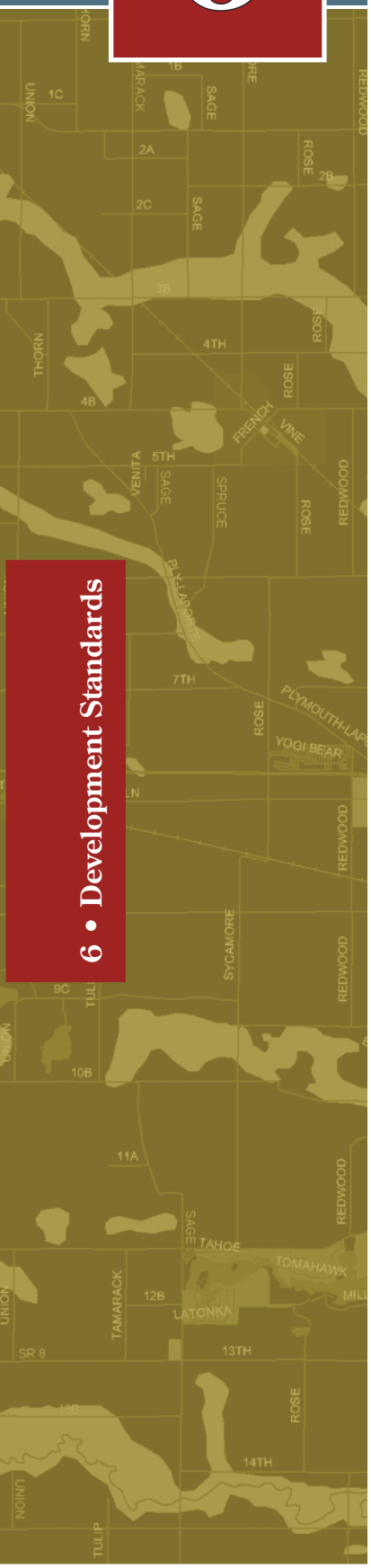


040 *Environmental Standards (cont.)*

quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm water bodies or ground water, provide a habitat for disease carrying animals and insects, or represent a public safety hazard shall be deposited, located, stored, or discharged outside on any lot.

2. Waste Stored in Structures
   Waste shall not be allowed to accumulate within structures in a manner that is inconsistent with applicable regulations for the storage of such materials.

P. Fuel Storage

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

1. Farm Use Exemptions
   All farm uses shall be exempt from the provisions of this Section provided that the quantities stored are appropriate to the use of the property in the opinion of the Zoning Administrator.

2. On-site Use Exemptions
   All stored fuel for on-site ue shall be exempt from the provisions of this section. However, the storage, utilization, and/or manufacture of all flammable and/or explosive materials shall conform to the applicable requirements of the Indiana Department of Fire and Building Services, the prescribed standards of the National Fire Protection Association, and the requirements of the Bureau of Alcohol, Tobacco, and Firearms. Fire fighting equipment and prevention measures shall be subject to the approval of the applicable fire department and shall be readily available and apparent when any activity involving the handling and storage of flammable or explosive materials is conducted.

Q. Explosive Material

Explosive material, including fireworks, shall be handled and stored in accordance with Title 27, Code of Federal Regulations Part 55 -- Commerce In Explosives, as amended.

R Mining, Sand and Gravels Pits, and Other Extractive Operations

1. Approval
   In accordance with I.C. 36-7-4-1103 or as amended, the County may not prevent the use of any mineral resources outside any urban area. An urban area for this section is defined as any 1,320 foot square which includes at least eight (8) residential units.

2. Restrictions

   a. In Urban Areas
      Reasonable conditions may be placed on mining operations in Urban Areas as defined by this section to preserve general considerations of public health, safety, and welfare.

b. In Non-Urban Area
Any conditions or limitations may be placed upon mining operations in Non-Urban Areas as defined by this section in accordance with any required review by the Commission or Board.

3. Setbacks
All mining operations shall maintain a one hundred (100) foot setback from adjacent non-mining property lines.

4. Development Plan
Any request for approval of a mining operation shall include a Development Plan in accordance with *Article 7, Site Development Plans* of this Ordinance.

5. Reclamation Plan

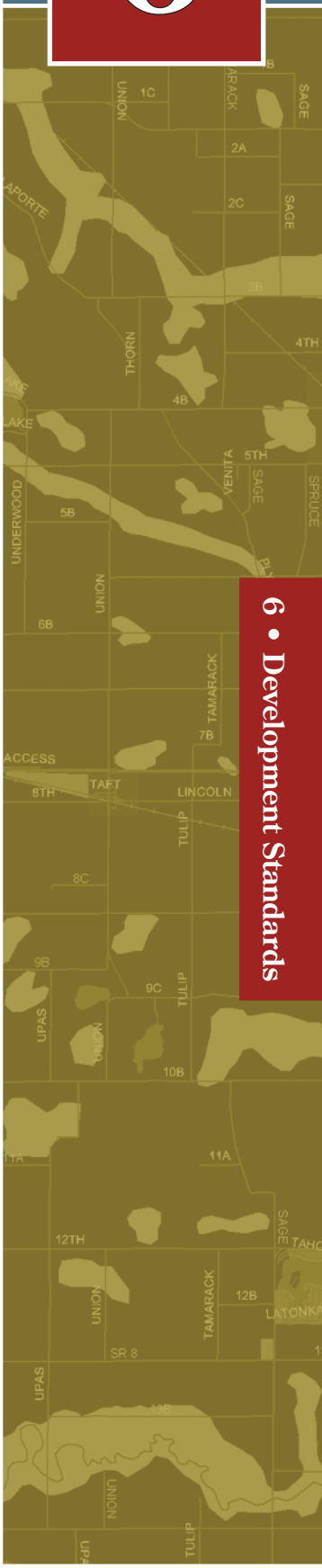
a. The development plan shall include a plan for reclamation of the property after the conclusion of the mining operations on the property.

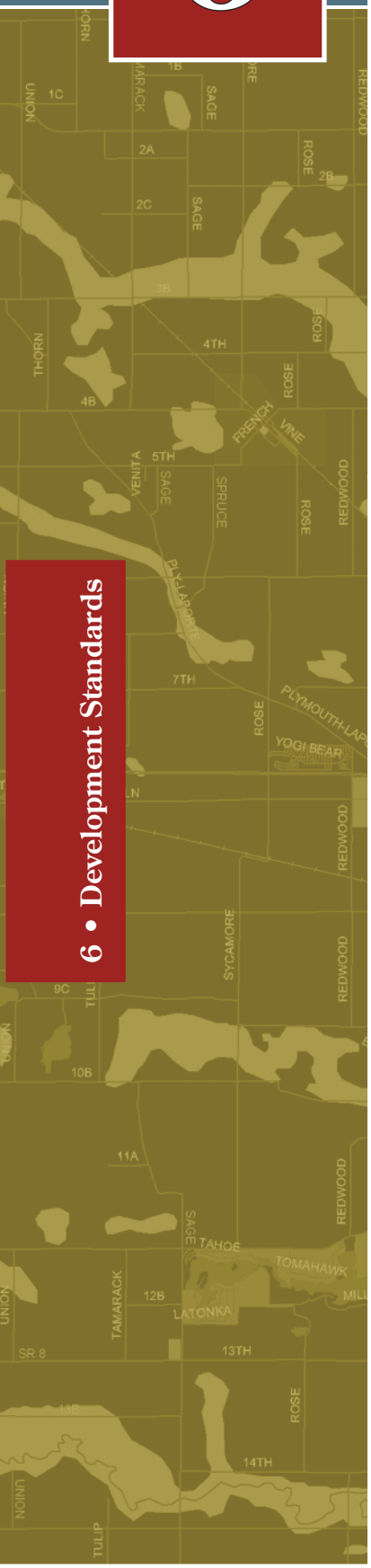
b. The applicant shall furnish a bank commitment of credit, bond, certified check or an escrow account or any other means in the manner and amount approved by the Board of County Commissioners to secure the site reclamation according to the plan.

6. Road Maintenance Bond
The applicant shall furnish a bank commitment of credit, bond, certified check or an escrow account or any other means in the manner and amount approved by the Board of County Commissioners to secure the maintenance of County roads damaged by the mining operation.

S. Septic System Approval
All construction shall comply with State of Indiana and Marshall County Health Department regulations regarding approval and construction of on-site septic systems. In addition, when it is determined by the Marshall County Health Department that new construction requires a new on-site septic system, an alternate on-site septic system location shall also be approved and maintained for future use as an on-site septic system.

T. Private Tiles
All private drainage tile, either existing or new construction, located outside of a parcel and used as a condition for the installation of a private on-site sewage system, shall have a permanent easement of twenty (20) feet in width provided from the parcel line to a public outlet. A blanket easement for an existing drain shall be obtained when the location of the drain is unknown. Any existing private tile that cross the property shall be provided with a twenty (20) ft wide easement.





050 *Exterior Lighting Standards*

A. Purpose

The purpose of this Chapter is to provide standards for outdoor lighting that protect the public safety and the general welfare of the community by reducing unsafe and unpleasant lighting conditions, such as light trespass and light pollution, while also promoting the safe and efficient movement of vehicles and pedestrians and the security of local properties.

B. General Requirements

All exterior lighting shall conform with the following general requirements:

1. General Design Standards
   All exterior lighting should generally conform to the guidelines of the latest version of the Illuminating Engineering Society of North America Lighting Handbook.

2. Mounting Height Measurement
   For the purposes of this Chapter, the mounting height of all light fixtures shall be defined as the vertical distance between the grade level of the surface being illuminated and the bottom of the lighting fixture (luminaire).

3. Use of Timers/Dimmers
   Wherever practicable, exterior lighting shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.

4. Electrical Service
   The electrical service to all outdoor lighting fixtures shall be underground, unless the fixtures are mounted directly on utility poles.

5. Holiday Lighting
   Holiday lighting shall be exempt from the provisions of this Chapter, provided that such lighting does not, in the opinion of the Zoning Administrator, create dangerous glare on adjacent streets and properties. All holiday lighting can be placed no more than thirty (30) days prior to, and shall be removed no more than thirty (30) days after the holiday for which it was displayed.

6. Prohibited Lighting
   The use of spot lights, floodlights, and searchlights shall be prohibited unless otherwise specific in this Chapter.

C. Parking Lot Lighting Requirements

Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas while avoiding glare and direct illumination of adjacent properties or streets. All parking lot lighting requirements shall also apply to interior drives and other areas on the property used by vehicles.

1. Lighting Fixtures
   All lighting fixtures providing illumination for parking lots shall be ninety (90) degree cut-off fixtures directed downward at the parking lot surface.

2. Maximum Mounting Height
   The maximum mounting height for all parking lot illuminating light fixtures shall be consistent with the following table:

Table 6-A, Maximum Lighting Mounting Height

Zoning District	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
Maximum Mounting Height	20’	20’	20’	20’	25’	25’	25’	20’	-

D. Gasoline Station/Convenience Store Requirements
Lighting levels on gasoline/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place on the property, and shall not be used for the purpose of illuminating signs. Such lighting shall conform with the following requirements:

1. Pump-Area Lighting
   Lighting fixtures on canopies shall conform to either of the following requirements:

   a. all light fixtures mounted on the canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy, or

   b. the lighting of the canopy shall use indirect lighting through which light is beamed upward and then reflected down from the underside of the canopy by light fixtures that are shielded so that illumination is focused exclusively on the underside of the canopy.

2. Canopy Lighting
   Lights shall not be mounted on the top or sides of any gas station canopy and the sides of the canopy shall not be illuminated. In no instances shall this be interpreted as prohibiting the placement of signs on the canopy which are illuminated consistent with the standards for sign illumination in this Chapter.

E. Lighting of Exterior Display/Sales Areas
Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in such locations. Such lighting shall conform with the following requirements:

1. Lighting Fixtures
   All lighting fixtures used to illuminate exterior display/sales areas shall be 90 degree cut-off fixtures (luminaires) focus directly downward onto the display/sales area. Such light fixtures shall be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent streets or properties.

2. Fixture Height
   In no case shall fixtures be mounted at a height greater than twenty (25) feet above grade.

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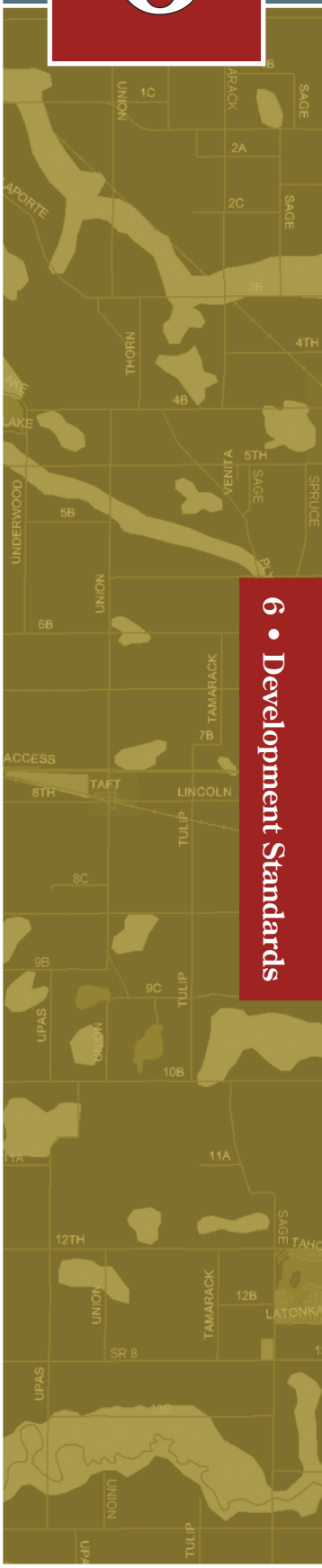
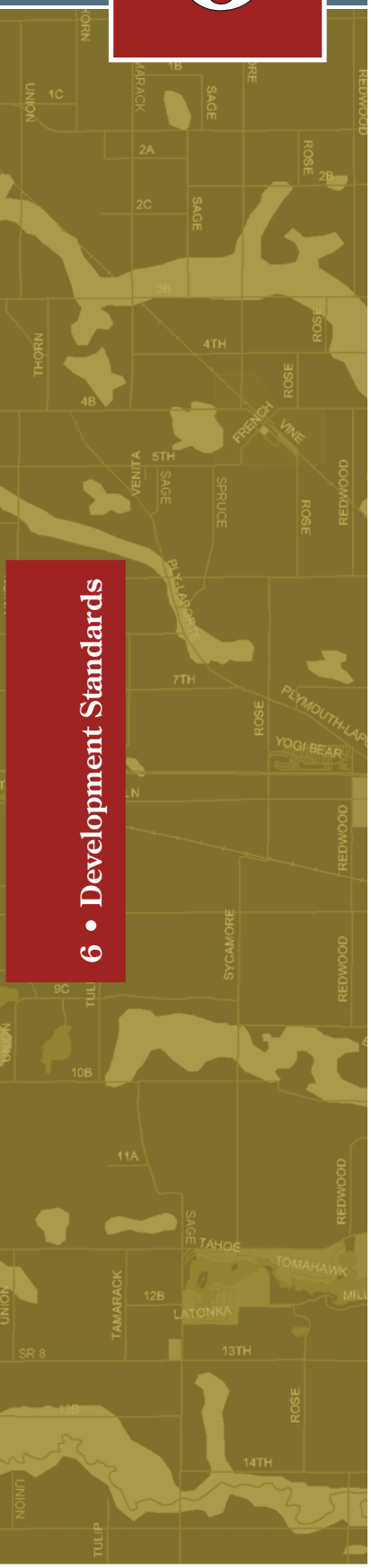




050 *Exterior Lighting Standards (cont.)*

3. Fixture Location
   All lighting fixtures and mounting poles shall be located within the areas being illuminated.

F. Lighting of Outdoor Athletic/Performance Facilities

Lighting for all outdoor athletic and performance facilities and events shall provide adequate light for the event or facility while minimizing light pollution and the illumination of adjacent streets and properties.

1. Play/Performance Area Lighting
   Lighting fixtures for the playing fields and/or performance areas shall be specifically mounted and aimed so that their beams fall directly within the play/performance area and its immediate surroundings and does not spill onto adjacent streets or properties.

G. Security Lighting

Except in A-1 and A-2 Zoning Districts, security lighting shall be coordinated with other lighting on the property to the extent possible and shall otherwise conform with the following requirements:

1. Non-residential Lighting Fixtures
   All security lighting in non-residential areas shall be shielded and specifically aimed so that illumination is directed only to the intended area. The light source for any security lighting shall include shields that prevent their light source or lens from being visible from adjacent properties or and/or streets. The use of general floodlighting fixtures shall be prohibited. Security lighting fixtures may be mounted on poles located no further than ten (10) feet from the perimeter of the area intended to be illuminated.

2. Residential Lighting Fixtures
   Security lighting fixtures in residential areas shall make use of indirect and reflected lighting techniques to provide soft lighting under canopies, entry porches, or soffits.

3. Illuminated Areas
   Any security lighting shall only illuminate vertical surfaces (walls, doors, etc.) up to a height of eight (8) feet from either grade level or the bottom of any illuminated door or entryway, whichever is greater.

4. Perimeter Lighting
   Security lighting intended to illuminate a perimeter, such as a fence line, shall include motion sensors and be designed to be off unless triggered by an intruder located within 5 feet of the perimeter.

H. Lighting of Building Facades

With the exception of public buildings, institutional buildings (churches, schools, colleges, etc.), and those listed in the National Register of Historic Places; and/or listed in the Indiana Register of Historic Sites & Structures, exterior building facades shall not be illuminated. Any illuminated facades shall meet the following requirements:

1. Lighting Fixtures
   Lighting fixtures shall be located, aimed, and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed toward adjacent streets or roads.

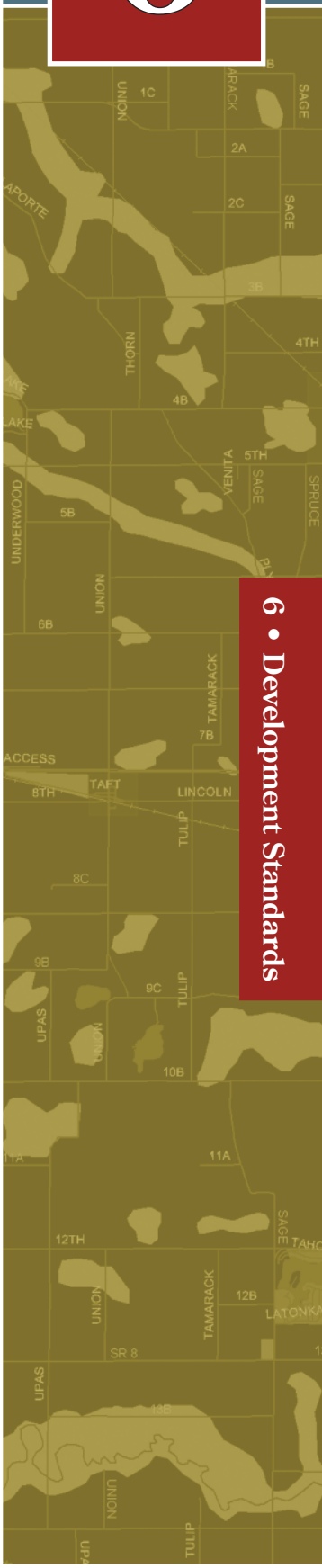
2. Lighting Direction
   Lighting fixtures shall be designed to wash the façade of the building with light (rather than providing a spot or floodlight affect) and shall be directed downward onto the facade from the upper portions of the structure (rather than upwards onto the facade from the ground).

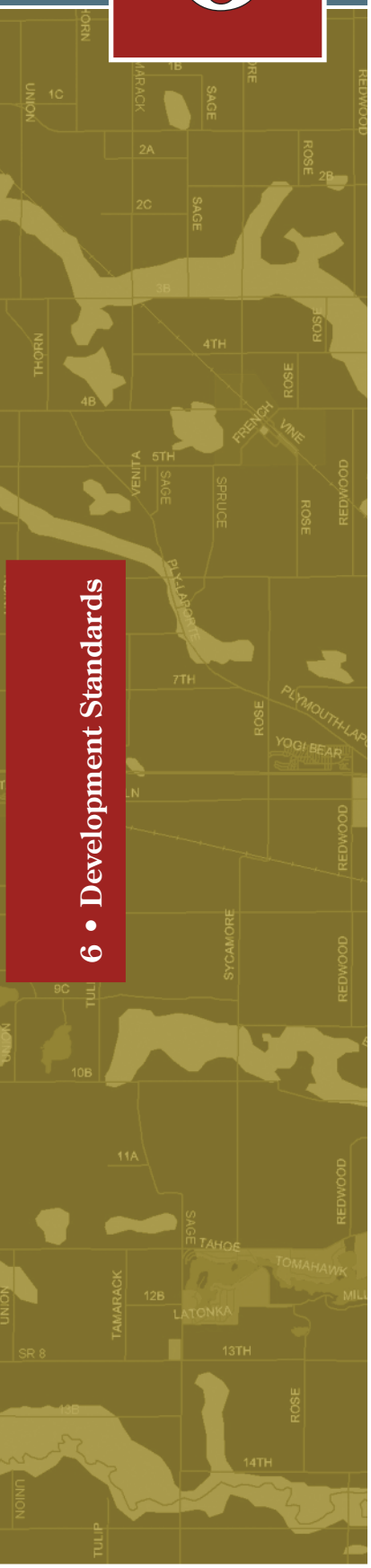
I. Illuminated Signs

All illuminated signs shall only be illuminated when the business being identified is open for business. All illuminated signs shall also conform to the following requirements:

1. Externally Illuminated Signs
   Lighting fixtures illuminating signs shall be located, aimed, and shielded so that light is directed onto only the sign face. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties, and shall be of a type such that the light source (bulb) is not directly visible from adjacent streets, roads, or properties. All fixtures external to the sign used to illuminate it shall be mounted on the top of the sign, directing light downward onto the face of the sign. Lights located on the ground, or at the base of the sign directing light upward shall be prohibited.

2. Internally Illuminated Signs
   Internally illuminated signs shall be composed of light lettering, symbols, etc. on a dark background. Light sources shall be fluorescent tubes behind the sign surface material.





060 *Fences, Hedges, Walls*

A. Permitted

Fences, hedges, and walls are permitted in required yard setbacks.

B. Fence Standards

The following fence and wall standards apply:

1. Must present the non-structural face outward;

2. Are permitted up to the property line;

C. Restricted Fences

Fences, hedges, and walls, except necessary retaining walls, are subject to the following restrictions in the front yard setback in T-1, Town Residential and the lakeside setback in L-1, Lake Residential Districts:

1. No fence, hedge, or wall may exceed three and one half feet in height;

2. A fence, hedge, or wall shall have at least 75% of its surface area open to permit visibility.

D. Swimming Pool Fences

Swimming Pools, access to residential swimming pools shall be restricted by one (1) of the following means:

1. Walls or fencing not less than five (5) feet high and completely surrounding the pool and deck area. Doors and gates must be self-closing, latching, and capable of being locked.

2. Other means not less than five (5) feet high and deemed by the Zoning Administrator to be impenetrable and completely surrounding the pool and deck area when the pool is not in use.

070 *Flood Hazard Area Standards*

A. Statutory Authorization, Findings of Fact, Purpose, and Objectives.

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

2. Findings of Fact.

   a. The flood hazard areas of Marshall County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

   b. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

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:

   a. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

   b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

   c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

   d. Control filling, grading, dredging, and other development which may increase erosion or flood damage;

   e. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and,

   f. Make federally subsidized flood insurance available for structures and their contents in Marshall County by fulfilling the requirements of the National Flood Insurance Program.

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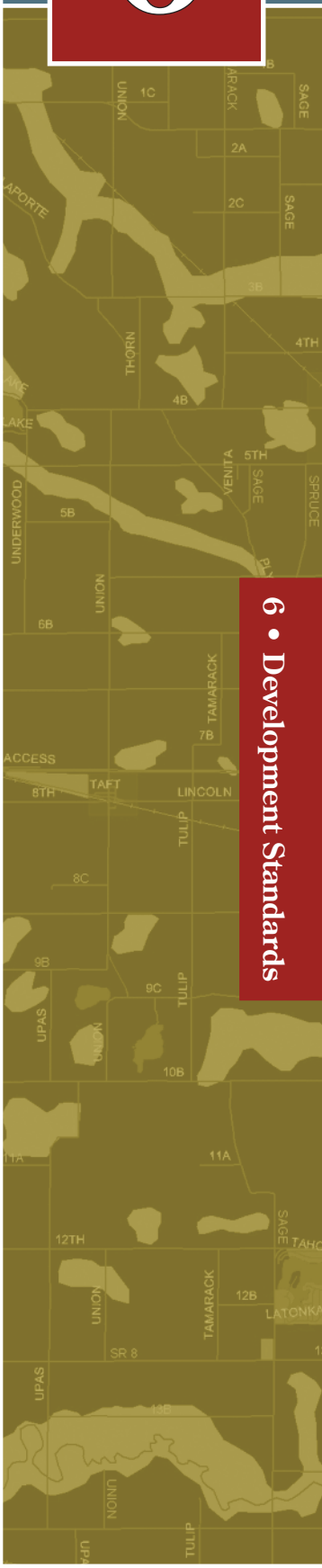

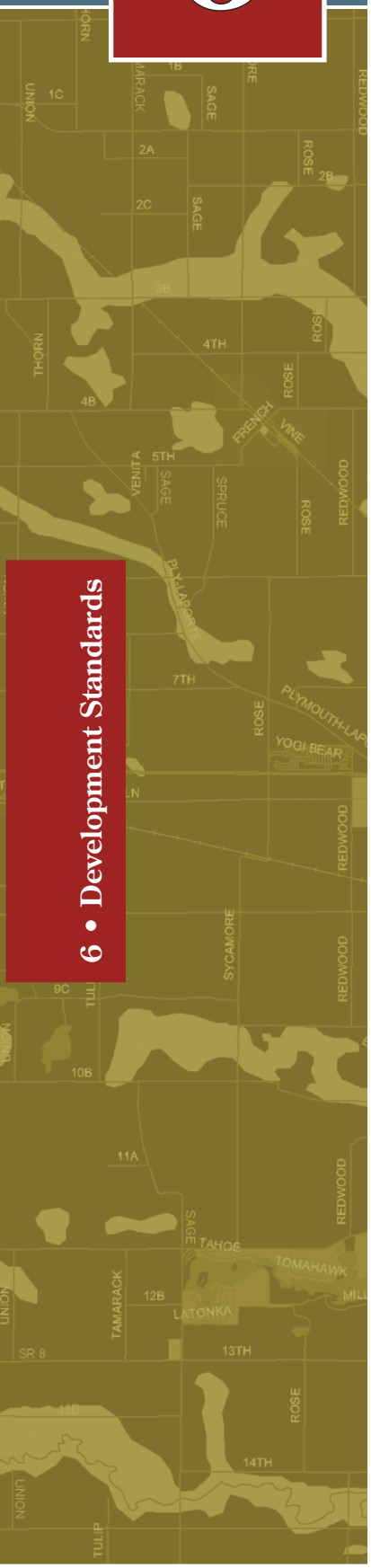

070 *Flood Hazard Area Standards (cont.)*

4. Objectives.
   The objectives of this Chapter are:

   a. To protect human life and health;

   b. To minimize expenditure of public money for costly flood control projects;

   c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

   d. To minimize prolonged business interruptions;

   e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;

   f. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;

   g. To ensure that potential homebuyers are notified that property is in a flood area.

B. General Provisions.

1. Lands to Which This Ordinance Applies.
   This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Marshall County.

2. Basis for Establishing Regulatory Flood Data.
   This Chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

   a. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs of Marshall County shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of Marshall County, Unincorporated Areas, dated January 5, 1989 and the corresponding Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated January 5, 1989.

   b. The regulatory flood elevation, floodway, and fringe limits for each of the remaining SFHAs delineated as an "A Zone" on the FIRM of Marshall County prepared by the Federal Emergency Management Agency and dated shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

3. 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. The Floodplain Development Permit is hereby incorporated into the Improvement Location Permit

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

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

6. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

   a. In cases where there is a discrepancy between the mapped floodplain (Special Flood Hazard Area) on the Flood Insurance Rate Map and the actual ground elevations, the elevation provided on the profiles shall govern.

   b. If the elevation of the site in question is below the base flood elevation, that site shall be included in the Special Flood Hazard Area and regulated accordingly.

   c. If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the Special Flood Hazard Area and the floodplain regulations will not be applied. The property owner should be advised to apply for a Letter of Map Amendment.

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

   a. Considered as minimum requirements;

   b. Liberally construed in favor of the governing body; and,

   c. Deemed neither to limit nor repeal any other powers granted under state statutes.

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 Marshall County, the Indiana Department of Natural Resources, or the State

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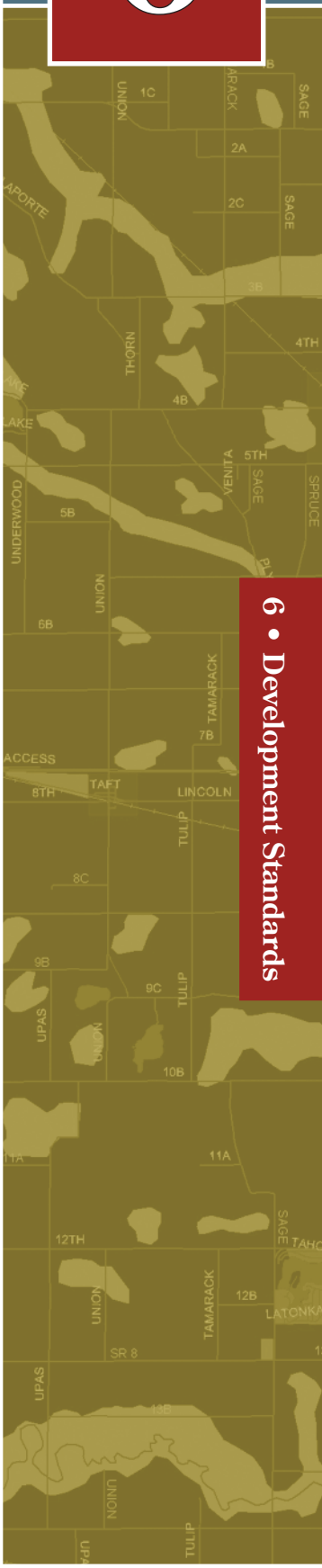

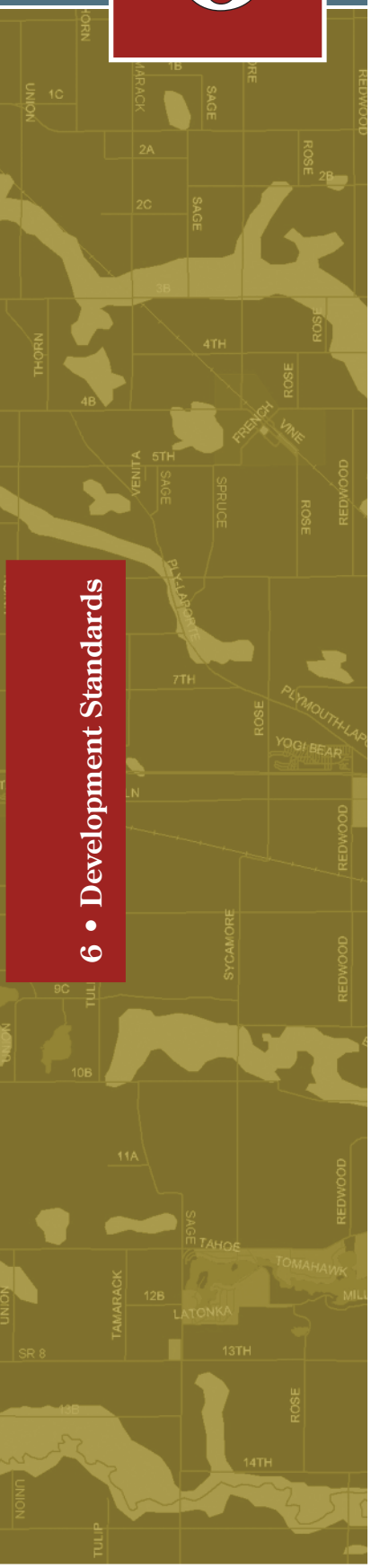

070 *Flood Hazard Area Standards (cont.)*

of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

9. Penalties for Violation.
Failure to obtain a Floodplain Development Permit in the Special Flood Hazard Area 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 Marshall County.

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

   b. The Marshall County Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

   c. Nothing herein shall prevent Marshall 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.

C. Administration.

1. Designation of Administrator.
The Board of County Commissioners of Marshall County hereby appoints the Zoning Administrator to administer and implement the provisions of this chapter.

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

   a. Application stage.

      i. A description of the proposed development;

      ii. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;

      iii. A legal description of the property site;

      iv. A site development plan showing existing and proposed development locations and existing and proposed land grades;

v. Elevation of the top of the lowest floor (including basement) of all proposed buildings if required by the Zoning Administrator. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD);

vi. Elevation (in NGVD) to which any non-residential structure will be floodproofed, if required by the Zoning Administrator;

vii. Description of the extent to which any watercourse will be altered or related as a result of proposed development, and;

b. Construction stage

i. Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Zoning Administrator a certification of the NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same.

ii. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Zoning Administrator shall review the lowest floor and floodproofing elevation survey data submitted.)

iii. The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

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

Duties and Responsibilities of the Zoning Administrator shall include, but not be limited to:

a. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied;

b. Inspect and inventory damaged structures in Special Flood Hazard Area and complete substantial damage determinations;

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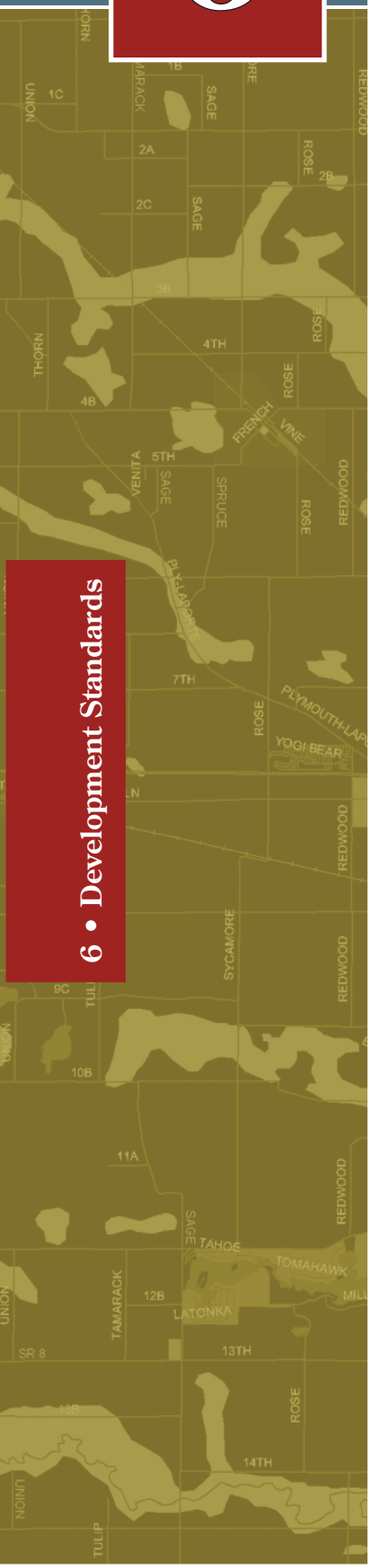

070 *Flood Hazard Area Standards (cont.)*

c. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to *Article 6-070.D(5), Standards for Identified Floodways* and *Article 6-070.D(7)(a), Standards for Special Flood Hazard Area's...* of this Ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment.)

d. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;

e. 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;

f. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, Special Flood Hazard Area maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.

g. Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective Special Flood Hazard Area maps of the community.

h. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

i. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with *Article 6-070.C(2), Permit Procedures* of this Ordinance;

j. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with *Article 6-070.C(2), Permit Procedures* of this Ordinance;

k. Review certified plans and specifications for compliance.

l. Stop Work Orders

   i. Upon notice from the Zoning Administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.

   ii. 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.

m. Revocation of Permits

i. The Zoning 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.

ii. The Zoning Administrator may revoke a permit upon determination by the Zoning 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.

D. Provisions for Flood Hazard Reduction.

1. General Standards.
In all Special Flood Hazard Areas the following provisions are required:

a. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

e. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

i. 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; and,

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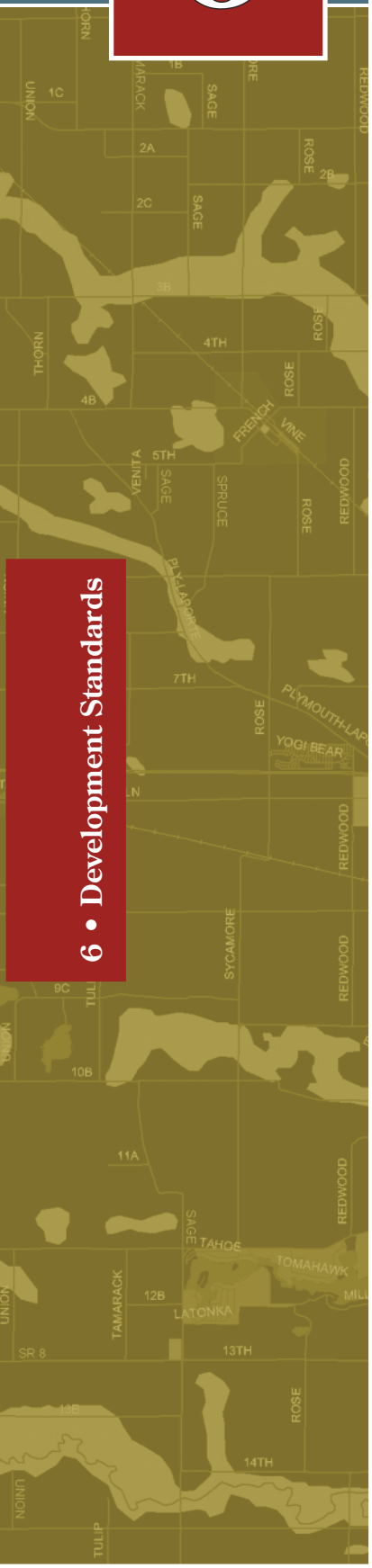

070 *Flood Hazard Area Standards (cont.)*

j. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further, extended, or replaced.

k. Whenever any portion of the Special Flood Hazard Area is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

i. The excavation shall take place in the floodplain and in the same immediate watershed in which the authorized fill or structure is located;

ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same immediate watershed in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;

iii. The fill or structure shall not obstruct a drainage way leading to the floodplain;

iv. The fill or structure shall be of a material deemed stable enough to remain Flood Insurance Rate Map and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and,

v. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Zoning Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this Article.

2. Specific Standards.
In all Special Flood Hazard Areas, the following provisions are required:

a. In addition to the requirements of *Article 6-070.D(2), Specific Standards* of this Ordinance, all structures to be located in the Special Flood Hazard Area shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

i. Construction or placement of any new structure having a floor area greater than four hundred (400) square feet;

ii. Structural alterations made to:

- an existing (previously unaltered structure), the cost of which equals or exceeds 50% of the value of the pre-altered structure (excluding the value of the land);

- any previously altered structure

iii. Reconstruction or repairs made to a damaged structure that are valued at more than 50% of the market value of the structure (excluding the value of the land) before damaged occurred;

iv. Installing a travel trailer or recreational vehicle on a site for more than one-hundred eighty (180) days;

v. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

vi. Reconstruction or repairs made to a repetitive loss structure.

b. Residential Construction
New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of *Article 6-070.D(2)(b), Residential Construction* of this Ordinance.

c. Non-Residential Construction
New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall have the lowest floor, including basement, elevated to or above the FPG (two (2) feet above the base flood elevation). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done 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 official as set forth in *Article 6-070.C(3)(j), Duties and Responsibilities of the Zoning Administrator* of this Ordinance.

ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

d. Elevated Structures

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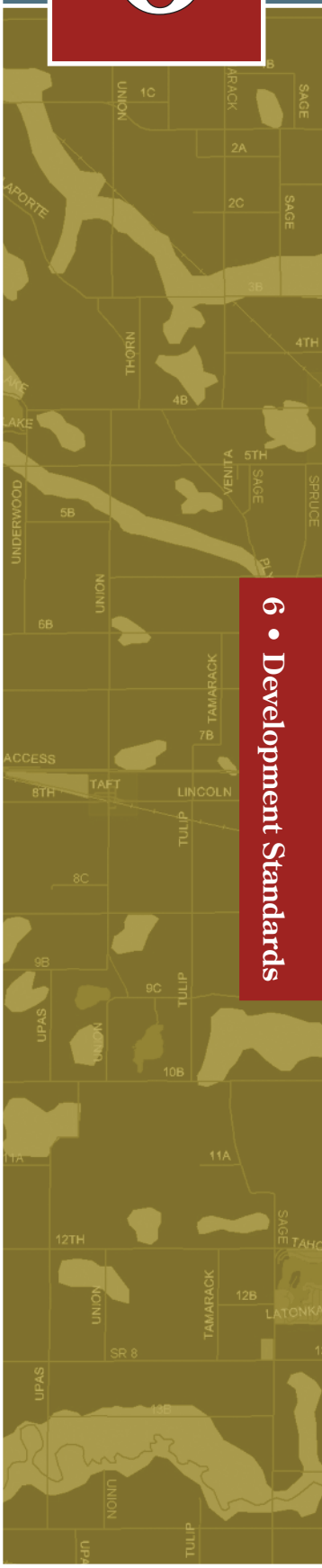
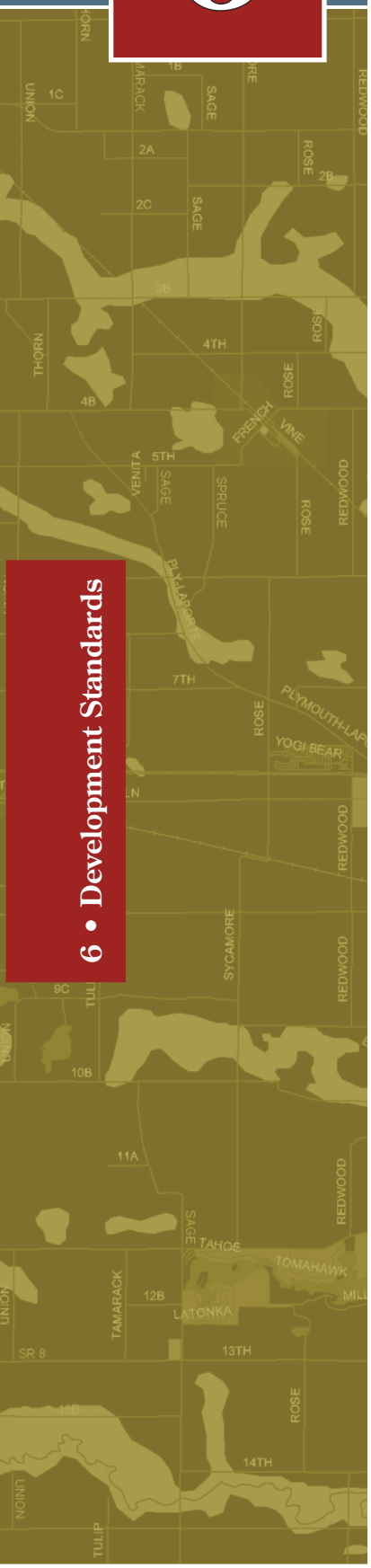




070 *Flood Hazard Area Standards (cont.)*

New construction or substantial improvements of elevated structures that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations 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.

i. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the follow minimum criteria:

- provide a minimum of two openings having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding;
- the bottom of all openings shall be no higher than one (1) foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and
- openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
- the interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- where elevation requirements exceed six (6) feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structure's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.

e. Structures Constructed on Fill
A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

i. The fill shall be placed in layers no greater than one (1) foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

ii. The fill should extend at least ten (10) feet beyond the foundation of the structure before sloping below the FPG.

iii. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.

iv. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

v. The top of the lowest floor including basements shall be at or above the FPG.

f. Standards for Structures Constructed with a Crawlspace
A residential or nonresidential structure may be constructed with a crawlspace located below the flood protection grade provided that the following conditions are met:

i. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and

ii. Any enclosed area below the flood protection grade shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one (1) opening on each wall having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area. The bottom of the openings shall be no more than one (1) foot above grade; and

iii. The interior grade of the crawlspace must be at or above the base flood elevation; and

iv. The interior height of the crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall must not exceed four (4) feet at any point; and

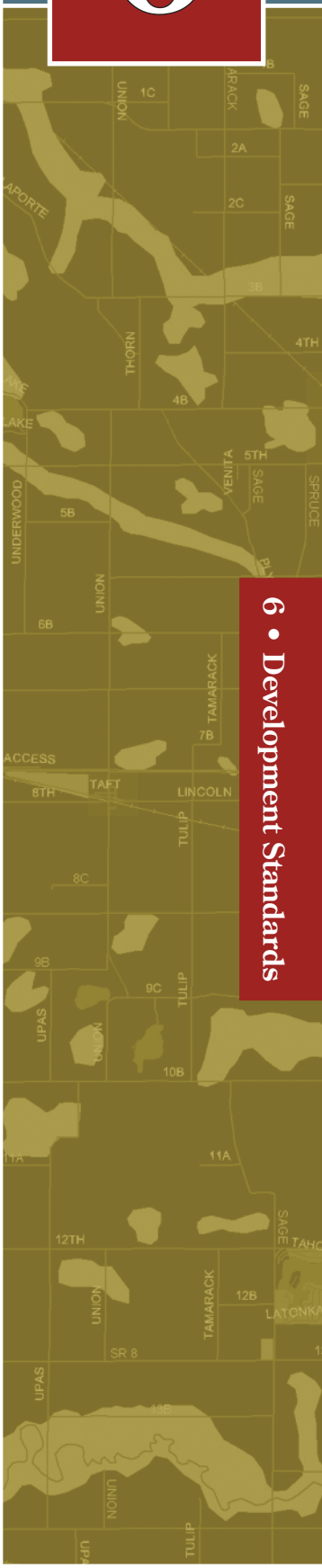
v. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event; and

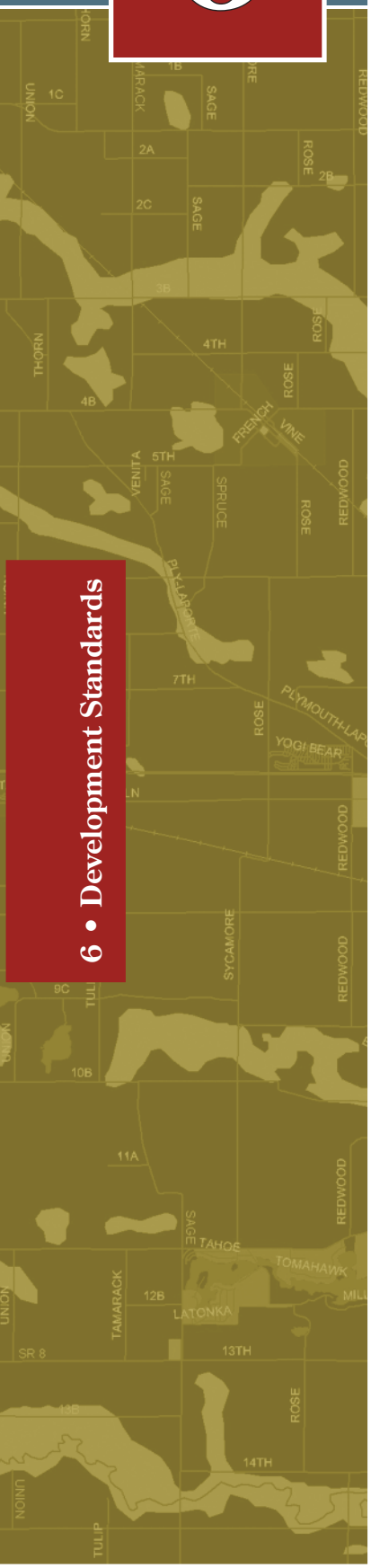
vi. Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage; and

vii. Utility systems within the crawlspace must be elevated above the flood protection grade.

g. Standards for Manufactured Homes and Recreational Vehicles
Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than one-hundred eighty (180) days must meet one of the following requirements:

(cont.)





070 *Flood Hazard Area Standards (cont.)*

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. This requirement applies to all manufactured homes to be placed on a site;

- outside a manufactured home park or subdivision;
- in a new manufactured home park or subdivision;
- in an expansion to an existing manufactured home park or subdivision; or
- in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

ii. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

iii. Recreational vehicles placed on a site shall either:

- be on site for less than one-hundred eighty (180) days; and,
- be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
- meet the requirements for "manufactured homes" as stated earlier in this section.

3. Standards for Subdivision Proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

d. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

4. Critical Facility.
Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area. Construction of new critical facilities shall be permissible within the Special Flood Hazard Area if no feasible alternative site is available. Critical facilities constructed within the Special Flood Hazard Area 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.

5. Standards for Identified Floodways.

a. Located within Special Flood Hazard Areas, established in *Article 6-070.B(2), Basis for Establishing Regulatory Flood Data* of this Ordinance, 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.

b. If the site is in an identified floodway, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway.

c. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in a floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

d. No action shall be taken by the Zoning Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in a floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Zoning Administrator may issue the local Floodplain Development Permit, provided the provisions contained in *Article 6-070.D, Provisions for Flood Hazard Reduction* of this Ordinance have been met.

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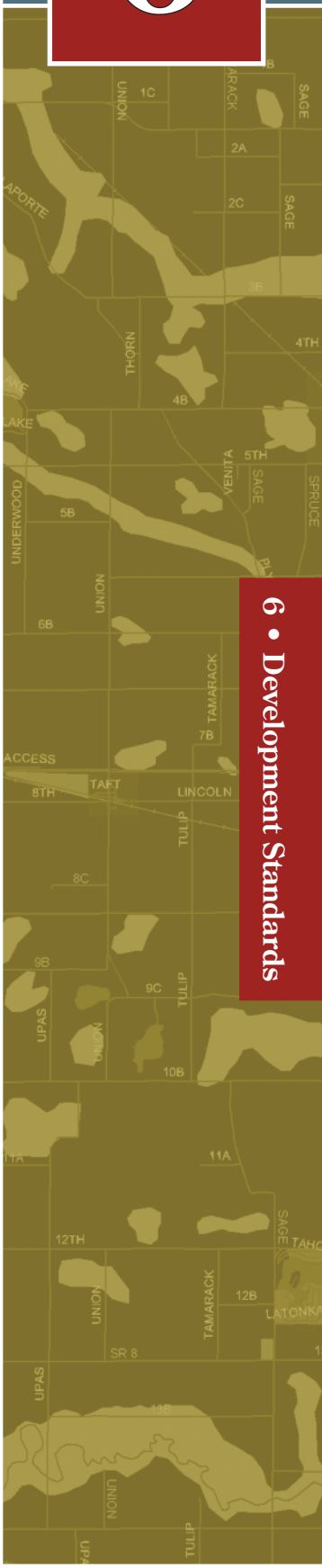

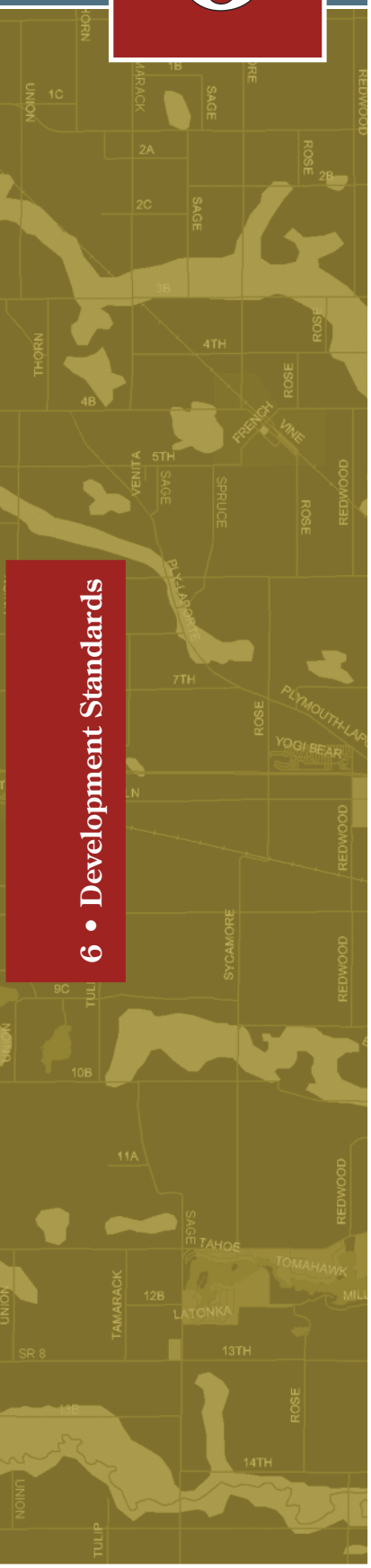

070 *Flood Hazard Area Standards (cont.)*

e. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

f. No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot

g. For all projects involving channel modifications or fill (including levees) Marshall County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

6. Standards for Identified Fringe.
If the site is located in an identified fringe, then the Zoning Administrator may issue the local Floodplain Development Permit provided the provisions contained in *Article 6-070.D, Provisions for Flood Hazard Reduction* of this Ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

7. Standards for Special Flood Hazard Areas Without Established Base Flood Elevation and/or Floodways/Fringes.

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

i. 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 (1) square mile, the Zoning 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.

ii. No action shall be taken by the Zoning Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

iii. Once the Zoning Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in *Article 6-070.D, Provisions for Flood Hazard Reduction* of this Ordinance have been met.

b. Drainage area upstream of the site is less than one (1) square mile.

i. 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 (1) square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, fringe and 100 year flood elevation for the site.

ii. Upon receipt, the Zoning Administrator may issue the local Floodplain Development Permit, provided the provisions contained in *Article 6-070.D, Provisions for Flood Hazard Reduction* of this Ordinance have been met.

c. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one (1) foot and will not increase flood damages or potential flood damages.

E. Variance Procedures.

1. Designation of Variance and Appeals Board.
The Marshall County Board of Zoning Appeals as established by the Board of County Commissioners of Marshall County shall hear and decide appeals and requests for variances from requirements of this ordinance.

2. Duties of Variance and Appeals Board.
The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Zoning Administrator in the enforcement or administration of this ordinance.

3. Variance Procedures.
In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

a. The danger of life and property due to flooding or erosion damage;

b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

c. The importance of the services provided by the proposed facility to the community;

d. The necessity to the facility of a waterfront location, where applicable;

e. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

f. The compatibility of the proposed use with existing and anticipated development;

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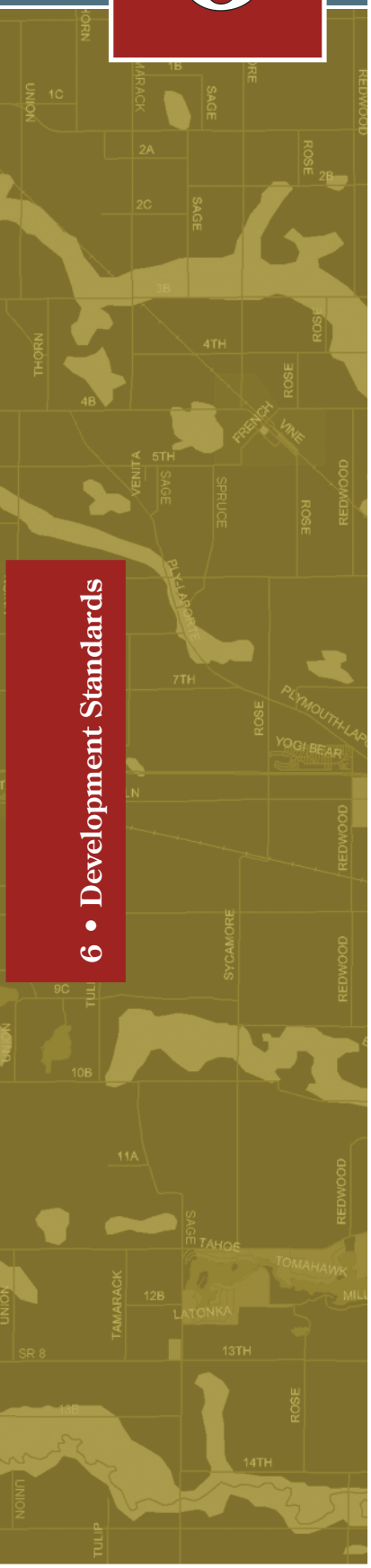


070 *Flood Hazard Area Standards (cont.)*

g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

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 of transport of the floodwaters at the site; and,

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. Conditions for Variances.

a. Variances shall only be issued when there is:

- A showing of good and sufficient cause;
- A determination that failure to grant the variance would result in exceptional hardship; and,
- 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.

b. No variance for a residential use within a floodway subject to *Article 6-070.D(5), Standards for Identified Floodways* and *Article 6-070.D(7a), Standards for Special Flood Hazard Area's...* of this Ordinance may be granted.

c. Any variance granted in a floodway subject to *Article 6-070.D(5), Standards for Identified Floodways* and *Article 6-070.D(7a), Standards for Special Flood Hazard Area's...* of this Ordinance will require a permit from the Indiana Department of Natural Resources.

d. Variances to the Provisions for Flood Hazard Reduction of *Article 6-070.D(2), Specific Standards* of this Ordinance, 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.

e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

f. Variances may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.

g. Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (See *Article 6-070.E(5), Variance Notification* of this Ordinance)

h. The Zoning Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See *Article 6-070.E(5), Variance Notification* of this Ordinance).

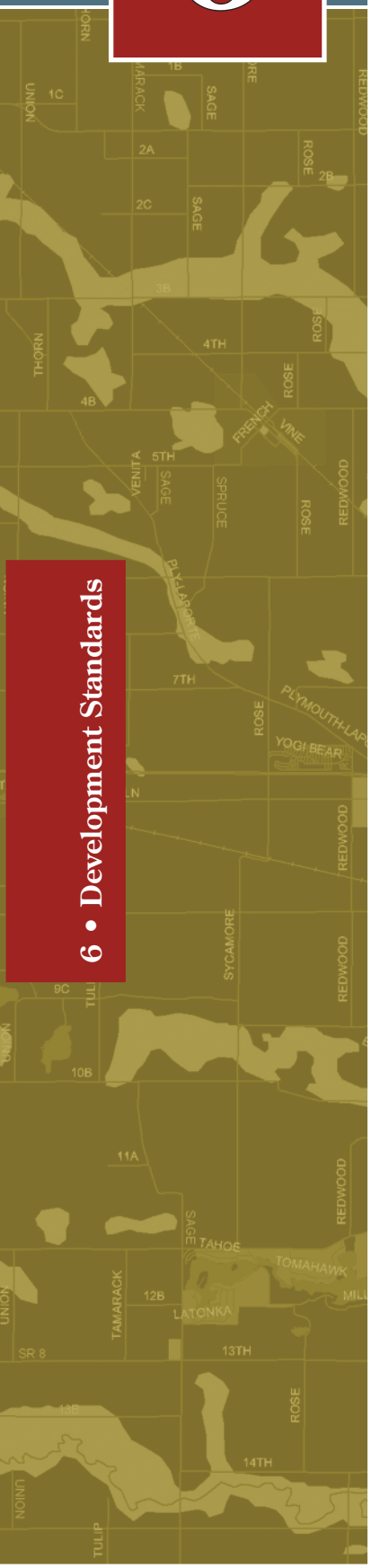
5. Variance Notification.
Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and;

b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall by recorded by the Zoning Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

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

7. Special Conditions.
Upon the consideration of the factors listed in *Article 6-070.E, Variance Procedures* of this Ordinance, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.



080 *Garage Sales/Yard Sales*

A. Definition

A public or private sale, conducted by the owner or occupier of a premises either inside or outside of a residence, garage, or other accessory building. An auction conducted by a State licensed auctioneer shall not be considered a garage sale.

B. Limit on Number

Up to three (3) garage sales may be conducted in any calendar year on a premises.

C. Limit on Time

A garage sale shall not be conducted for more than three (3) consecutive days, and only during daylight hours.

D. Parking

The owner or occupier shall be encouraged to provide sufficient off-street parking on the premises of the garage sale. At no time shall customer parking interfere with the safe flow of traffic in the public right-of-way.

E. Items for Sale

All items offered at a garage sale shall be the personal property of the owner or occupier of the premises or the group he/she represents. The items shall not have been purchased specifically for resale at the garage sale.

F. Conclusion of Garage Sale

All outdoor evidence indicating that a garage sale has been conducted shall be removed within three (3) hours of the closing time. This includes sale items, display surfaces, and posted notices.

090 *Home Occupation*

A. Definition

A Home Occupation is an accessory use to a residential dwelling carried out for gain by one or more residents of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes.

Home Occupation uses may include but are not limited to hair dressers, barbers, tax preparers, accountants, attorneys.

B. Area Requirements

Home Occupation uses shall not occupy an area in excess of twenty-five (25) percent of all floor area of the dwelling.

C. Outside Storage

Outside storage of goods and equipment shall not be permitted

D. Employees

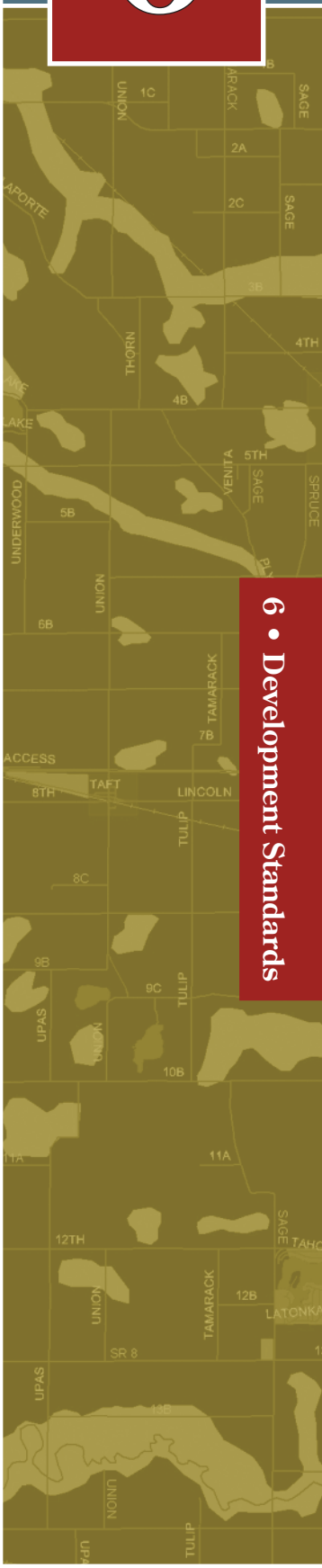
Employees not residing on the property shall not be permitted.

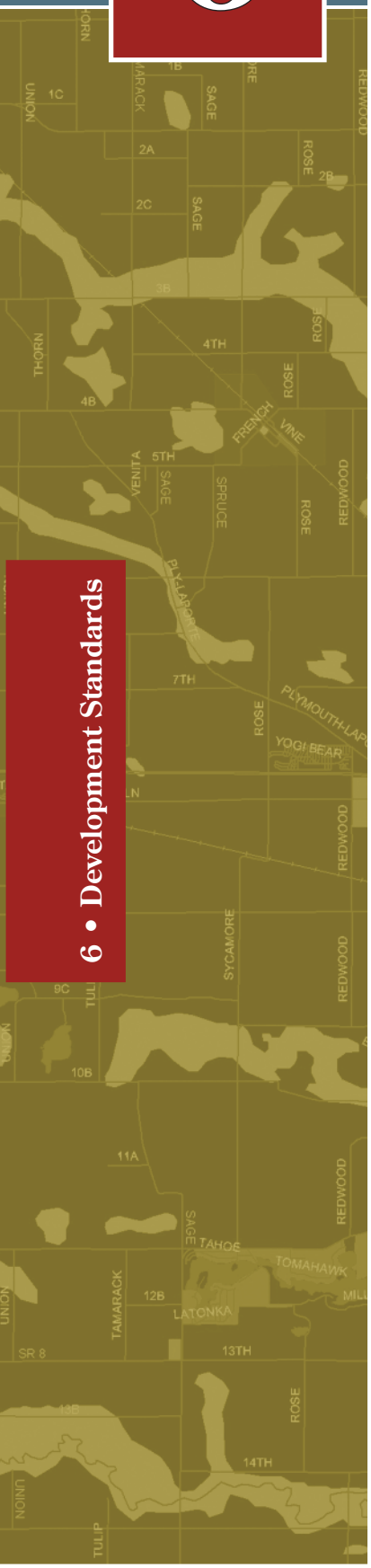
E. Signs

The size of on-site signs are limited to an aggregate area of eight (8) square feet. On-site signs may only advertise goods or products sold on the property. Off-site advertising signs must conform to all provisions of *Article 6-200, Sign Standards* of this Ordinance.

F. Parking

Sufficient off-street parking shall be provided on the property to prevent customers from parking in County rights-of-way.





100 *Home Based Business*

A. Definition

A Home Based Business is an accessory use to a residential property carried out for gain by one or more residents of the property, which is clearly incidental and secondary to the use of the property for residential purposes.

Home Based Business is intended to provide for a base of operations for service oriented businesses that engage in work elsewhere other than the residential property where based. Such businesses might include but are not limited to landscaping, construction, excavating, septic service, etc.

B. Outside Storage

Outside storage of goods and equipment is permitted subject to Board of Zoning Appeals conditions and approval. The Board of Zoning Appeals may pay particular attention to use, enjoyment, and value of adjacent properties.

C. Employees

Employees not residing on the property are permitted subject to Board of Zoning Appeals conditions and approval. The Board of Zoning Appeals may pay particular attention to available on-site parking and the condition and traffic on local roads.

D. Customers

A Home Based Business shall not maintain a store front or office open to the on-site visitation of customers.

E. Signs

The size of on-site signs are limited to an aggregate area of eight (8) square feet. Onsite signs may only advertise goods or products sold on the property. Off-site advertising signs must conform to all provisions of *Article 6-200, Sign Standards* of this Ordinance.

F. Parking

Sufficient off-street parking shall be provided on the property to prevent customers from parking in County rights-of-way.

110 *Home Workshop*

A. Definition

A Home Workshop is an accessory use to a residential property carried out for gain by one or more residents of the property, which is clearly incidental and secondary to the use of the property for residential purposes.

Home Workshop uses may include light fabricating, light manufacturing or processing activities, or related storage facilities.

B. Area Requirements

Home Workshop uses shall not occupy an area in excess of four thousand (4,000) square feet of gross area.

C. Outside Storage

Outside storage of goods and equipment is permitted subject to Board of Zoning Appeals conditions and approval. The Board of Zoning Appeals may pay particular attention to use, enjoyment, and value of adjacent properties.

D. Employees

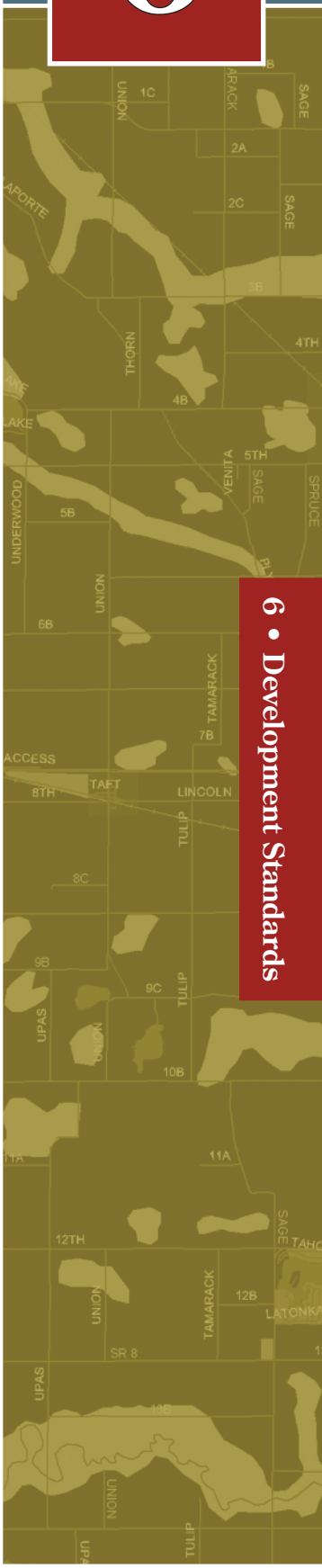
Employees not residing on the property are permitted subject to Board of Zoning Appeals conditions and approval. The Board of Zoning Appeals may pay particular attention to available on-site parking and the condition and traffic on local roads.

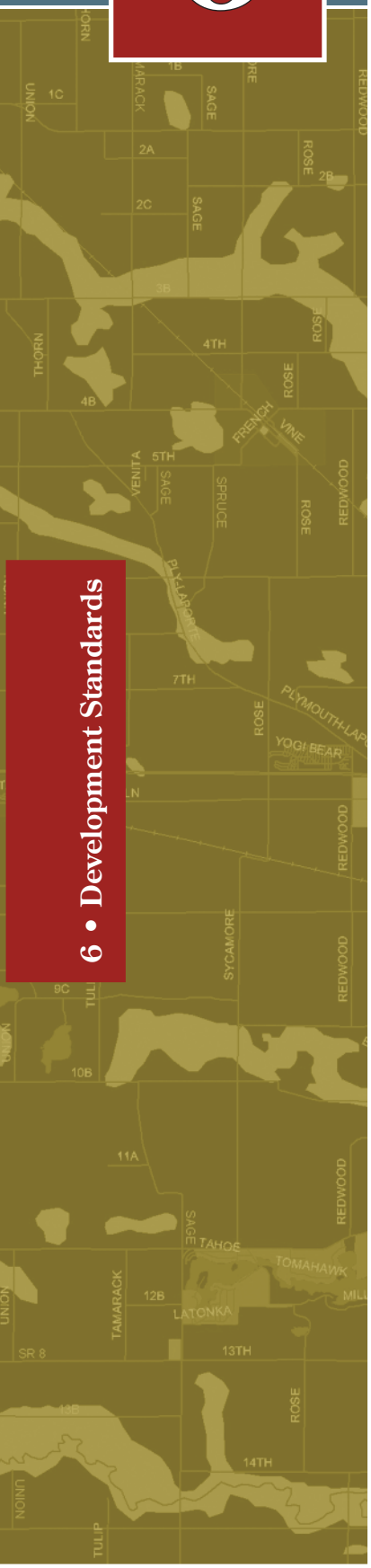
E. Signs

The size of on-site signs are limited to an aggregate area of eight (8) square feet. Onsite signs may only advertise goods or products sold on the property. Off-site advertising signs must conform to all provisions of *Article 6-200, Signs* of this Ordinance.

F. Parking

Sufficient off-street parking shall be provided on the property to prevent customers from parking in County rights-of-way.





120 *Industrial Standards*

A. Intent

The intent of these standards is to minimize the conflicts between industrial and commercial and residential uses and protect persons and property from the possible by-products of industrial production, distribution, and storage activities.

B. General Standards

All uses placed into operation after the effective date of this Ordinance shall comply with the following general standards in the interests of protecting public health, safety, and general welfare and lessening potential damage to property. No use in existence on the effective date of this Ordinance shall be altered or modified in a manner that conflicts with these standards.

1. Smoke and Particulate Matter
   No use on a property shall release fly ash, dust, smoke, or any other type of particulate matter which violates the air quality standards established by the Indiana Department of Environmental Management.

2. Electrical Disturbance
   No use on a property shall cause electrical disturbance adversely affecting the operation of radios, televisions or any other equipment on any other lot in the vicinity. All applicable regulations of the Federal Aviation Administration shall apply to all operations which may adversely affect the navigation or control of aircraft.

3. Fire and Explosive Hazards
   The storage, utilization, and/or manufacture of all flammable and/or explosive materials shall conform to the applicable requirements of the Indiana Department of Fire and Building Services and the prescribed standards of the National Fire Protection Association. Fire fighting equipment and prevention measures shall be subject to the approval of the applicable Fire Department and shall be readily available and apparent when any activity involving the handling and storage of flammable or explosive materials is conducted.

4. Noise
   No use on a property shall create an objectionable production or operational noise, or combination of noises, detectable at the boundary line of any residential or commercial zoning district.

5. Odor
   No use on a property shall emit any objectionable odor, or combination of odors, that is detectable at the boundary line of any residential or commercial zoning district.

6. Vibration
   No use on a property shall cause any objectionable vibrations or concussions that are detectable without the aid of instruments at the property lines of the lot on which the use is located.

7. Glare
   No use on a property shall produce any glare that is detectable at the property lines of the lot on which the use is located. All outdoor lighting shall be exempt from these Industrial Standards, but shall comply with the Outdoor Lighting Standards section of this Article.

8. Noxious or Toxic Materials
   No use on a property shall accumulate or discharge outside of the building(s) in which production or materials storage occurs any materials generally known to be toxic or noxious. Such uses shall also comply with all applicable regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management.

9. Waste Materials
   No use on a property shall accumulate within in the lot, or discharge beyond the lot lines any waste matter in violation of the applicable standards and regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management.

10. Water Pollutants
    No use on a property shall discharge any material, whether liquid or solid, into public waters without any required approvals of the Marshall County Board of Health, Indiana State Board of Health, Indiana Department of Environmental Management, Indiana Department of Natural Resources, the Indiana Stream Pollution Control Board.

C. Exemptions

The industrial standards provided by this section shall be subject to the following exemptions:

1. Farming Operations
   Any applicable "Right to Farm" laws may supersede these standards as they pertain to farming and agricultural uses.

2. Exemptions
   The following uses, activities, and circumstances shall be except from the standards established by this Chapter:

   a. site preparation or the construction, maintenance, repair, alteration, or improvement of structures, equipment or other improvements on or within the lot lines of the subject property;

   b. the operation of motor vehicles or other facilities for the transportation of personnel, material, or products; and

   c. public safety sirens and related apparatus used solely for public purposes and/or necessary for the protection of life, limb, or property.

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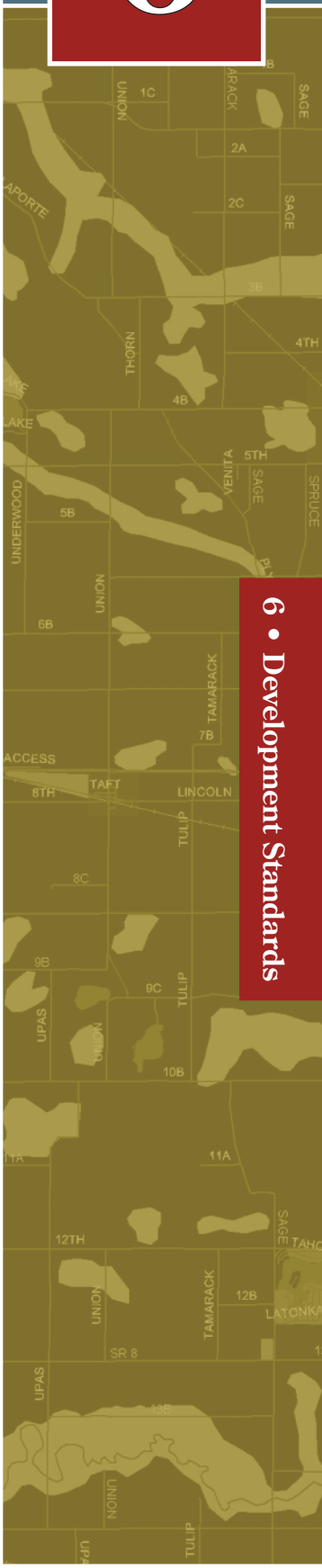
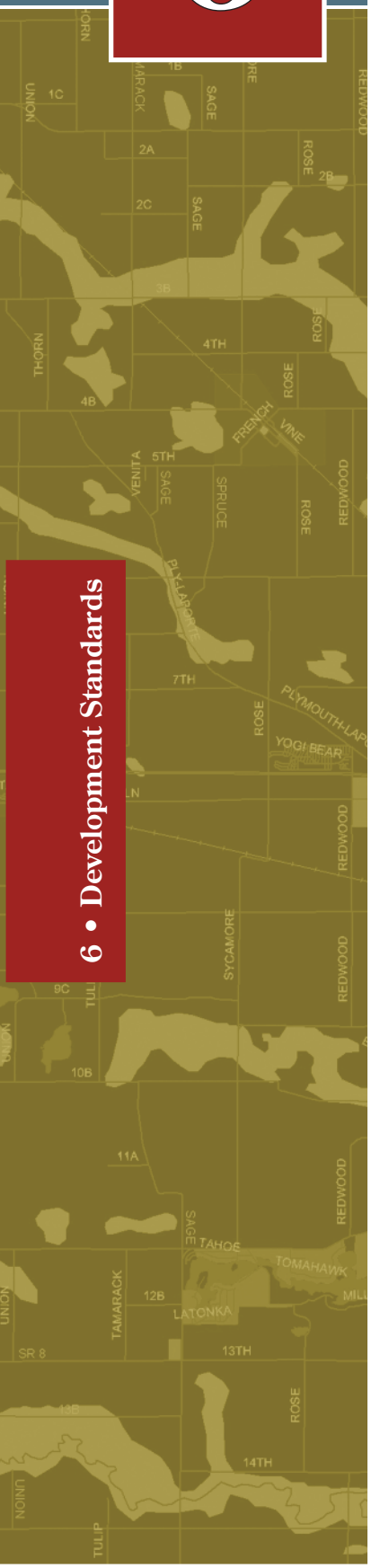




D. Applicability

All uses shall conform with any and all applicable requirements of the state and Federal governments (including the standards of the Occupational Safety and Health Administration - OSHA). No use on a property shall exhibit obnoxious characteristics to the extent that it constitutes a public nuisance defined by any applicable Marshall County Ordinance. In cases where the requirements of this Ordinance are in conflict with other applicable requirements, the most restrictive shall apply.

E. Interpretation

The industrial standards established by this Chapter provide general guidelines for use by the Marshall County in discussing expectations with new and expanding industrial operations. They also provided references to applicable state and Federal regulations. Where applicable the determination of conformance of industrial operations with the requirements of this Chapter shall be determined by the Plan Commission when consistent with the petition review processes established by this Ordinance, and otherwise by the Plan Director. All decisions of the Plan Director may be appealed to the Board of Zoning Appeals consistent with the provisions for Appeals of Administrative Decisions established by this Ordinance.

130 *Kennel Standards*

A. Purpose

The purpose of this section is to provide for the safe and healthy housing of animals as well as to preserve the safety, use, and enjoyment of surrounding properties.

B. Definition

A Kennel is defined as:

1. An establishment wherein any person engages in the business of boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling three (3) or more dogs, cats, or other small domesticated pets; or

2. Any premises on which five (5) or more dogs, cats, and/or other small domesticated pets over four (4) months of age are kept.

C. Noise Setbacks

Noise produced by the animals and/or operation of the Kennel shall not interfere with the use and enjoyment of neighboring properties. Kennels, including shelters and fenced areas, shall be set back six hundred (600) feet from the nearest residence in which the operator of the Kennel does not reside.

D. Shelter

Sufficient shelter shall be provided to protect the animals from extremes of moisture and hot and cold weather. Animals shall be housed in a noise suppressing shelter between the hours of 9:00 pm and 6:00 am.

E. Fencing

Sufficient fencing in and around the Kennel shall be provided to secure animals. Fencing shall:

1. be secure enough to house the species and breed being kept; and

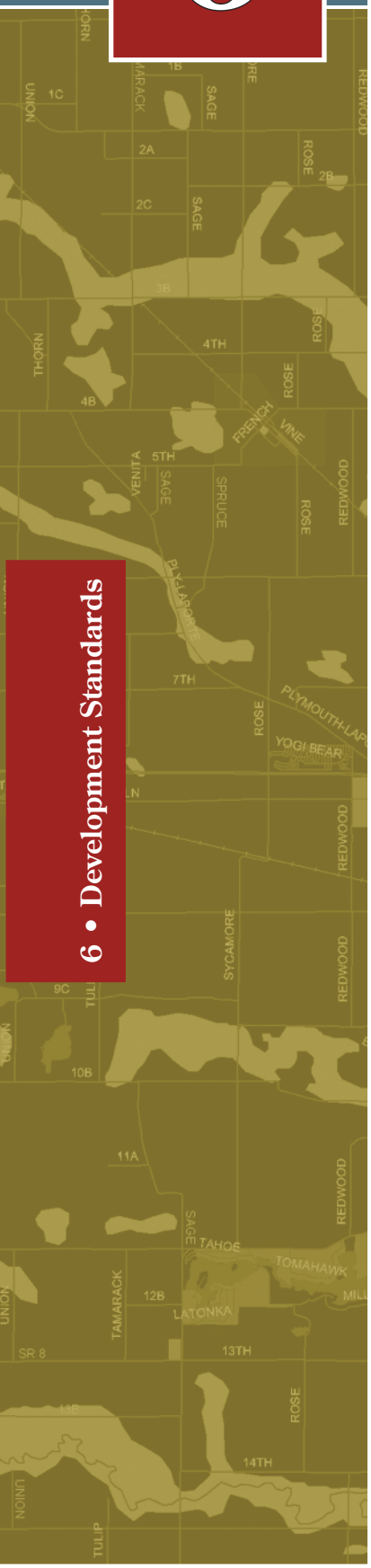
2. be comprised of a primary enclosure for normal operations of the Kennel and a secondary enclosure to prevent total escape in the event of escape from the primary enclosure.

F. Sanitary Waste Disposal

Proper sanitary disposal of animal waste shall be provided in accordance with all Marshall County Health Department regulations

G. Inspections

Kennels shall be open to periodic inspection by Marshall County Zoning Administrator and/or the Marshall County Humane Society.



140 *Landscaping Standards*

A. Purpose

The purpose of this section is to establish minimum standards for the provision, installation, and maintenance of landscape plantings in order to achieve a healthy, beautiful, and safe community. These regulations are intended to:

1. Foster aesthetically pleasing development that will protect and preserve the appearance and character of the county.

2. Suggest landscaping, particularly trees and shrubs, that will not encroach on overhead or underground utilities.

3. Increase the compatibility of development with both adjacent development and the natural environment.

4. Improve environmental quality by recognizing the numerous beneficial effects of landscaping upon the environment.

5. Maintain and increase the value of land by requiring landscaping to be incorporated into a development, thus becoming by itself a valuable capital asset.

6. Provide direct and important physical and psychological benefits to human beings through the use of landscaping to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development.

7. Eradicate or control exotic plant species that have become nuisances because of their tendency to damage public and private works, to have a negative effect upon public health, or to disrupt or destroy native ecosystems.

8. Promote innovative and cost conscious approaches to the design, installation, and maintenance of landscaping.

9. Establish procedures and standards for the administration and enforcement of this ordinance.

B. Applicability

1. This section shall apply to all new development in C-1, C-2, I-1, and I-2 districts.

2. Previously approved developments need not comply unless a new or amended plat is submitted.

3. The requirements of this ordinance shall be applicable to the bufferyard, streetscape, street buffer, yard, and parking lot areas.

C. Content of Landscape Plan

Where required, a landscape plan shall conform to the following requirements:

1. A landscape plan is required for each lot within a proposed development. It is recommended that the landscape plan be prepared by a landscape architect, nurseryman, or other professional experienced in landscape design and the installation and care of plant materials.

2. All landscape plans submitted for approval as a component of a required site plan shall show the entire zoning lot to scale, on 24” x 36” sheets and shall contain the following information:

   a. The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and right-of-way, sidewalks, bicycle paths, ground signs, refuse disposal areas, bicycle parking areas, freestanding electrical equipment, recreation facilities, utility lines and easements, freestanding structural features, and other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved area.

   b. The name and address of the owner, developer, and plan preparer, the date the plan was prepared, scale, and north arrow.

   c. The location, quantity, size, and name—both botanical and common—of all proposed planting materials.

   d. The location, size, and common name of existing trees and individual shrubs, areas of dense trees or shrubs, and other natural features, indicating which are to be preserved and which are to be removed.

   e. The approximate location and generic identification of existing structures and plant materials within the first ten (10) feet of the yard of adjoining properties.

   f. Existing and proposed grading of the site, including proposed berming, indicating contours at not more than two (2) foot intervals.

   g. Specification of the type and boundaries of all proposed vegetative ground cover.

   h. Design of fences and other significant accessory structures.

   i. The location of barriers to be placed at or beyond the drip line of any trees to be preserved, and the type of material to be used for the barrier.

   j. Planting and installation details as necessary to ensure conformance with all required standards.

   k. Details indicating specific grading measures or other protective devices where trees are to be preserved in areas of cut and fill.

   l. A tabulation clearly displaying the relevant statistical information necessary for the Plan Commission to evaluate compliance with the provisions of this ordinance.

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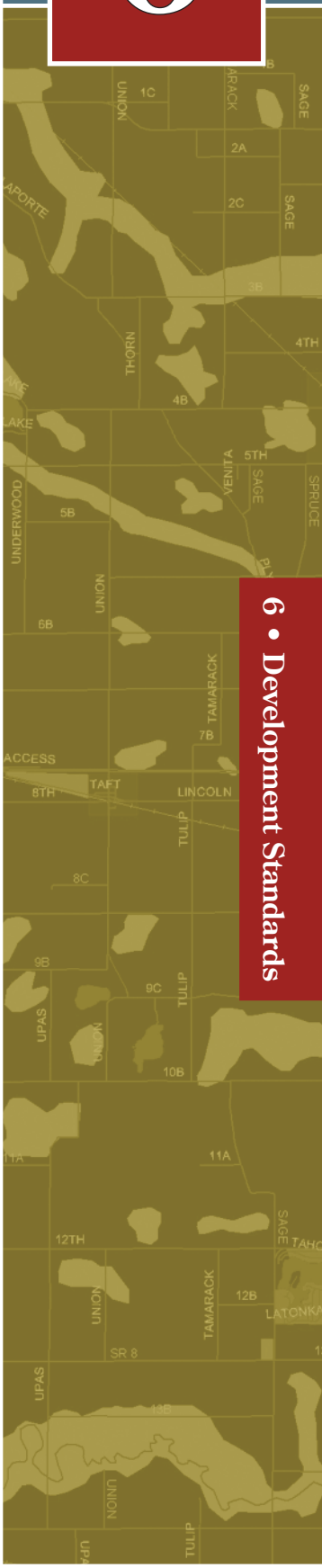

D. Preservation of Existing Features

1. Trees and shrubs already existing on land subject to the provisions of this chapter shall be preserved wherever feasible. Criteria for judging the feasibility of retaining existing vegetation include:

   a. The practicability of arranging site plan components around existing features. In general, plans for groups of structures should be designed so as to preserve tree masses, individual tree specimens, and small stands of trees or shrubs.

   b. The condition of the vegetation with respect to continued vitality.

   c. The amount of healthy vegetation the area involved will support.

   d. The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation.

   e. The desirability or lack thereof of a particular tree or species by reason of its appearance, historic or ecological significance, botanical characteristics, and the function the vegetation would fulfill as a site plan component.

   f. Interference with utility services or encroachment into the traffic visibility triangle.

   g. The possibility of preserving the vegetation while meeting the development needs through pruning rather than removal.

2. Substantial barriers shall be specified on the landscape plan and shall be placed at or beyond the drip line of trees to be protected. These barriers shall remain in place during heavy construction on the site, and no vehicle, machinery, tools, chemicals, construction materials, or temporary may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees.

3. Where trees are to be preserved in areas of cut or fill, specific grading measures or other protective devices, such as tree wells, tree walls, or specialized fill and pavement designs shall be required and shall be fully detailed on the landscape plan.

E. General Landscaping Requirements

All land areas that are not covered with buildings and pavement or used for agricultural purposes shall be appropriately landscaped in accordance with the requirements of this Chapter. Landscaping shall be provided in the areas specified and of the minimum intensity, specified below:

1. The scale and nature of landscape materials shall be appropriate to the size of the structures and the available space. Materials shall be located to avoid interference with overhead and underground utilities and utility easements or vehicular or pedestrian movement and visibility particularly at corners, driveway

and point of ingress and egress. Growth characteristics should be carefully considered.

2. Plant material shall be selected to achieve an intended purpose such as shading, screening, ornamentation, etc.

3. The planting patterns of plant material shall be staggered and mixed in order to avoid long, monotonous and repetitive edges, especially along roadways.

4. Trees shall be planted to maintain a minimum five (5) foot clearance between the tree trunk and structures, building overhangs, walls, fences, and other trees.

5. Plantings should be arranged to promote energy conservation wherever practicable; e.g. use of tall deciduous trees on the south and west sides of buildings to provide shade from the summer sun and planting evergreens on the north of buildings to dissipate the effect of winter winds.

6. Screening of Trash Dumpsters, Trash Pads, and Loading Areas

    i. All trash dumpsters, trash pads, loading areas consisting of two (2) or more loading spaces, loading docks, building service and outside storage areas shall be screened from land in A-3, T-1, and L-1 zoning districts and must be screened if visible from a public street.

    ii. In any I-1 or I-2 zoning district, trash dumpsters and trade pads shall be screened. Such screening may be achieved by using a minimum six (6) foot high, completely opaque fence or wall, a six (6) foot high berm, or a six (6) foot high evergreen screen. Height of screen shall be measured from the grade of the nearest street.

7. Ground-mounted heating and cooling units for nonresidential or multifamily structures and above ground fuel tanks shall be adequately screened so as not to be visible from public streets and/or adjacent properties.

8. Grass and other vegetative ground cover shall be used for all open space, including parking lot islands, except for:

    a. Decorative mulch planting beds containing trees and/or shrubs.

    b. Inert stabilization in areas subject to severe runoff or erosion.

9. Where stone or other inert materials are to be used for ground cover, they shall be specifically identified on the landscape plan. Any area not so designated shall be required to have grass or vegetative ground cover.

10. All landscaping shall conform to the regulations established for visibility triangles to maintain safe sight distances and intersections and points of access in accordance with *Article 3-130.A(2), Visual Setback on Corner Lots* of this

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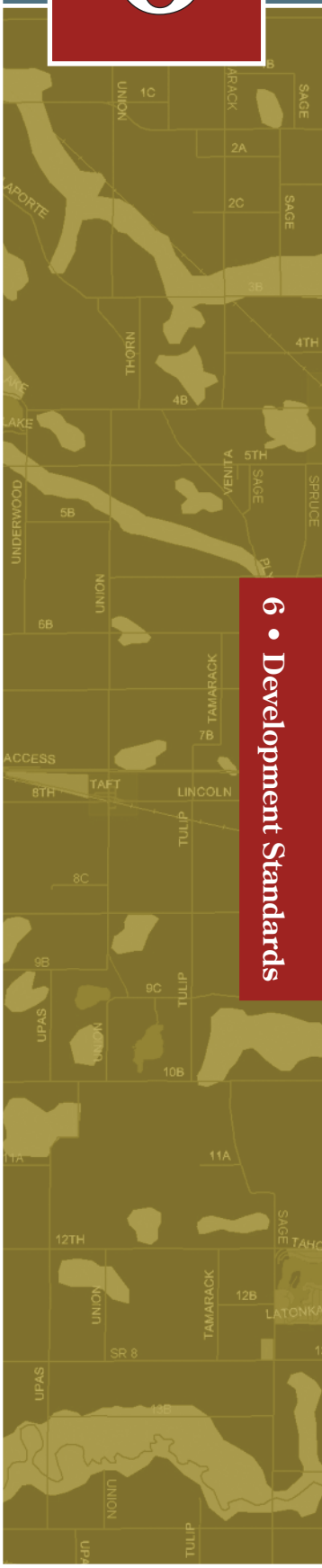


Ordinance.

11. Except as provided below, all landscape areas shall be separated from vehicular use areas by concrete curbing. Roll curbs may not be used for this separation. The width of curbing shall be excluded from the calculation of the minimum dimensions of all required landscape areas.

12. All landscaped areas at the front line of off-street parking spaces shall be protected from encroachment or intrusion of vehicles with wheel stops additional green space or other adequate method. Wheel stops if used, shall have a minimum height of six (6) inches above the finish surface of the parking area, be properly anchored, and continuously maintained in good condition. Wheel stops or other adequate barrier shall not be placed in locations of anticipated intense pedestrian traffic. As an alternative, curbing can be extended to serve the same purpose. Wheel stops shall not be a hazard and they shall be easily visible, painted or made in such a manner to avoid "trip and fall" accidents.

13. All trees and shrubs must be planted a minimum of five (5) feet behind the right-of-way line.

14. In no case may a tree or shrub be planted within a drainage, sewer, or utility easement.

F. Modifications and Waivers

1. Under conditions where a strict interpretation of requirements may be either physically impossible or create practical difficulties, an alternative compliance procedure may be used to maintain the spirit—rather than the letter of the law. The proposed solution must equal or exceed standard landscaping requirements. Requests to the Plan Commission for use of alternative landscaping schemes are justified only when one or more of the following conditions apply:

    a. The site involves space limitations or unusually shaped parcels.

    b. Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.

    c. Due to a change of use of an existing site, the required buffer yard is larger than can be provided.

    d. Safety considerations are involved.

    e. Existing utility lines or easements complicate the placement of required plant materials.

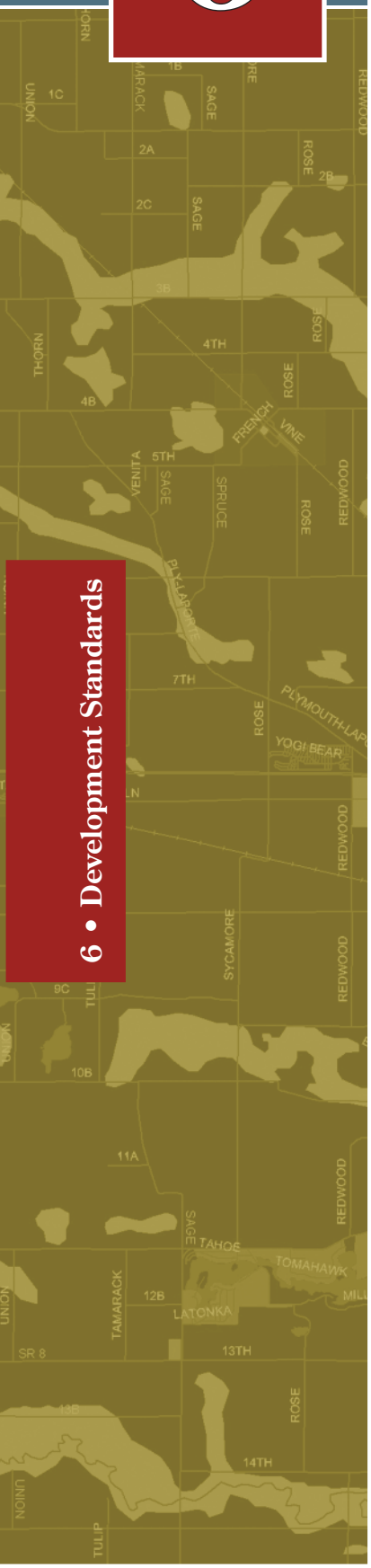
2. The applicant shall provide a justification statement that describes which of the requirements established by this landscaping ordinance will be met with modifications, which project conditions justify using alternatives, and how the proposed measures equal or exceed normal compliance. The Plan Commission will review the alternative compliance application and recommend approval, approval with conditions, or disapproval of the proposal to the Plan Commission,

who will make the final decision.

3. Where compliance is required as a result of change in use or expansion of an existing building and compliance with this section will necessitate removal of existing pavement, the Plan Commission may approve a reduction of parking lot setbacks and other minimum planting areas, provided that proposed plantings, screens, and other landscape features are the equivalent to the minimum requirements in terms of landscaping.

G. Technical Review Committee Review

The Technical Review Committee shall review each landscaping plan and make recommendation to the Plan Commission to accept, deny or approve with conditions.



150 *Manufactured Home Community, RV Park, and Campground Standards*

A. Intent

This section details the process by which Manufactured Home Communities (MHC) and Recreational Vehicle Parks and Campgrounds (RVP/C) are reviewed. It also defines design standards that apply to each. MHCs RVP/Cs involve the creation of individual sites (called manufactured home community lots and campsites respectively), and internal circulation patterns, much like subdivisions. What distinguishes them is that in MHCs and RVP/Cs, no lots are individually platted. Detailed plans of proposed MHCs and RVP/Cs shall be submitted for approval to the Plan Commission before work begins to ensure adequate design, circulation, and that state mandated health-related standards are met.

B. MHC and RVP/C Approval Process

1. Preliminary plans for a new MHC or RVP/C, or an expansion of an existing MHC or RVP/C, shall be approved by the Plan Commission in a public hearing at its regular meeting. All such Preliminary plans and expansions are subject to public notice and filing requirements. Any change to a site plan approved under this ordinance, the elements of which are listed in *Article 6-150.D, Preliminary MHC And RVP/C Plan Requirements* of this Ordinance below, shall also be approved by the Plan Commission in a public hearing at its regular meeting. However, this does not apply to a reconfiguration of the same number of lots, or the paving of previously unpaved internal streets, nor upgrading other on-site structures and facilities. But, a change to an internal street name does require approval of the Plan Commission and notification to the US Post Office, and the 911 Emergency Response System.

2. Final plans for a new MHC or RVP/C, or an expansion of an existing MHC or RVP/C, shall be approved by the Plan Commission in a public hearing at its regular meeting. The Final plan will not be considered for approval until the action taken by the Plan Commission on the required Preliminary plan has been completed. All such Final plans and expansions are subject to public notice and filing requirements. Any change to a site plan approved under this ordinance, the elements of which are listed in *Article 6-150.D, Preliminary MHC And RVP/C Plan Requirements* of this Ordinance below, shall require approval of an amended Preliminary plan by the Plan Commission in a public hearing at its regular meeting. However, this does not apply to a reconfiguration of the same number of lots, or the paving of previously unpaved internal streets, nor upgrading other on-site structures and facilities. But, a change to an internal street name does require approval of the Plan Commission and notification to the US Post Office, and the 911 Emergency Response System.

3. The filing deadline for a complete application for preliminary or final MHC or RVP/C plan approval is thirty (30) calendar days prior to the date of the regular meeting at which the petitioner intends to have the request heard. The requirements for a complete application are listed below.

4. At the hearing, the Plan Commission may either approve, conditionally approve or deny the preliminary or final MHC or RVP/C plans presented by the petitioner. If the petitioner or the petitioner's representative is not present at the hearing,

the Plan Commission shall table or dismiss the request.

C. Preliminary Plan Filing Requirements

1. Before an application for Preliminary MHC or RVP/C plan approval may be submitted, the petitioner shall arrange to meet with Plan Commission and/or Technical Review Committee staff to review filing and design requirements. The petitioner shall bring to this meeting a proposed MHC or RVP/C plan drawn in sufficient detail so that staff can determine if design requirements are being met.

2. For a request for Preliminary MHC or RVP/C plan approval to be considered complete, the following items shall be presented to Plan Commission staff no less than 30 calendar days before the regular meeting at which the petitioner intends to have the request heard:

   a. a signed "Application Form for Approval of Manufactured Home Community or Recreational Vehicle Park and Campground' with metes and bounds legal description of the property for which approval is being sought; and if floodplain land is present, a metes and bounds legal description of that portion of the property situated at or above the regulatory flood elevation as determined by the Zoning Ordinance and as certified by a Registered Land Surveyor or Registered Professional Engineer.

   b. a non-refundable processing fee in the amount established by the Plan Commission for MHC or RVP/C plan approval;

   c. a list of names and addresses of all property owners within three hundred (300) feet of the proposed development;

   d. for any RVP/C campsites proposed to be located within a floodway fringe, certification from a Registered Land Surveyor or Registered Professional Engineer that none of the campsites would be located within the flood plain established for that location by the Indiana Department of Natural Resources;

   e. Ten (10) sets of MHC or RVP/C plans, fulfilling all requirements of all agencies listed above; no deviations from minimum state standards shall be permitted;

   f. signatures indicating that a full set of MHC or RVP/C plans have been received by the County Sheriff Department, the appropriate fire department, EMS, and the appropriate school corporation. If these agencies wish to comment to the Plan Commission staff on these plans, they shall do so within two (2) weeks of the filing deadline;

3. A complete application for Preliminary MHC or RVP/C plan approval shall be placed for public hearing on the Plan Commission's next available meeting agenda. If the application is not placed on the next agenda because it is incomplete, Plan Commission staff shall notify the petitioner in writing of the

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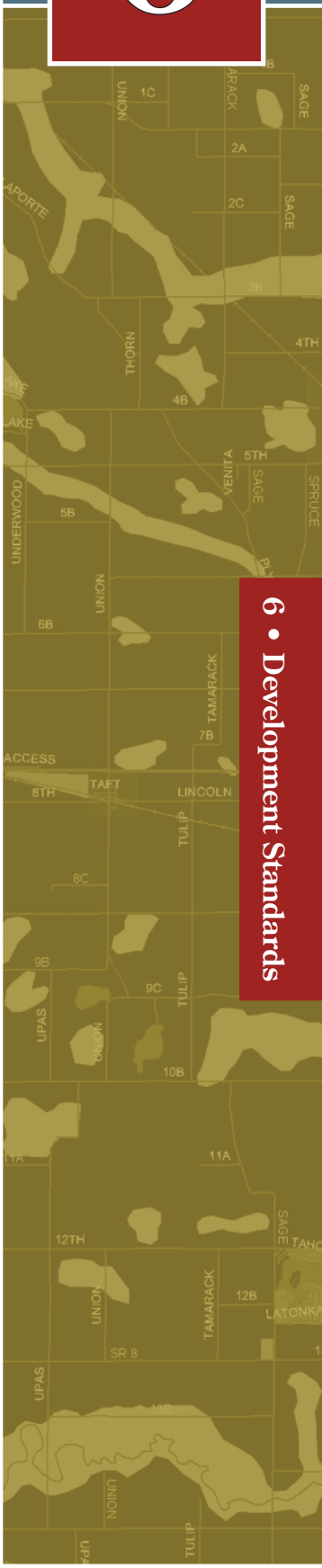

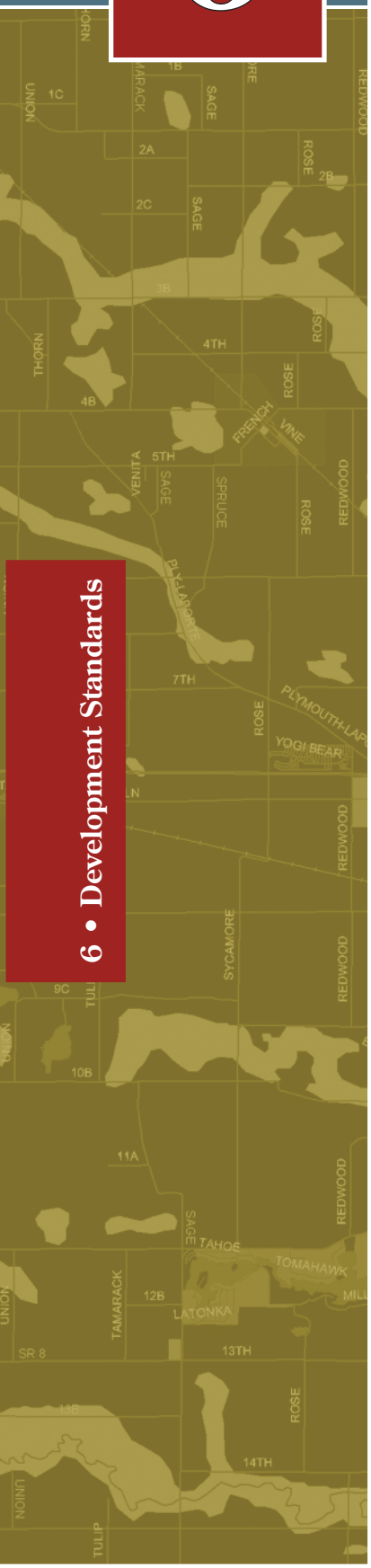

150 *Manufactured Home Community, RV Park, and Campground Standards (cont.)*

application's deficiencies.

D. Preliminary MHC And RVP/C Plan Requirements

A complete MHC or RVP/C plan is certified by a Registered Engineer or Architect licensed to practice in the State of Indiana and meets all the design standards of *Article 6-150.G, MHC Design Requirements* or *Article 6-150.H, RVP/C Design Requirements* of this Ordinance below. (A Registered Land Surveyor may certify those portions of MHC plans that deal with gravity sanitary sewers, storm sewers and tile drains.) It contains all of the following elements:

1. a cover sheet:

2. a vicinity map drawn to an appropriate scale,

3. the name of the proposed MHC or RVP/C;

4. a metes and bounds legal description of the area for which approval is being sought, including its location by quarter section, township and range, city, town or civil township;

5. the name and address of the petitioner;

6. the name, address and seal of the Registered Engineer, Architect or Land Surveyor certifying any parts of the plan;

7. the scale of the plan, north point, and date.

8. an analysis of current conditions:

   a. boundary, ownership, and zoning of the proposed site and all adjoining properties; if located in a flood hazard area, a metes and bounds legal description of that portion of the property situated at or above the regulatory flood elevation determined by *Article 6-070, Flood Hazard Area Standards* of this Ordinance, certified by a Registered Land Surveyor or Registered Professional Engineer.

   b. topography in intervals of not less than one (1) foot and not more than two (2) foot;

   c. location of all structures with an indication of their current condition, both on site and on adjoining properties;

   d. location, dimensions and names of all dedicated public streets, private streets, and railroad and utility rights-of-way, both on-site and adjacent to the site;

   e. location and size of all existing storm and sanitary sewers, water mains, electrical, gas, telephone and cable television lines, culverts, drainage tiles, legal drains (ditches), and underground facilities both on site and adjacent to the site;

f. identification and location of soil types and vegetation;

g. natural features, such as water courses, ponds, marshes, rock outcroppings, etc.;

h. for any RVP/C campsites proposed to be located within a floodway fringe, certification from a Registered Land Surveyor or Registered Professional Engineer that none of the campsites would be located within the regulatory floodway established for that location by the Indiana Department of Natural Resources;

9. a proposed site plan:

a. location, dimensions and names of all proposed streets;

b. location of all rights-of-way, sidewalks, crosswalks, alleys and easements;

c. location, dimensions and area of all proposed MHC lots if an MHC, or of all proposed campsites if an RVP/C; these are to be numbered consecutively; plus dimensions of the largest MH that will fit each proposed MHC-lot within the requirements of *Article 6-150.G, MHC Design Requirements* of this Ordinance below;

d. location of all proposed buildings or structures, such as an office and community center, a storage facility, a laundry room, a swimming pool, etc.;

e. location and use of all land to be used in common by residents or temporary occupants;

f. all MHC and MHC-lot setback lines;

10. a grading plan;

11. a utility plan showing location and connection of all electrical, gas, telephone, cable, water, sanitary sewer and drainage facilities; all stormwater drainage facilities shall be privately owned and maintained;

12. plan and profile sheets of all proposed improvements, including streets (with typical cross-section showing pavement and sidewalk design) and the full range of underground utilities.

E. Final Plan Filing Requirements

1. For a request for Preliminary MHC or RVP/C plan approval to be considered complete, the following items shall be presented to Plan Commission staff no less than thirty (30) calendar days before the regular meeting at which the petitioner intends to have the request heard:

(cont.)

150 *Manufactured Home Community, RV Park, and Campground Standards (cont.)*

a. a signed "Application Form for Approval of Manufactured Home Community or Recreational Vehicle Park and Campground' with metes and bounds legal description of the property for which approval is being sought;

b. a non-refundable processing fee in the amount established by the Plan Commission for MHC or RVP/C plan approval;

c. a letter from the Indiana State Department of Health indicating review and approval of the proposed plans in compliance with I.C. 16-41-27 and Rules 410 IAC 6-6 and 327 IAC 8-8-1 for MHCs, or Rule 410 IAC 6-7 for RVP/Cs, or their successors before local permits may be issued;

d. letters from Marshall County Highway Department, County Health Department, County Drainage Board, and any other applicable government agency indicating review and approval of the proposed plans;

e. ten (10) sets of MHC or RVP/C plans, fulfilling all requirements of all agencies listed above; no deviations from minimum state standards shall be permitted;

f. surety in a form acceptable to the Board of County Commissioners if public improvements are to be installed either on-site or off-site; and

2. A complete application for Final MHC or RVP/C plan approval shall be placed for public hearing on the Plan Commission's next available meeting agenda. If the application is not placed on the next agenda because it is incomplete, Plan Commission staff shall notify the petitioner in writing of the application's deficiencies.

F. Final MHC And RVP/C Plan Requirements

A complete MHC or RVP/C plan is certified by a Registered Engineer or Architect licensed to practice in the State of Indiana and meets all the design standards of *Article 6-150.G, MHC Design Requirements* or *Article 6-150.H, RV/C Design Requirements* of this Ordinance below. (A Registered Land Surveyor may certify those portions of MHC plans that deal with gravity sanitary sewers, storm sewers and tile drains.) It contains all of the following elements:

1. the name of the proposed MHC or RVP/C;

2. a metes and bounds legal description of the area for which approval is being sought, including its location by quarter section, township and range, city, town or civil township;

3. the name and address of the petitioner;

4. the name, address and seal of the Registered Engineer, Architect or Land Surveyor certifying any parts of the plan; and

5. the scale of the plan, north point, and date.

6. location, dimensions and names of all dedicated public streets, private streets, and railroad and utility rights-of-way, both on-site and adjacent to the site;

7. a proposed site plan:

   a. location, dimensions and names of all proposed streets;

   b. location and dimensions by bearings and distances of all rights-of-way, sidewalks, crosswalks, alleys and easements;

   c. location, dimensions and area of all proposed MHC lots if an MHC, or of all proposed campsites if an RVP/C; these are to be numbered consecutively; plus dimensions of the largest MH that will fit each proposed MHC-lot within the requirements of *Article 6-150.G, MHC Design Requirements* of this Ordinance below

   d. location of all proposed buildings or structures, such as an office and community center, a storage facility, a laundry room, a swimming pool, etc.;

   e. location and use of all land to be used in common by residents or temporary occupants;

   f. all MHC and MHC-lot setback lines;

8. plan and profile sheets of all proposed improvements, including streets (with typical cross-section showing pavement and sidewalk design) and the full range of underground utilities.

G. MHC Design Requirements

The following design elements shall be incorporated into the proposed site plan of a complete proposed MHC plan:

1. Minimum MHC area:

   a. New MHC - 5 acres

   b. Addition to existing MHC - no minimum

2. Minimum MHC setbacks (within which no MHC-lots or structures shall be located):

   a. Along a local street or place - 25’

   b. Along a collector street - 30’

   c. Along a secondary arterial - 40’

   d. Along a primary arterial - 60’

   e. Abutting a residential, commercial, industrial or rural zone - 20’

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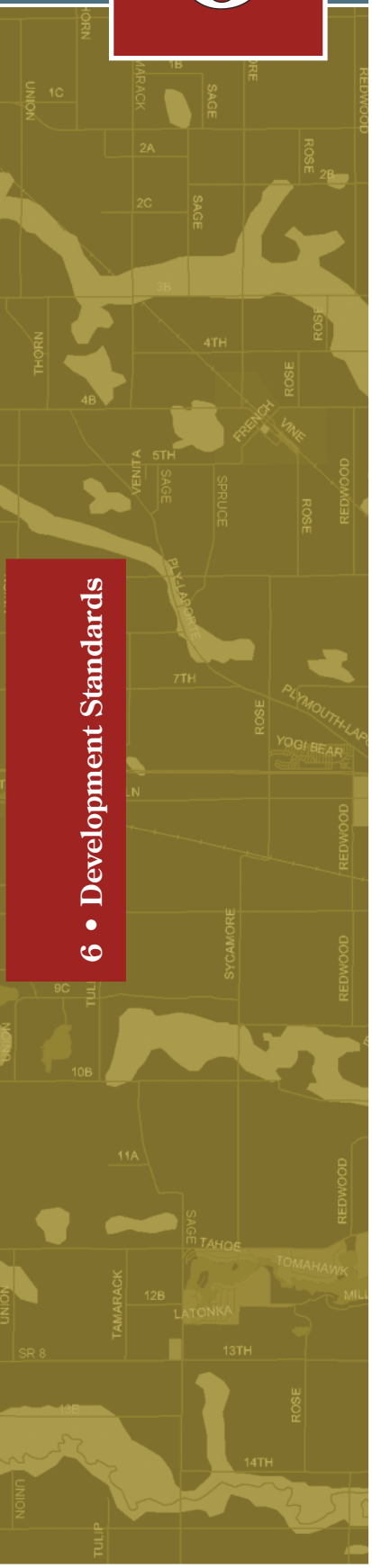

150 *Manufactured Home Community, RV Park, and Campground Standards (cont.)*

3. Minimum Recreation Space
   At least ten (10) percent of the total area of the development

4. Maximum height of structures - 25’

5. Minimum parking
   two (2) paved parking spaces, garages and carports included , per MHC-lot, either on the lot or within three-hundred (300) feet of the lot being served; on-street parking spaces may be substituted if an eight (8) feet paved parking lane is provided, in addition to the minimum street width requirement

6. Minimum storage
   One-hundred twenty (120) cubic feet per manufactured home in a separate building, such as a shed.

7. Minimum protection against severe weather
   Reinforced building(s) (such as combination of community building, rental office, laundry, shower, restroom facilities) having an open floor area of at least fifteen (15) square feet per MHC-lot

8. Minimum MHC-lot area 3,000 sq.ft.

9. Minimum MHC-lot width - 30’

10. Maximum MHC-lot coverage by MH - 45%

11. Minimum MHC-lot vegetative cover - 30%

12. Minimum MHC-lot setbacks (including any expanded portion of the MH:

    a. Along a front lot line:

       i. internal street without sidewalk
          20’ from pavement edge (or back of curb where required)

       ii. internal street with sidewalk - 17’ from sidewalk edge

    b. Along a rear lot line:

       i. mobile home/manufactured home - 15’

       ii. accessory building - 6’

    c. Along a side lot line - 6’

13. Minimum distance between MHC-lot line and any internal off-lot building or structure -15’

14. Internal streets
    All MHC-lots shall have direct access to an internal street, there can be no direct access to a public street except at points of entry/exit to/from the MHC):

    a. Minimum 1 -way pavement width - 12’

    b. Minimum 2-way pavement width - 24’

    c. Minimum additional pavement width for parking lane - 8’

    d. Maximum dead end street length - 150’

    e. Minimum turnaround pavement diameter - 100’

    f. Minimum curb and gutter - where the density of the development is equal to or greater than three (3) dwelling units per acre to properly carry surface water, two (2) feet on each side in addition to the minimum street width requirement

15. Minimum lighting
    0.3 foot candles on streets and walkways, or individual yard lights on each MHC-lot with illumination equivalent to at least a 40 watt incandescent bulb

H. RVP/C Design Requirements

The following design elements shall be incorporated into the proposed site plan of a complete proposed RVP/C plan:

1. Minimum RVP/C area:

    a. New RVP/C - 5 acres

    b. Addition to existing RVP/C - no minimum

2. Minimum RVP/C setbacks (within which no campsites or structures shall be located):

    a. Along a local street or place - 25’

    b. Along a collector street - 30’

    c. Along a secondary arterial - 40’

    d. Along a primary arterial - 60’

    e. Abutting a commercial, industrial or rural zone - 20’

    f. Abutting a residential zone - 40’

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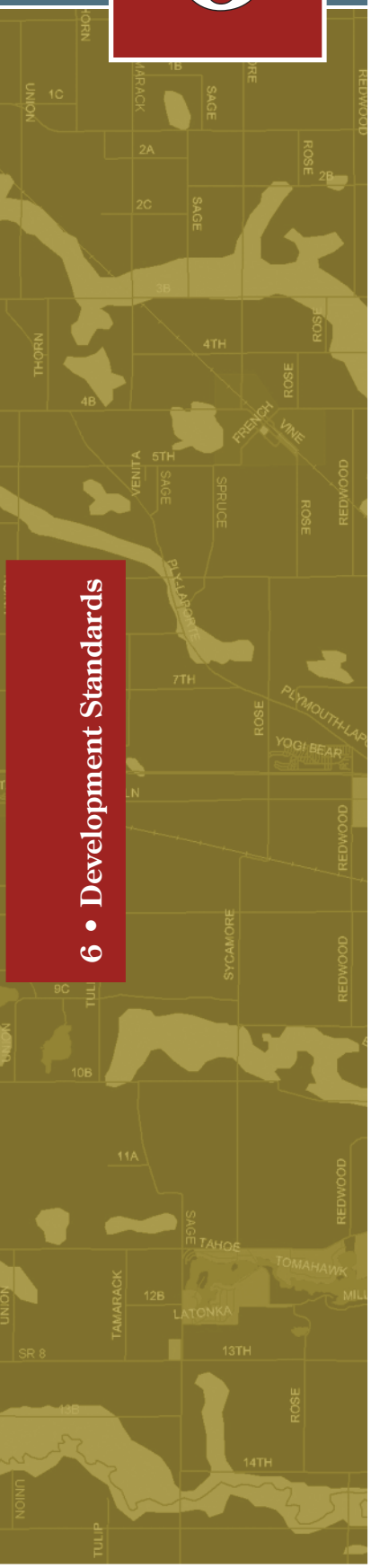


150 *Manufactured Home Community, RV Park, and Campground Standards (cont.)*

3. Maximum height of structures - 25'

4. Minimum parking
   One (1) parking space per campsite, plus a separate parking area for guests and visitors at a ratio of one and one-half (1.5) spaces per campsite

5. Minimum protection against severe weather
   Reinforced building(s) (such as combination of community building, rental office, laundry, shower, restroom facilities) having an open floor area of at least fifteen (15) square feet per campsite

6. Minimum campsite width - 22'

7. Minimum distance between campsite and any adjacent building or structure - 15'

8. All campsites shall have direct access to an internal street, there can be no direct access to a public street except at points of entry/exit to/from the RVP/C.

I. MHC Additions
The owner, occupant or lessor of a mobile home in a mobile home park manufactured home community, shall not build any permanent additions that attach to that mobile home that would add to the living space within.

J. Recreational Vehicles not in RV Park and Campground
Recreational vehicles shall not be occupied for longer than eight weeks in any county location other than an approved recreational vehicle park.

160 *Manufactured Homes*

A. Definition

A dwelling unit designed and built in a factory which bears a seal certifying that it was built in compliance with the federal Manufactured Home Construction and Safety Standards Law of 1974 (42 USC 5401 et seq.)

B. Type A Manufactured Home

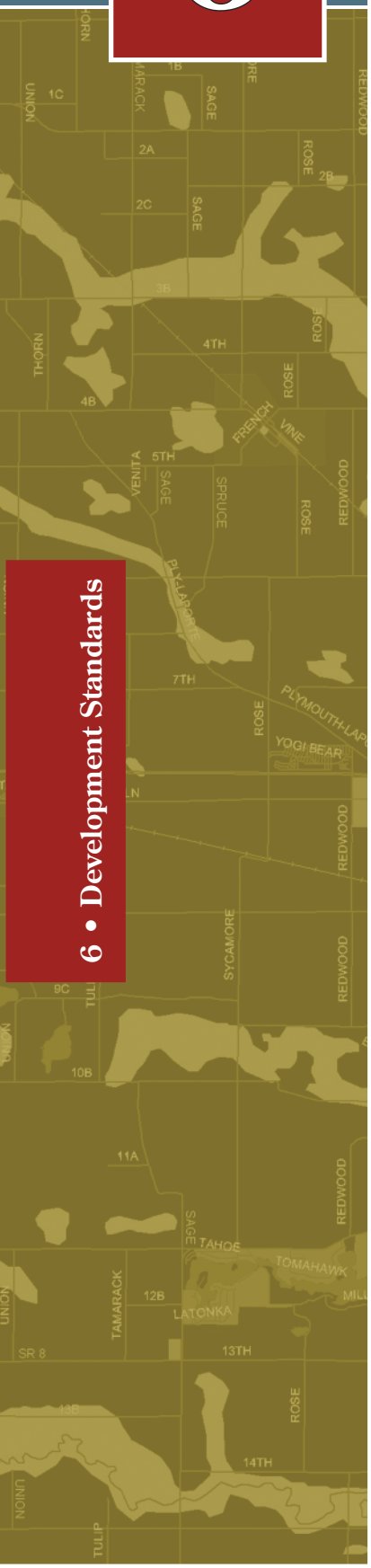
A Manufactured Home that meets the following standards:

1. Constructed after January 1, 1981;
2. Exceeds nine-hundred fifty (950) square feet of occupied space;
3. Placed on a support system, enclosed with foundation skirting/siding and anchored to the ground in accordance with the One and Two Family Dwelling Code; and
4. May not be constructed with a permanent hitch, and the hitch must be removed.

C. Type B Manufactured Home

A Manufactured Home that meets the following standards:

1. Constructed after January 1, 1981
2. Has at least twenty three (23) feet in width
3. Exceeds nine-hundred fifty (950) square feet of occupied space which is composed of a double or multi-section unit;
4. Is placed on a foundation with a permanent masonry perimeter enclosure in accordance with the One and Two Family Dwelling Code.
5. May not be constructed with a permanent hitch, and the hitch must be removed; and
6. Siding made of materials customarily used for site-constructed homes.



170 *Open Space Standards*

A. Open Space Standards
This Open Space Standards section applies to the A-1, A-3, T-1, L-1, and MH zoning districts

B. Open space required above for developments in the A-1, A-3, T-1, and L-1 zoning districts shall meet the requirements established by the Marshall County Subdivision Control Ordinance.

C. Open space required for developments in MH zoning districts shall meet the following requirements:

1. Open space shall be concentrated at a minimum number of sites within each development to provide the maximum amount of usable space.

2. Common open areas may not include floodplains, detention ponds or other portions of the development which are undevelopable. Common open spaces should be located adjacent to such natural features when they are present in, or adjacent to the development.

3. Common open spaces within each development shall be linked with each other and with existing and future open spaces in adjacent developments through the required sidewalk system.

   a. All common open spaces shall have at least twenty (20) feet of frontage on a public or private street which includes sidewalks.

   b. All required common open spaces shall be owned and maintained by the leasing company for tenant-occupied developments and a lot owner's association for developments with individually owned dwelling units. In no case may an access easement be substituted for a required common open space.

4. Common areas being a minimum of twelve (12) feet wide shall be provided permitting access from natural site features such as floodplains, detention ponds, and historic sites to public or private streets with sidewalks.

5. Access easements shall be provided for any private sidewalks providing access to the common open space for persons outside the development.

6. All common open spaces shall be maintained for the enjoyment of the residents of the development and shall be free of weeds and other noxious vegetation.

180 *Parking, Parking Access, and Loading Standards*

A. Purpose and Scope

The provisions of this Article are established to relieve and/or prevent traffic congestion in the streets, to minimize any detrimental effects of off-street parking areas on adjacent properties, and to ensure the proper and uniform development of parking areas throughout the County Jurisdiction.

B. Parking and Loading Requirement

The provisions of this Article shall apply to situations detailed below:

1. All buildings or structures erected or substantially altered and all uses of land or buildings and structures established or changed after the adoption of this ordinance.

2. Whenever a building or structure constructed before the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of housing units, seating capacity or otherwise, and such change or enlargement creates a need for additional parking spaces. In these cases, the number of additional spaces to be provided shall be based on the extent of the enlargement or change, provided that whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of fifty percent (50%) or more in: floor area, number of employees, number of housing units, seating capacity or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth in this Article.

3. Accessory off-street parking facilities in existence on the effective date of this ordinance and located on the same parcel as the building, structure or use served shall not hereafter be reduced below or, if already less than, shall not be further reduced below the requirements for a similar building, structure or use under this ordinance.

C. General Parking Regulations

1. The required off-street parking spaces for any number of separate buildings, structures or uses may be provided collectively on one lot, provided that total number of such spaces shall be not less than the sum of requirements for the various individual buildings, structures or uses computed separately in accordance with this ordinance.

2. When two (2) or more uses are located within the same building or structure, offstreet parking spaces equal in number to the sum of the separate requirements for each use shall be provided.

3. Subsections (A) and (B) above notwithstanding, two (2) or more non-residential uses may jointly provide and use off-street parking spaces when their hours of operation do not normally overlap, subject to the requirements of *Article 6-170.F, Shared Parking* of this Ordinance.

4. All off-street parking spaces required by this ordinance shall be used only for the parking of vehicles of occupants, patrons, visitors or employees and shall not be

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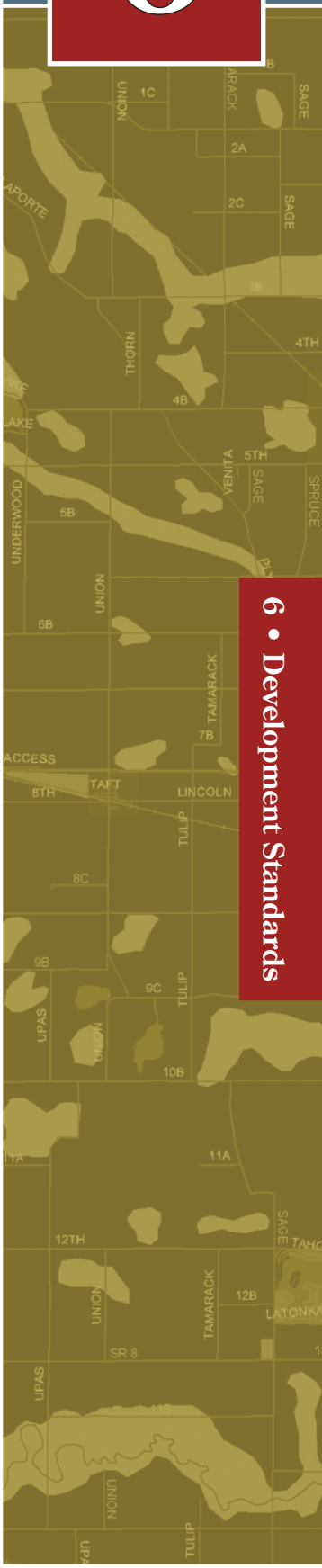

used for any kind of loading, sales or servicing, or for the continuous storage of a vehicle for more than forty-eight (48) hours.

5. Any parking area to be used by employees or visitors shall be provided parking spaces and associated access aisles designated, marked, and located to adequately accommodate the disabled. Accessible spaces shall be provided in sufficient numbers and to the specifications of the Americans with Disabilities Act (ADA) and the Indiana Building Code (IBC). Each accessible or van accessible parking space shall be located adjacent to an access aisle and in close proximity to the entrance(s) most accessible for the disabled. The required number and sizes of such spaces shall be provided regardless of any other provisions of these regulations or of any reduction in parking requirements otherwise approved by the Commission or the Board.

D. Parking Development Standards

1. Locational Standards

   a. Off-street parking spaces for all residential uses shall be located on the same lot as the residential structure or on a lot adjacent to the lot on which the residential structure is located.

   b. Off-street parking spaces for commercial, industrial or institutional uses shall be located not more than seven hundred (700) feet from the principal use building.

   c. Off-street parking spaces may be located in any yard, subject to applicable setback standards. However, parking spaces may not be located on the shared portions of shared driveways.

   d. Off-street parking areas, except those serving single-family detached dwelling units, shall be set back from all public rights-of-way lines a minimum of ten (10) feet. Any such areas abutting a zone or use with a more restrictive setback shall comply with the more restrictive setback.

2. Parking Space Dimensions
   Off-street parking spaces shall have minimum rectangular dimensions of not less than nine (9) feet in width and eighteen (18) feet in length, except that parallel parking spaces shall be at least twenty-four (24) feet in length. Not more than ten (10) percent of the required parking spaces may be compact stalls with minimum rectangular dimensions of not less than eight (8) feet in width and sixteen (16) feet in length. Each such space shall have vertical clearance of at least seven (7) feet. All dimensions shall be exclusive of obstructions and of driveways, aisles, and other circulation areas.

3. Parking Space Access

a. Each required off-street parking space shall open directly upon an aisle or a driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. The following minimum aisle or driveway width standards shall apply: twenty-five (25) feet wide for ninety (90) degree parking; twenty (20) feet wide for sixty (60) degree parking; twenty (20) feet wide for forty-five (45) degree parking; and fifteen (15) feet wide for parallel parking.

b. Clearly defined driveways shall be provided for ingress and egress to offstreet parking areas in accordance with the following standards:

Table 6-C, Driveway Standards

Driveway Standard		Single & Two Family Residential (feet)	Multi-family Residential & Non-Residential (feet)
Maximum width at property line		22	40
Minimum distance from interior lot line		0	12 [1]
Minimum distance from street intersection		30	50
Space between two drives on the same property		24	40
Radius of curb return	Minimum	5	5
	Maximum	15	20

[1] Drives may be located at the property line in the case of shared driveways.

c. All areas devoted to off-street parking shall be designed to prevent traffic congestion on adjacent streets. Whenever possible, the number of traffic access points for uses fronting on arterial streets shall not exceed one (1) per three hundred (300) feet. Where direct access to an off-street parking area is provided by an arterial or federal aid secondary road, acceleration and deceleration lanes shall be provided on both sides of the access road in accordance with AASHTO standards.

d. All areas devoted to off-street parking shall be designed so that no vehicle is required to back into a street. Off-street parking areas that exclusively serve single-family detached and two-family dwelling units shall be exempted from this requirement unless direct access to the dwelling unit is provided by an arterial street.

4. Surfacing Requirement

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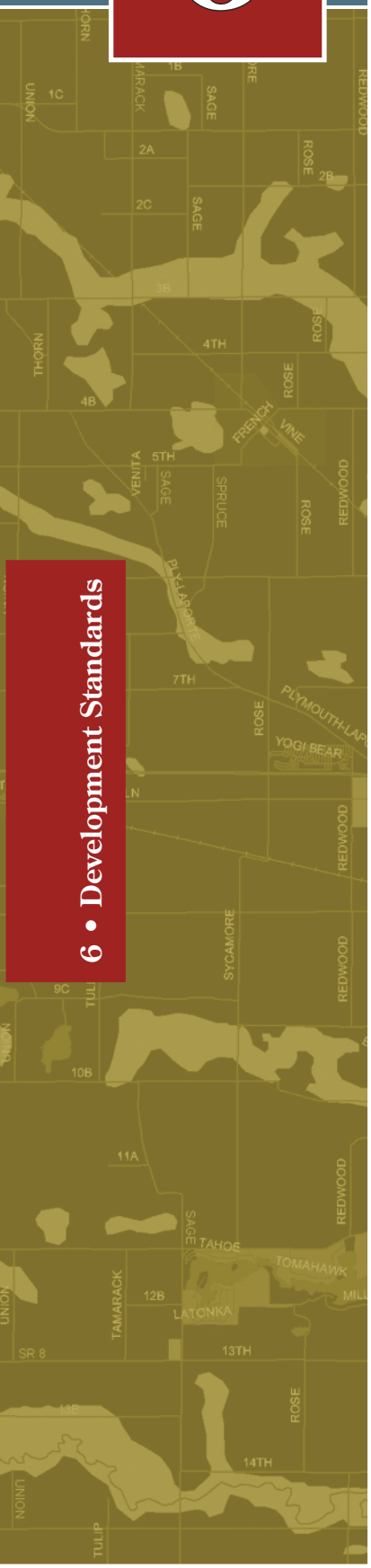

180 *Parking, Parking Access, and Loading Standards (cont.)*

a. Off-street parking areas (including parking spaces, aisles and driveways) shall be paved with plant mix asphalt or concrete within one (1) year of the date on which the improvement location permit for the parking area is issued. Single family detached and two-family dwelling units may use crushed stone in place of plant mix asphalt or concrete.

b. Poured-in-place concrete curbs shall be installed to separate off-street parking areas from the front and sides of any abutting building or structure, otherwise barrier curbs may be installed as necessary to safely and efficiently direct the movement and parking of motor vehicles. Single family detached and two-family dwellings are exempted from this requirement.

c. The off-street parking area shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude channeled or concentrated drainage of water onto adjacent property or toward buildings.

d. No part of any off-street parking area, excluding drives that do not provide direct access to abutting parking spaces, shall have a slope of greater than five percent (5%).

e. The surface of off-street parking areas shall be maintained and kept in good repair, free from refuse, debris.

5. Screening and Landscaping
All off-street parking areas are subject to the provisions of *Article 6-170, Landscaping Standards* of this Ordinance.

6. Lighting
Any lighting used to illuminate a required off-street parking area shall be shielded with appropriate light fixtures directing the light away from adjacent properties in order that the illumination at any property line shall not exceed one (1) foot candle.

E. Minimum Parking Requirements and Calculation Method

1. Off-street parking spaces accessory to principal uses shall be provided in accordance with *Article 6-180.H, Table of Off-Street Parking Requirements* of this Ordinance, which is incorporated into this section. Parking space requirements for other uses will be determined by the Board:

a. based upon data supplied by the applicant in response to requests for traffic and parking data to be furnished with the application for site plan and/or improvement location permit; and,

b. in accordance with *Article 6-180.G, Minimum Loading Area Requirements* of this Ordinance.

2. When determination of the number of off-street parking spaces required by this Article results in a requirement of a fractional space, any fraction of one-half (½) or less may be disregarded, while any fraction in excess of one-half (½) shall

be counted as one parking space.

3. In the event a specific use is not listed in *Article 6-180.H, Table of Off-Street Parking Requirements* of this Ordinance, the Zoning Administrator shall determine the number of spaces required. In making this determination, the planning staff shall consider the following criteria:

   a. the number of parking spaces required for a use listed in *Article 6-180.H, Table of Off-Street Parking Requirements* of this Ordinance that is most similar to the proposed use in terms of the parked motor vehicles that are anticipated to be generated;

   b. the square footage to be occupied by the proposed use; and,

   c. the number of employees and patrons that are anticipated for the proposed use.

F. Shared Parking

Parking which is to be shared among two or more businesses or land use activities may be permitted subject to the following requirements:

1. No more than fifty (50) percent of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.

2. Total parking provided shall be sufficient to meet the requirements of the greatest combined peak parking demands. Evidence in the form of parking generation studies or calculations shall be provided upon request of the Administrator.

3. The owners of the properties shall submit a written commitment guaranteeing that the parking spaces shall be provided and maintained as stipulated in the approved site plan, so long as parking is required for the properties in question or until the required parking is provided by other means. Such commitment shall be recorded by the property owners in the County Recorder's Office and a copy filed with the Planning Department.

G. Loading Area Development Standards

1. Location and Screening
   Where loading berths are provided, they shall be located on the same zoning lot as the use served. Loading berths shall be screened by either building walls, a solid fence, densely planted shrubbery, or any combination thereof, none of which may be less than six (6) feet in height at maturity. Loading berths may not be located in a front yard setback in any zoning district.

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

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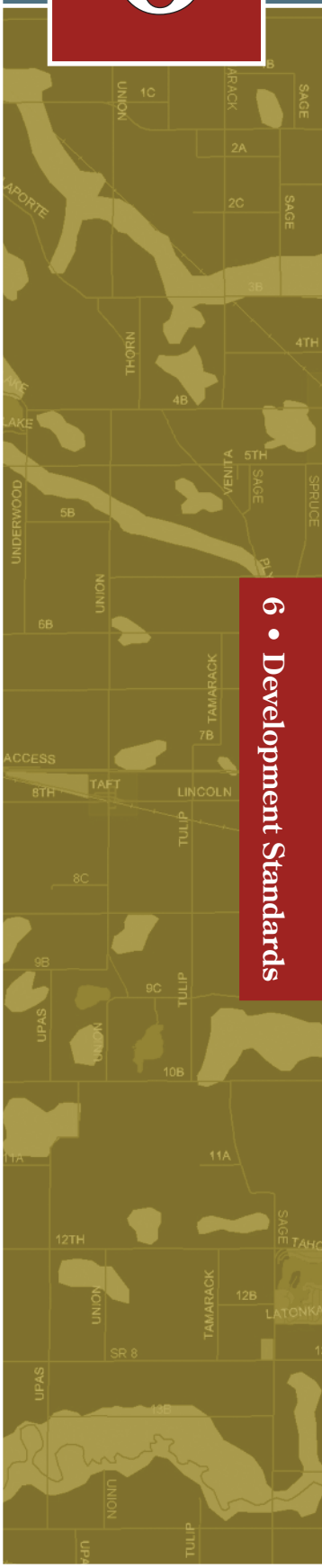
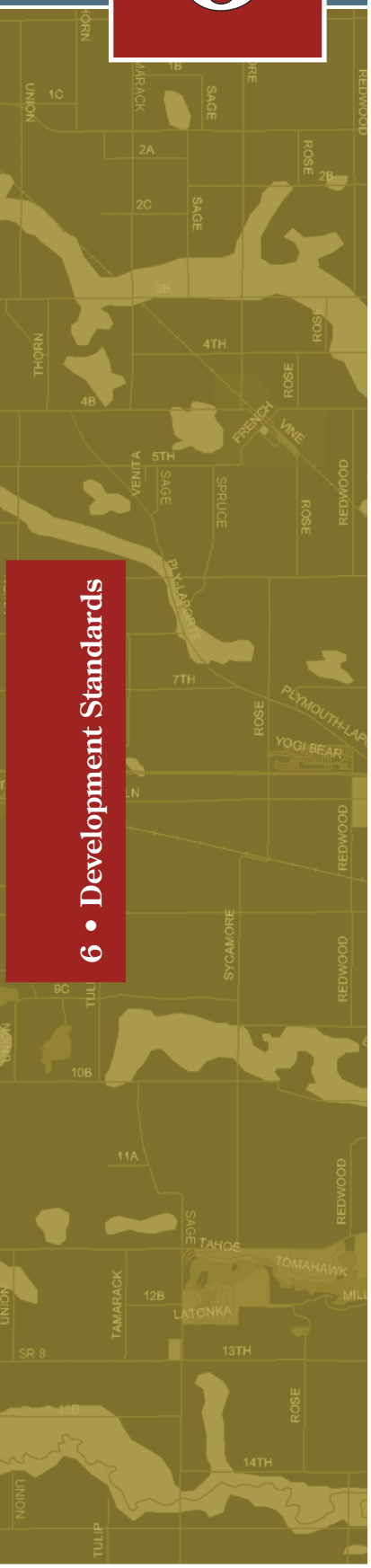




180 *Parking, Parking Access, and Loading Standards (cont.)*

3. Utilization
   Loading activities may not utilize required off-street parking spaces or access thereto.

4. Plan Required
   The location of loading activities must be shown on any site plan submitted for review.

H. Table of Off-Street Parking Requirements

Table 6- D, Non-Residential Required Parking Spaces

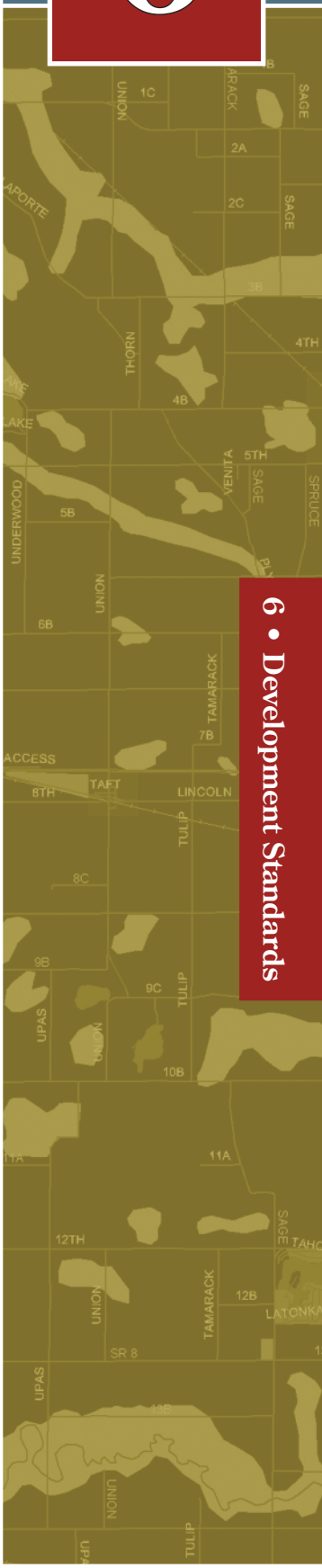
(sq. ft. indicates square feet of gross floor area)

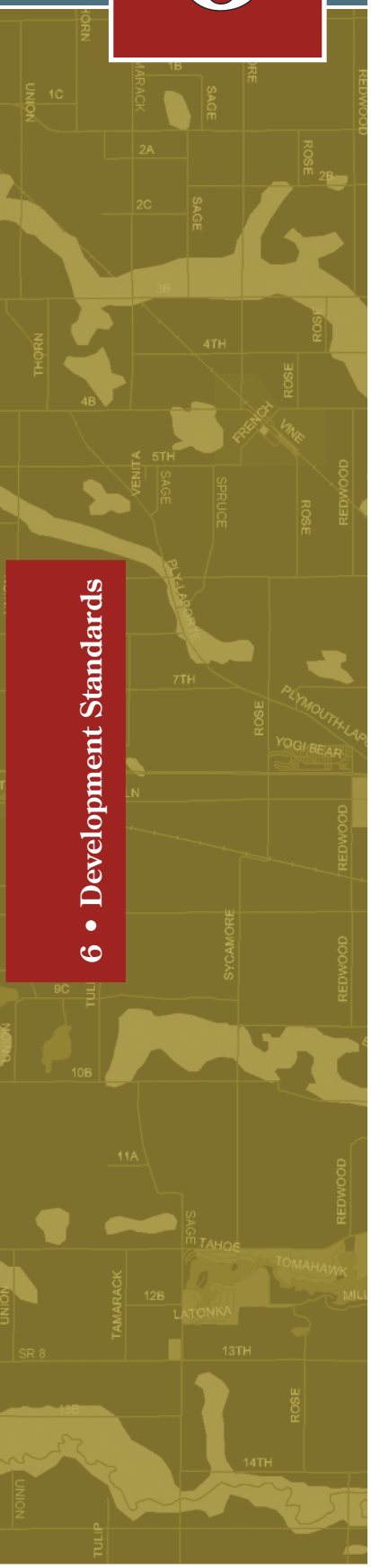
Use	Parking Spaces	Standard
Employee Parking	1 space	employee working on the largest shift
Business Vehicle	1 space	business vehicle stored on-site
	..in addition to...	..for every...
restaurant, auditorium, gymnasium, church, or movie theater	1 space	3 seats
auto/boat/RV/or farm implement sales facility show rooms	1 space	500 sq. ft.
auto/boat/RV or farm implement dealership (to be used for each display item)	1 space	Per item on display
hardware home improvement, furniture, and large appliance stores	1 space	400 sq. ft.
medical or dental office or clinic	1 space	200 sq. ft.
fitness center, health spa, or entertainment center	1 space	200 sq. ft.
administrative or professional business office, library, museum, or art gallery	1 space	250 sq. ft.
car wash, repair, or modification center	1 space	200 sq. ft.
convenience stores, banks, gas stations, grocery stores, department stores, and other retail facilities	1 space	300 sq. ft.
day care facility	1 space	6 children permitted by capacity
hotel, motel, and bed and breakfast	1 space	sleeping unit

Table 6- D, Non-Residential Required Parking Spaces

(sq. ft. indicates square feet of gross floor area)

Use	Parking Spaces	Standard
golf course	20 spaces	nine holes
elementary and middle schools or high schools with a gym or auditorium	2 spaces	classroom
high school without an auditorium or gym	1 space	4 students
high school with an auditorium or gym	1 space	20 student
community college, business, vocational, trade, or other commuter-based school	1 space	4 students
resident-student based college or university	1 space	2 on-campus residents
swimming pool or skating rink	1 space	100 square feet of recreational area
sports facility	20 spaces	field or court
hospital or nursing home	1 space	3 patient beds
personal service business, beauty or barber shop, or dry cleaners	1 space	200 sq. ft.
bowling alley	5 spaces	lane
self-storage facility	1 space	5000 square feet
Airport or heliport	1 space	for every 5 hanger or tie-down spaces





190 *Public Improvement Standards*

A. General Requirements

Developments are permitted only if the public streets, drainage facilities, and utilities are adequate to serve the proposed development.

1. Marshall County Plan Commission, based on the recommendations of County Departments, shall make determinations as to needed street, utility, and drainage improvements.

2. All public improvements must be constructed to comply with all applicable standards included in this Ordinance, Marshall County Subdivision Control Ordinance, Marshall County Drainage and Sediment Control Ordinance, and any other adopted construction standards of Marshall County.

B. Greenways

All developments shall be required to install any portion of a greenway or trail system if the development property is within a greenway or trail system plan approved by the Commission. In no instance shall this be interpreted as requiring the development to participate in the establishment of pathways as lanes on a public street.

1. Design
   All pathways shall take the form of a separately constructed path or a ten (10) foot wide sidewalk.

2. Construction Requirements
   All pathways shall conform to the latest edition of the AASHTO Guide for the Development of Bicycle Facilities and any applicable, adopted Marshall County construction standards.

C. Internal Pedestrian Ways

All developments shall be required to install designated walks or paths providing for pedestrian and bicycle movement between public sidewalks and the structures on the site.

1. These designated sidewalks shall be a minimum of five (5) feet in width and include an improved surface of concrete.

2. Designated walks shall be separated by grade or distance from entrance drives and internal traffic aisles and drives.

D. Street Dedications

All developments shall be required to dedicate right-of-way consistent with the classifications of Marshall County Thoroughfare Plan for all existing and proposed roads transecting or adjacent to the property being developed.

E. Street Construction

The owners of new development shall install the portion of new roads proposed by the adopted Thoroughfare Plan transecting or adjacent to a property being developed if either of the following conditions are present:

1. The development has direct access to the road proposed by the Thoroughfare Plan; or

2. The road proposed by the Thoroughfare Plan will provide previously unavailable access to other properties controlled by the owner of the new development.

G. Street Trees

All developments shall be required to provide street trees within the right-of-way.

1. One street tree shall be planted for every fifty (50) feet of road frontage.

2. All street trees shall be a minimum of 2-1/2 inch caliper as measured consistent with the American Nursery Standards Institute (ANSI) at the time of planting and shall be of a species listed as an approved street tree in the Marshall County Subdivision Control Ordinance.

3. No tree may be planted so that its center is closer than two (2) feet to a sidewalk or curb, or edge of pavement if no curbs are present. No tree shall be planted within twenty-five (25) feet of the intersection of two street rights-of-way, or within ten (10) feet of the intersection of a street and an entrance driveway. No tree shall be planted within ten (10) feet of any fire hydrant or five (5) lateral feet of any underground utility service.

H. Public Utilities

All new developments shall be required to connect to public sanitary sewer, water, and storm water drainage systems if reasonably feasible

1. Storm water drainage systems in developments shall not result in any additional run-off being transferred to adjacent properties other than through proper easements established for that purpose.

2. The size of all water and sewer mains shall be large enough not only to serve the areas under immediate consideration, but also to serve areas which are likely to be developed and which should be served by the extensions under consideration.

3. Fire hydrants, Knox boxes and other fire fighting infrastructure shall be installed consistent with the requirements of the appropriate fire district.

I. Easements

No structure with the exception of fences may be located in, or otherwise obstruct any easement. Fences shall be permitted within easements subject to the receipt of written permission from the easement holder. Approval of the Board of County Commissioners shall be required for all fences proposed for placement in easements which are held by Marshall County.

J. Dry Fire Hydrants

In locations where fire hydrants served by a pubic water system can not be provided, dry hydrants shall be provided in lakes and storm water retention and detention ponds subject to the specifications of the appropriate local fire department.

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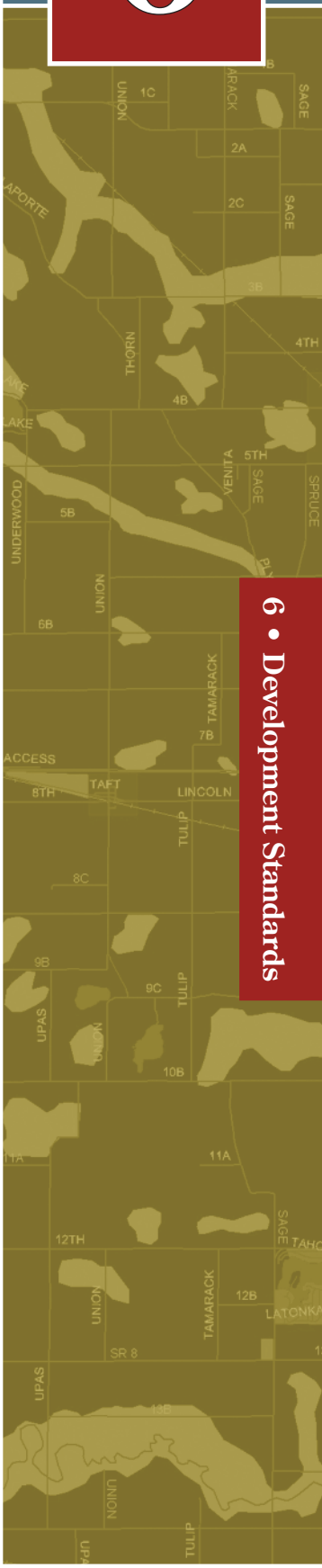

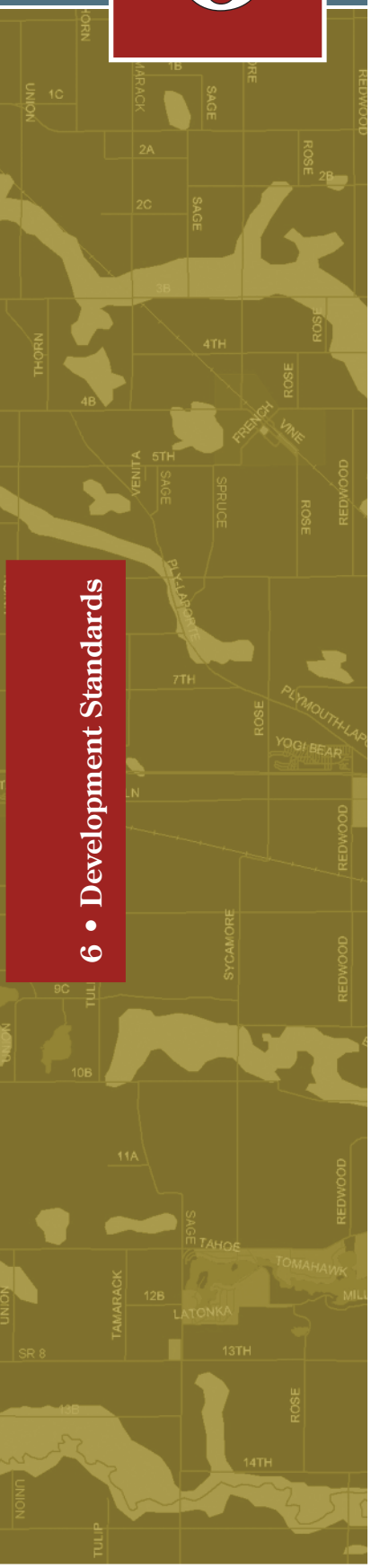

200 *Sign Standards*

A. Purpose

The purpose of this section is to: further the goals of the Comprehensive Plan; minimize the possible adverse effects of signs on nearby public and private property; encourage signs to be compatible with the scale and type of buildings and surrounding features; maintain and enhance the aesthetics of the County; eliminate potential hazards to motorists and pedestrians resulting from signs; and promote the health, safety, and welfare of the residents of Marshall County.

B. General Requirements

Except as otherwise provided in this Chapter, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign within the jurisdiction of the Commission, or cause the same to be done without first obtaining an Improvement Location Permit. The following general sign standards apply to all signs within the jurisdiction of the Commission.

1. Measurement
   The area of all signs shall be calculated by multiplying the maximum vertical dimension by the maximum horizontal dimension excluding any poles or supports. The height of all signs shall be measured from natural ground level at the location of the sign to the top of the sign, and include any poles or other supports unless otherwise specified in this Chapter. In no case shall sign height be measured from the top of any berm or other artificial grade.

2. Double-Faced Signs
   For all signs permitted by this Chapter, a double faced sign may be erected. Only the face area of one (1) of the two (2) sides shall be considered the face area of the entire sign. However, the two (2) faces shall be identical in face area, face opposite directions, and the maximum distance between the two (2) faces of the double faced sign shall not exceed two (2) feet.

3. Inspection
   Signs for which a permit is required may be inspected periodically by the Zoning Administrator for compliance with this Chapter.

4. Removal of Sign
   The Zoning Administrator may order the removal of any sign erected or maintained in violation of this Article, at the cost of the property owner, consistent with the provisions of *Article 12, Enforcement & Penalties* of this Ordinance.

5. Maintenance
   All signs and their components shall be kept in good repair and in safe, neat, clean, attractive, and structurally sound condition. If failure to maintain a sign is determined by the Zoning Administrator, a written notice will be given to the owner, business operator or lessee of the property consistent with the provisions of *Article 12, Enforcement & Penalties* of this Ordinance.

6. Illuminated Signs
   All illuminated signs must meet the standards specified in the State Electrical Code, as adopted and amended by the State of Indiana and *Article 6-050, Exterior Lighting Standards* of this Ordinance.

7. Exterior Murals and Wall Graphics

   a. Except for area, a mural or wall graphic shall comply with this Chapter.

   b. The area of a wall graphic or mural may not exceed thirty percent (30%) of the wall.

   c. A mural or exterior wall graphic shall not be permitted as an Off Premise Sign and shall relate exclusively to the use of the building on which it is located

8. Enforcement
   The enforcement of violations of the provisions of this Article shall be as provided by *Article 12, Enforcement and Penalties* of this Ordinance.

C. Exempt Signs
The following signs are exempt from all provisions of this Ordinance.

1. Flags
   Flags of any country, state, unit of local government, institution of higher learning, or similar institutional flags.

2. Integral Identification Signs
   Names of buildings, date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.

3. Informational Signs
   Informational signs, such as "NO PARKING" and "ENTRANCE", that have a purpose secondary to the use of the property and having no commercial message are permitted. The maximum height of an informational sign shall be two and one half (2½) feet and not exceed six (6) square feet in area. Informational signs are not permitted in any public right-of-way.

4. Public Signs
   Public signs erected by or on the order of public officer(s) in the performance of public duty, such as signs to promote safety, no trespassing, or traffic signs; memorial plaques; signs of historical interest; and signs directing people to public and quasi-public facilities.

5. Utility Marker Signs
   Utility signs are permitted to mark cables and lines for public and private utilities unless such signs are determined to be a hazard by the Zoning Administrator.

6. Seasonal & Holiday Signs
   Seasonal or holiday signs, including lighting erected in connection with the observance of holidays, provided that such signs shall be removed no later than thirty (30) days following the holiday.

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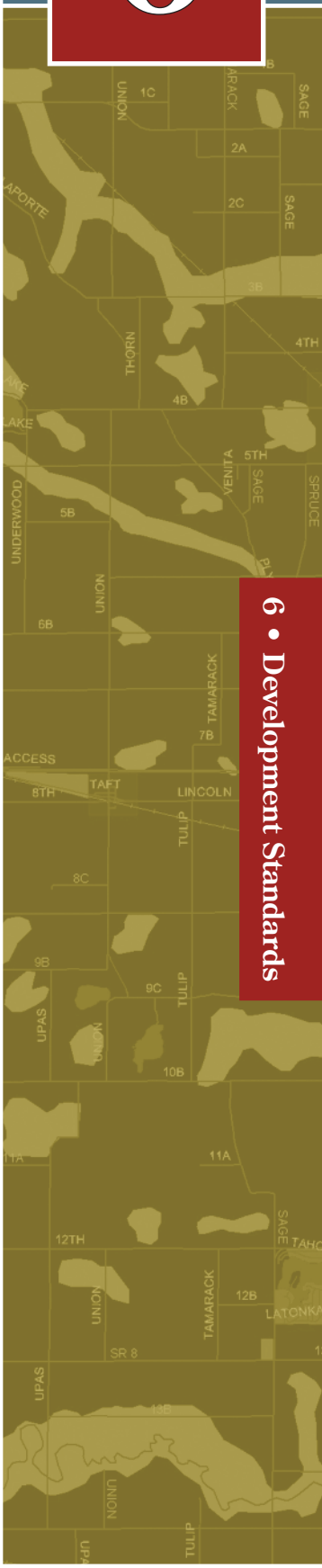

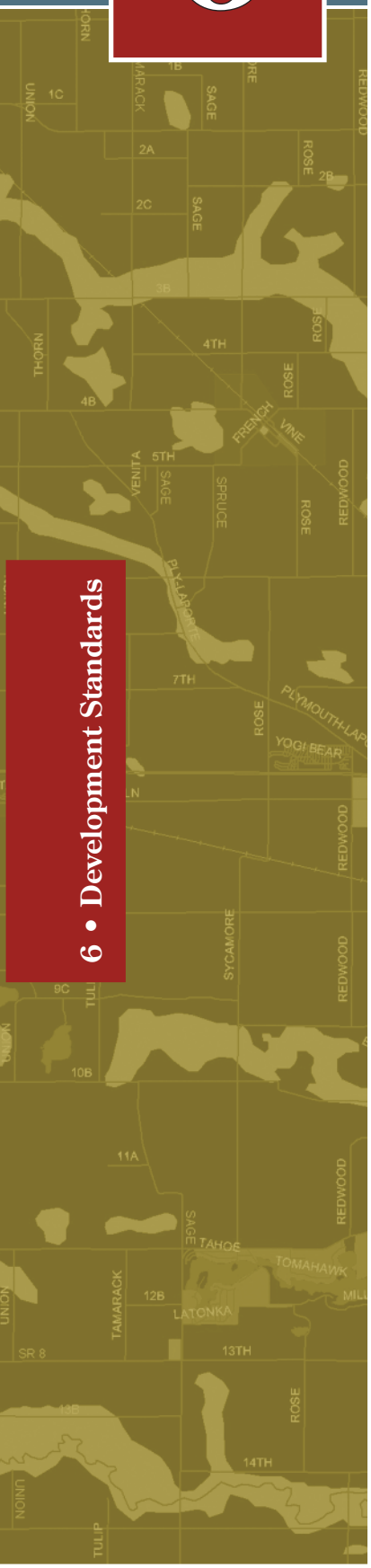

200 *Sign Standards (cont.)*

7. Real Estate Signs
   Real estate signs, provided they are not located in the right-of-way and do not exceed six (6) square feet in residential zoning districts and thirty-two (32) square feet in non-residential zoning districts. The signs shall be setback a minimum of ten (10) feet from any other property line. Real estate signs shall only advertise the property on which is it located.

8. Signs of Expression
   Political signs and other signs of expression, provided that no such sign exceeds six (6) square feet in area or four (4) feet in height from ground level.

   a. Each sign shall be permitted on any property for a maximum of four (4) months per calendar year. However, signs related to a particular event or date, such as political signs placed in anticipation of an election, may be placed no sooner than thirty (30) days prior to the event and shall be removed a maximum of one (1) week after the event.

   b. The sign shall not be illuminated.

   c. The sign shall not be located in a public right-of-way or otherwise create a safety hazard

9. Works of Art
   Works of art that do not include a commercial message.

10. Emergency Signs
    Emergency signs, such as those used by the fire or police department or those displaying employee information.

11. Banners and Pennants
    Banners, pennants, streamers and any combination of such signs, provided that the use of such signs is temporary and does not exceed thirty (30) consecutive days.

12. Construction Signs
    Signs posted on construction sites, provided that such signs are not located in the right-of-way, do not exceed thirty-two (32) square feet, and are removed upon completion of construction activity.

D. Prohibited Signs
The following types of signs are expressly prohibited in all zoning districts.

1. Animated Signs
   Signs that utilize any motion picture, laser, or visual projection of images or copy in conjunction with any business or advertisement.

2. Emissions
   Signs that emit audible sound, odor or visible matter.

3. Imitation of Official Signs
   Signs that purport to be, 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.

4. Imitation of Emergency Vehicles
   Signs that may be construed as a light of an emergency or road equipment vehicle.

5. Visual Impairment
   Signs that hide any traffic or roadway sign, signal or device from view, or that interfere with the Sight Visibility Area as defined in *Article 3-130.A(2), Visual Setback on Corner Lots* of this Ordinance.

6. Encroachment
   Signs that are located in any right-of-way, non-sign easement, or septic field, including those posted on utility poles or street signs.

7. Obstruction
   Signs that obstruct any door, fire escape, stairway, or any opening intended to provide entrance or exit for any structure.

8. Vehicle Signs
   Signs placed on vehicles parked on public or private property primarily for the purpose of displaying the sign. Prohibited signs do not include those displayed on vehicles parked for the purpose of lawfully making deliveries or random sales or service. Prohibited signs do not include vehicles which are customarily used for transporting persons or properties, and vehicles parked at a driver’s place of residence during non-business hours or for incidental purposes.

9. Poster Signs
   Posters, placards and other similar signs attached to light poles, gas station canopy supports, trees, convenience store parking lots, and elsewhere outdoors which are not included as permitted temporary or permanent signs as described by this Chapter.

E. On Premise Signs

1. Signs are permitted in any A-1, A-2, A-3, T-1, L-1, and MH Zoning District with a permit subject to the following regulations and other applicable standards in this chapter:

   a. Home Based Business, Home Occupation and Home Workshop signs
      One (1) sign or nameplate to identify the approved business conducted on the property. Said sign shall not exceed six (6) square feet in area and may be mounted flush against the dwelling or placed in the yard. The sign shall not be closer than five (5) feet to a side or rear lot line and shall not be illuminated.

   b. Permanent real estate development signs.

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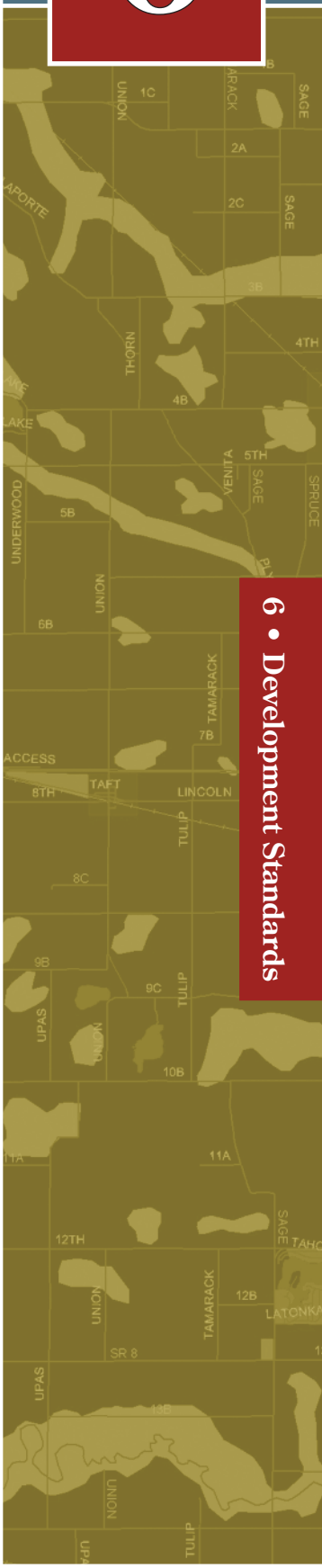

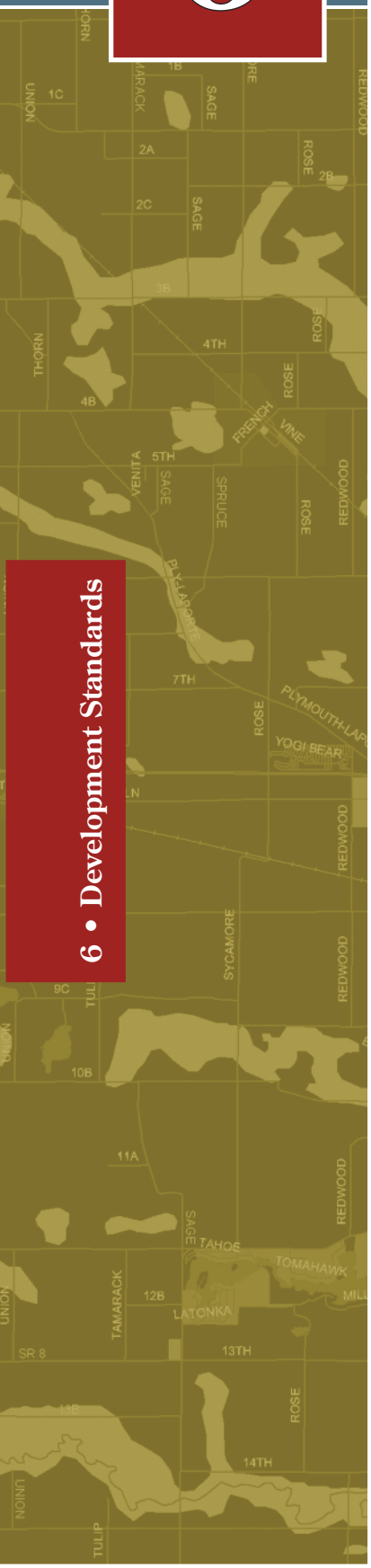

200 *Sign Standards (cont.)*

Permanent real estate development signs may be placed at the entrance to a residential complex, subdivision or development and shall contain only the name of the subdivision or development, and shall not be less than five (5) feet from a side or rear lot line. In no case shall the sign exceed thirty-two (32) square feet in area.

c. Farm or rural estate sign
One (1) sign identifying the farm or estate property on parcels not less than five (5) acres in area may be permitted. The sign shall not exceed twenty (20) square feet in area.

d. Temporary development signs
One (1) sign at the entrance to the development is allowed for the purpose of designating a new building or development, or for promotion of a subdivision provided that the sign shall not exceed thirty-two (32) square feet in area.

2. Signs are permitted in C-1, C-2, I-1, I-2 or PUD Zoning Districts with a permit subject to the following regulations and other applicable standards in this Chapter:

a. Sign type and permitted sizes.

i. Wall signs or building signs
Wall signs and building signs shall be placed against the exterior walls of buildings and shall not extend more than twelve (12) inches outside of a building's wall surface, shall not exceed one (1) square foot in area for every one (1) linear foot of building face width on which it is mounted, and shall not exceed the height or project beyond the building. Individual channel lettering will be preferred over cabinet signs on brick buildings.

ii. Marquee and canopy signs

- Marquee and canopy signs affixed flat to the surface of a marquee or canopy are permitted in lieu of a wall sign, provided that the sign does not extend vertically or horizontally beyond the limits of such marquee, awning, or canopy.

- A marquee or canopy may extend up to twelve (12) feet beyond the building to which it is affixed, but shall not extend into a required front yard, side yard, or rear yard, nor shall it extend closer than one (1) foot to the vertical plane formed by the curbline in a shopping center.

- A name sign not exceeding two (two) square feet in area located immediately in front of the entrance to an establishment may be suspended from a marquee or canopy, provided that the name sign is at least eight (8) feet above the sidewalk.

iii. Monument signs

- All new signs and or replacement of existing signs located along arterials or major thoroughfares shall be placed on a monument base constructed of the same material and color or shall enhance the exterior architecture of the principal building.

- The width of the sign base shall be adjusted to match the width of the sign box/sign panel. The sign base shall not exceed three (3) feet in height. The monument sign shall not exceed eight (8) feet in overall height above the mean lot grade and shall be setback entirely outside the base setback line.

- Monument signs shall not exceed thirty-two (32) square feet in face area. The face area includes all surface area of the signage box and sign face but excludes the surface area of the signage base described.

- Monument signs may be positioned either parallel or perpendicular to the public right-of-way.

- Address plaque or numbers shall be required on the monument base.

iv. Ground signs
Ground signs shall not exceed eight (8) feet in height above the mean lot grade or the mean street center line grade, whichever is less, shall be setback entirely outside the base setback line, and shall not exceed thirty-two (32) square feet in area on one side.

v. Pole Signs

- Pole signs are not permitted in C-1 Districts

- Pole signs shall not exceed twenty (20) feet in height.

- Pole signs shall not exceed seventy-five (75) square feet in area.

- Pole signs may be positioned either parallel or perpendicular to the public right-of-way.

vii. Roof signs.
Roof signs are prohibited.

viii. Time-and-temperature and LED devices

- Time-and-temperature devices may be erected as wall signs or part of ground and monument signs and shall meet the requirement attendant to those sign types.

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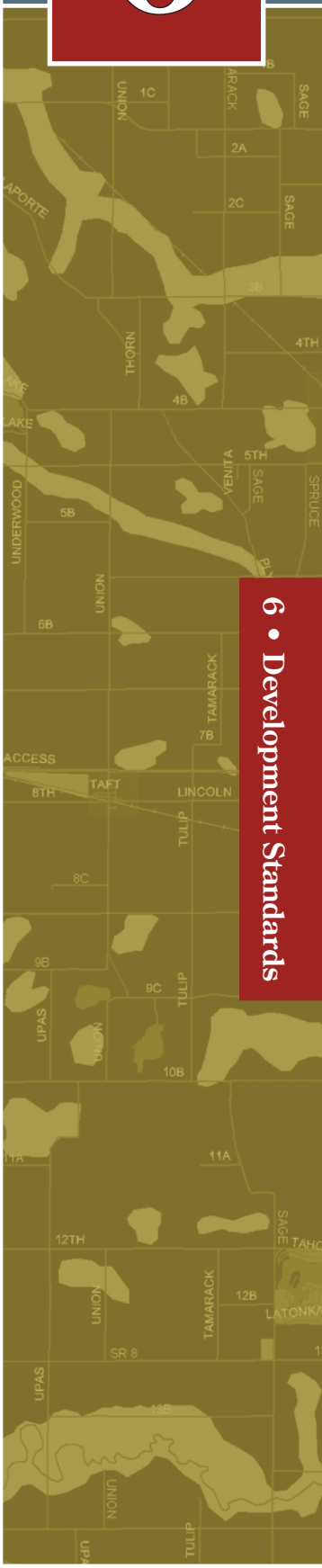

200 *Sign Standards (cont.)*

- Time-and-temperature devices may display the time, the temperature, activities occurring on the premises, and public events, but shall not flash per *Article 6-200.D, Prohibited Signs* of this Ordinance. Signs and LED devices may be illuminated but nonflashing. Signs and LED devices shall not be revolving or animated; however, time-and-temperature devices may be cyclical. Approved LED devices may advertise only one message per day.

b. Number of signs.
The total number of signs on any one (1) premise shall be limited as follows:

i. Only two (2) signs shall be permitted per business. Owners may elect for them to be any combination of wall signs, ground signs, monument signs, and pole signs (where permitted) not exceeding a total of two (2).

ii. Multi-tenant buildings may provide a tenant directory for up to four (4) tenants as one (1) of the two (2) signs permitted. This is subject to the requirements within the zoning district.

iii. Separate individual wall or canopy or fascia signs may be allowed for each tenant in a retail, shopping or commercial center. Size of wall signs approved in this manner shall be figured using the width of the bay occupied by each retail tenant.

F. Off Premise Signs (Billboards)
Off Premise Signs shall be permitted in C-2, I-1, and I-2 districts. No Off Premise Sign shall be permitted to be erected, constructed, installed or maintained in any manner inconsistent with the following:

1. Separation and Spacing
Off Premise Signs shall be separated from each other by not less than five hundred (500) feet in all directions

2. Interstates and limited access highways
No Off Premise Sign may be located within one thousand (1,000) feet of an entrance or exit of an interstate or limited access highway.

3. Intersections
No Off Premise Sign may be located within five hundred (500) feet of the intersection of any two public rights-of-way.

4. Off Premise Signs shall consist only of a single structure, having either one (1) advertising face, or two (2) back-to-back advertising faces. There shall be no double-decked (stacked) or side-by-side Off Premise Signs.

5. Back-to-back Off Premise Signs are permitted, with each allowed the maximum square footage, provided that such signs are completely back-to-back or at an

offset no greater than an angle of forty-five (45) degrees.

6. No Off Premise Sign may be located within one thousand five hundred (1,500) feet of a residential subdivision that has been recorded in the Marshall County Recorder's office or a property that is zoned A-3, L-1, or T-1.

7. Off Premise Signs shall not be portable, inflated, attached, installed or constructed in any manner to a motor vehicle or trailer.

8. Dimensions, Setbacks, and Area of Off Premise Sign

   a. The maximum area of the face of any one side shall be three hundred thirty (330) square feet.

   b. The maximum height of the sign and sign structure shall not be greater than twenty (20) feet.

   c. The maximum height of the sign face shall not exceed thirteen (13) feet.

   d. The maximum length of the sign face shall not exceed twenty-five (25) feet exclusive of structural members or supports.

   e. The minimum front yard setbacks for an Off Premise Sign shall be thirty (30) feet.

   f. The minimum side and rear yard setbacks for an Off Premise Sign shall be twenty (20) feet.

9. Off Premise Sign Design and Construction

   a. Off Premise Signs shall be engineered, designed, and constructed of adequate materials.

   b. The application for an Off Premise Sign shall be accompanied by a signed and sealed certification from an engineer registered in the State of Indiana certifying that the Off Premise Sign meets the construction standards of this zoning ordinance, all applicable codes, and good engineering practices pertaining to all components of the sign and sign structure.

G. Temporary Signs

One (1) temporary sign for each business use shall be permitted for no more than seven (7) consecutive days a maximum of four (4) times per calendar year. A permit shall be required each time a temporary sign is to be used, and the sign shall meet the following requirements:

1. Illumination
   The sign shall be illuminated consistent with the *Article 6-050, Exterior Lighting Standards* of this Ordinance. In no instance shall any temporary sign use any flashing or blinking lights or other effect prohibited by this Ordinance.

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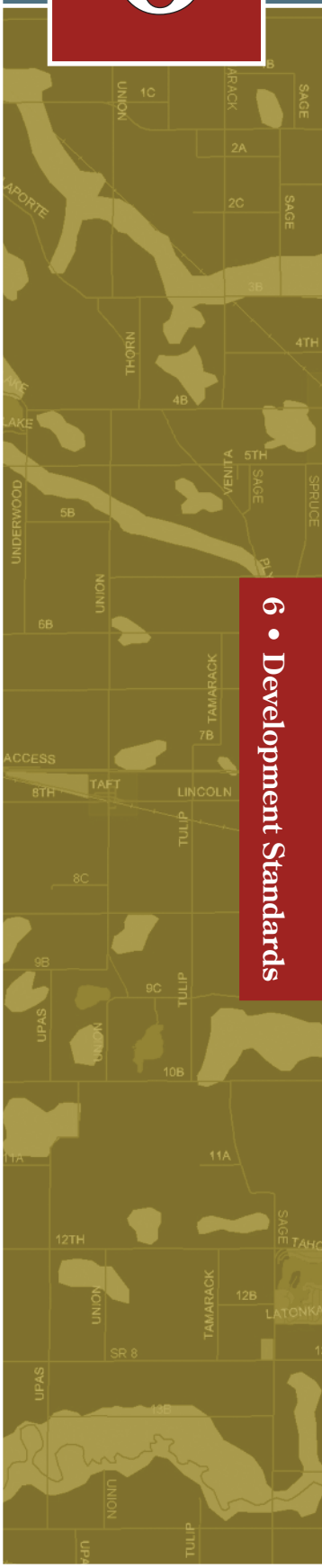

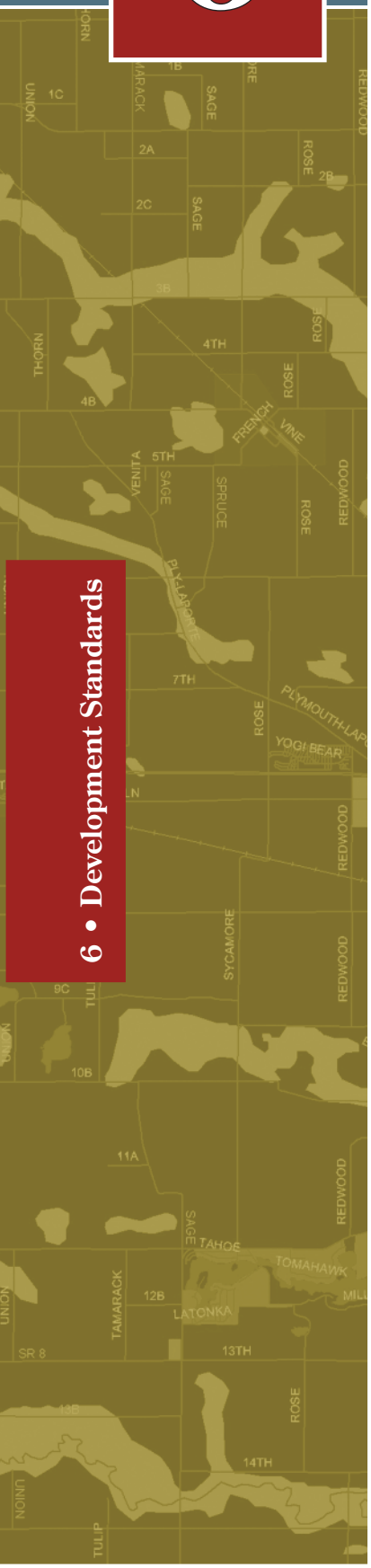

200 *Sign Standards (cont.)*

2. Height and Area
   The sign shall not exceed thirty-two (32) square feet in area or eight (8) feet in height from ground level.

3. Setback
   The sign shall be placed a minimum of ten (10) feet from any public right-of-way and any other property line.

4. Types of Temporary Signs
   Portable signs, sandwich board signs, and inflatable signs shall be considered permitted temporary signs for the purpose of this Chapter. In no instance shall this provision be interpreted as temporarily or permanently permitting any sign prohibited by *Article 6-200.D, Prohibited Signs* of this Ordinance.

H. Existing, Illegal, Non-Conforming Signs
Any illegal, nonconforming signs consistent with the definition provided by *Article 8, Nonconforming Structures, Lots, & Uses* of this Ordinance shall be removed from the property on which they are located within one hundred eighty (180) days of the effective date of this ordinance. Any illegal, non-conforming signs remaining after that date shall be subject to the provisions of *Article 12, Enforcement & Penalties* of this Ordinance.

210 *Telecommunication Facility Standards*

A. Intent

In order to protect the public health, safety, and general welfare of the community while accommodating the communication needs of residents and businesses, these regulations are necessary in order to:

1. facilitate the provision of wireless telecommunication services to the residents and businesses of Marshall County;

2. minimize adverse visual effects of wireless communication facilities through careful design and siting standards;

3. encourage the location of towers in nonresidential areas through performance standards and incentives;

4. avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and

5. provide mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applicants and those existing towers that are physically capable of sharing.

B. Authority

The Marshall County Plan Commission is vested with the authority to review, approve, conditionally approve, and disapprove applications for wireless communication facilities, including sketch, preliminary, and final plans.

C. Public Purpose

Regulations of the siting of wireless communication facilities is an exercise of valid police power delegated by the State of Indiana and as stipulated in the Federal Telecommunications Act of 1996. The developer has the duty of compliance with reasonable conditions laid down by the Marshall County Plan Commission.

D. Wireless Communication Facility Application Procedure and Approval Process

1. General Procedure
   In addition to the information required elsewhere in the Marshall County Zoning Ordinance, development applications and approval for wireless communications facilities shall include the following supplemental information:

   a. A report from a qualified and licensed professional engineer which:

      i. describes the tower height and design including a cross section, latitude, longitude, and elevation,

      ii. documents the height above grade for all potential mounting positions for co located antennas and the minimum separation distance between antennas;

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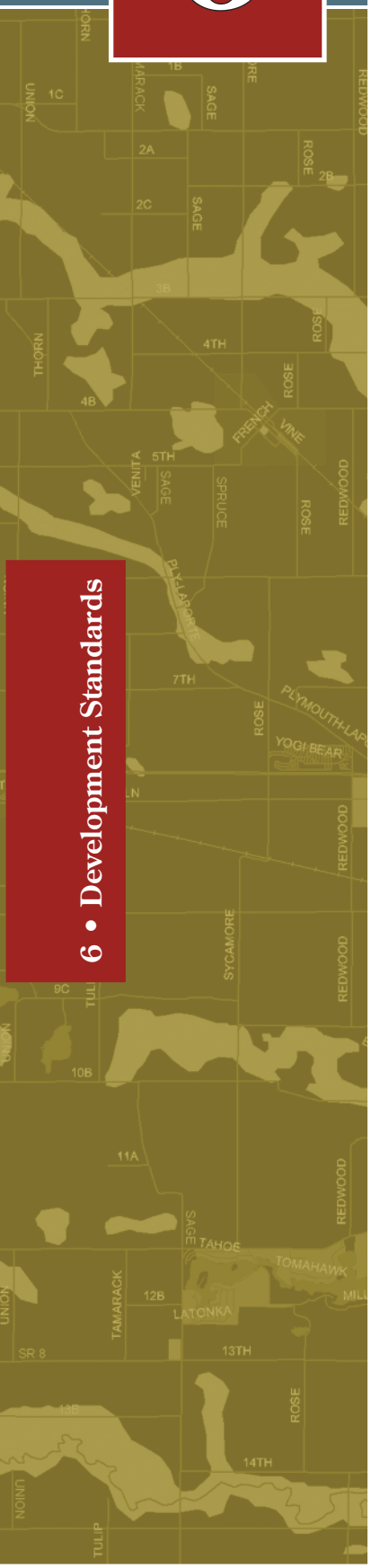

210 *Telecommunication Facility Standards (cont.)*

iii. describes the tower's capacity, including the number and type of antennas it can accommodate;

iv. document what steps the applicant will take to avoid interference with established public safety telecommunications;

v. includes an engineer's stamp and registration number; and,

vi. includes other information necessary to evaluate the request.

b. For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

c. Before the issuance of a Improvement Location Permit, the following supplemental information shall be submitted:

i. a copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460 1) shall be submitted to the Plan Commission; and

ii. a report from a qualified and licensed professional engineer which demonstrates the tower's compliance with structural and electrical standards.

d. Within sixty (60) days of completion of the facility, the applicant shall provide the Plan Commission Office with an as built survey from a Registered Land Surveyor verifying the coordinates, height, and site plan of the wireless facility.

2. Site Plan Requirements
In addition to the Site Plan requirements found elsewhere in the Marshall County Zoning Ordinance, site plans for wireless communications facilities shall include the following supplemental information:

a. Location and approximate size and height of all buildings and structures within five hundred (500) feet adjacent to the proposed wireless communication facility.

b. Site plan of the entire development, indicating all improvements including landscaping and screening.

c. Elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site.

3. General Approval Standards
A wireless communication facility will be required to meet the following standards and specifications:

a. The location of the proposed tower is compatible with the intent of the Marshall County Comprehensive Plan and Zoning Ordinance.

b. All efforts to locate on an existing tower have not been successful or legally/physically possible.

c. The submitted site plan complies with the performance criteria set in these regulations.

d. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

e. The Setback distance from the center of the proposed facility/tower to the nearest recorded parcel line shall be 60% of the height of the facility/tower.

f. The proposed communication tower facility, including tower, buildings, and guyed cable anchors shall be enclosed in a fenced area. The fence shall be at least six (6) feet high. The fence shall enclose the ground area around and under guyed anchors until the point the guyed anchors are higher than fourteen (14) feet from finished grade.

g. The lowest six (6) feet of the facility/tower be visually screened by trees, large shrubs, solid walls, or opaque fences and/or nearby buildings if the facility is within five hundred feet (500) feet of a residence.

h. Proposed facility/tower does not penetrate any airspace surfaces on or near a public or private airport. Special attention shall be given to the following:

   i. Approach Surface: Land lying beneath the approach surfaces which extends outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the runway end;

   ii. Transitional Surface: The transitional surface begins at the runway end and on either side of the runway surface and slopes upward and outward at a 7:1 slope meeting the horizontal surface at one hundred fifty (150) feet above the elevation of the airport;

   iii. Horizontal Surface: The horizontal surface begins by swinging arcs of five thousand (5,000) feet from the center end of the runway surface creating an elongated oval above the runway. The height of the horizontal surface is one hundred fifty (150) feet above the elevation of the airport; and

   iv. Conical Surface: The conical surface begins at the edge of the horizontal surface and extends upward and outward for a distance of four thousand (4,000) feet at a slope of 20:1 with an initial elevation of one hundred fifty (150) feet above the airport elevation.

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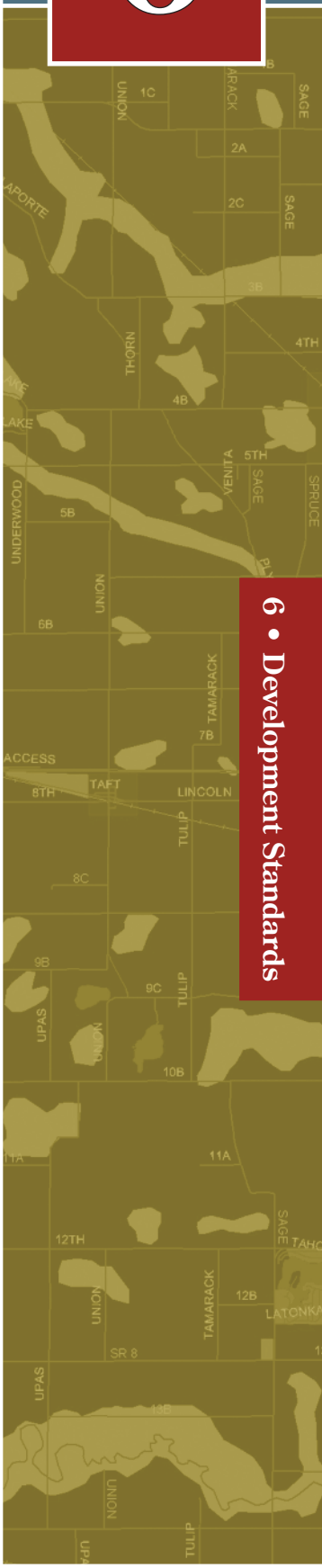

i. The owner of the wireless communication facility has agreed to permit other persons, cellular providers, and/or government agencies to attach cellular antenna or other communications apparatus that do not interfere with the primary purpose of the facility.

j. There exists no other existing, facility/tower that can reasonably serve the needs of the owner of the proposed new facility/tower.

k. The facility/tower is in compliance with any other applicable local, state, or federal regulations.

E. General Wireless Communications Facility Performance Standards

1. Co-Location Requirements
All commercial wireless telecommunication towers erected, constructed, or located within the County jurisdiction shall comply with the following requirements:

a. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Plan Commission Office or a technical consultant finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a two (2) mile search radius (one (1) mile search radius for towers under two hundred (200) feet in height, one half mile search radius for towers under one hundred (100) feet in height) of the proposed tower due to one or more of the following reasons:

i. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

ii. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building, as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

iii. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

iv. Other unforeseen reasons that make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

b. Any proposed commercial wireless telecommunication service tower shall be designed, structurally and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over two hundred (200) feet in height or for at least one additional user if the tower is over one hundred (100) feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

2. Tower and Antenna Design Requirements
Proposed or modified towers and antennas shall meet the following design requirements:

a. Towers and antennas shall be designed to blend into the surrounding environment using monopole design when possible and through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration

b. Tower Height
The maximum tower height permitted is calculated by applying the following:

i. If the tower is designed to accommodate only one service provider, the maximum height shall be one hundred (100) feet from grade.

ii. If the tower is designed to accommodate two service providers, the maximum height shall be two hundred (200) feet from grade.

iii. If the tower is designed to accommodate more than two service providers, the maximum height shall be three hundred fifty (350) feet from grade.

3. Accessory Utility Buildings
All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the Zoning Ordinance.

4. Tower Lighting
Towers shall not be illuminated by artificial means and shall not display strobe lights unless the Federal Aviation Administration or other federal or state authority for a particular tower specifically requires such lighting.

5. Antennas Mounted on Structures, Roofs, Walls, and Existing Towers
The placement of wireless telecommunication antennas on roofs, walls, and existing towers may be approved by the Marshall County Plan Commission, provided the antennas meet the requirements of these regulations, after submittal of:

a. a final site and building plan as specified by *Article 6-210.E, General Wireless Communications Facility Performance Standards* of this Ordinance, and;

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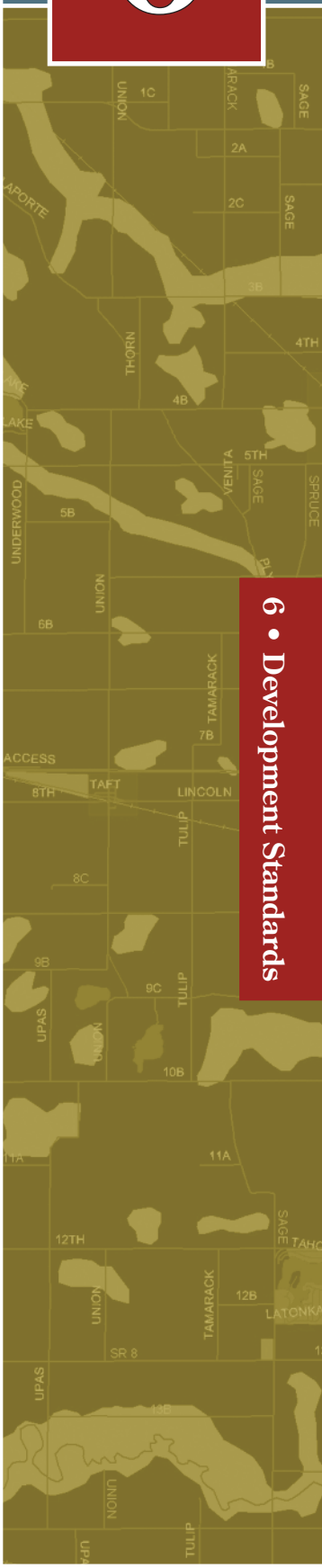
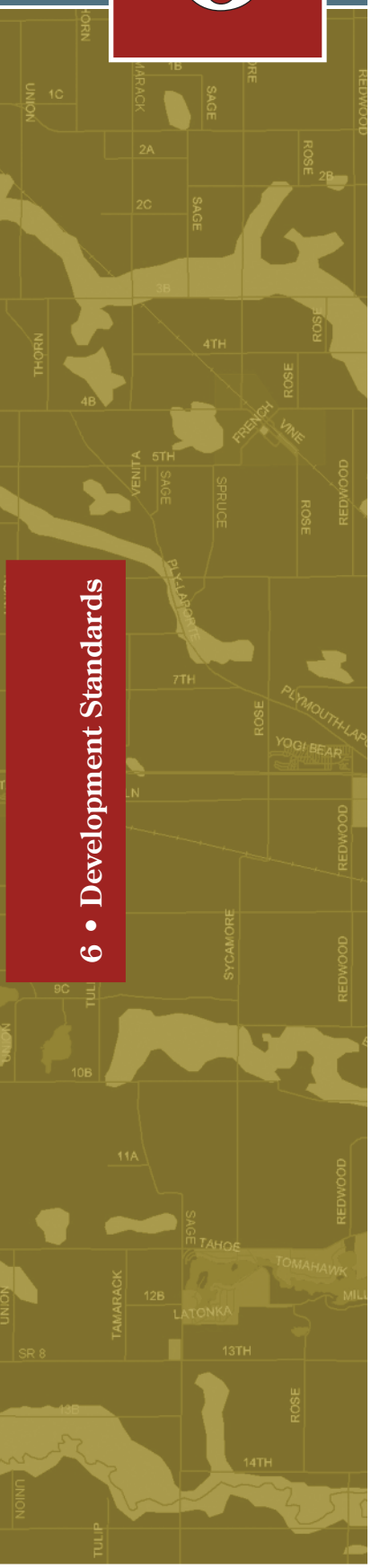




210 *Telecommunication Facility Standards (cont.)*

b. a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure.

6. Temporary Wireless Communications Facilities
Any facility designed for temporary use (as defined by this ordinance) is subject to the following:

a. Use of a temporary facility is allowed only if the owner has received a temporary use permit from the Marshall County Plan Commission.

b. Temporary wireless facilities are permitted for use of no longer than ninety (90) days for use while constructing permanent facilities, and no longer than fourteen (14) days for use during a special event.

c. The maximum height of a temporary wireless facility is one hundred (100) feet from grade.

d. Temporary facilities are subject to all applicable portions of these regulations, excluding *Article 6-210.E(1), Co-Location Requirements* and *Article 6-210.E(2), Tower and Antenna Design Requirements* of this Ordinance.

7. Interference with Public Safety Telecommunications
No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study, which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the Plan Commission at least ten (10) calendar days in advance of such changes to allow time to monitor interference levels during the testing process.

8. Signs and Advertising
The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

F. Non Commercial Wireless Facility (Amateur Radio Antennas) Standards
Private, not for profit antennas for personal use, including but not limited to television, radio, amateur radio, are exempt from *Article 6-210, Telecommunications Facility Standards* of this Ordinance.

220 *Vehicle Sales From Residence*

A. Vehicle Sale Permitted from Residence
Residents may display vehicles for sale on the same lot as their residence provided they reside on the property and the vehicle is registered to the resident.

B. Vehicles Displayed for Sale
No more than two (2) vehicles shall be displayed for sale.

C. Right-of-Way
Vehicles shall not be displayed for sale in any public right-of-way or easement.

230 *Wind Energy Conversion Systems*

A. Intent
In order to protect the public health, safety, and general welfare of the community while accommodating the energy needs of residents and businesses, these regulations are necessary in order to:

1. facilitate the provision of wind energy conversion systems (WECS) services to the residents and businesses of Marshall County;

2. minimize adverse visual effects of WECS facilities through careful design and siting standards;

3. encourage the location of WECS in nonresidential areas through performance standards and incentives;

4. avoid potential damage to adjacent properties from WECS failure through structural standards and setback requirements.

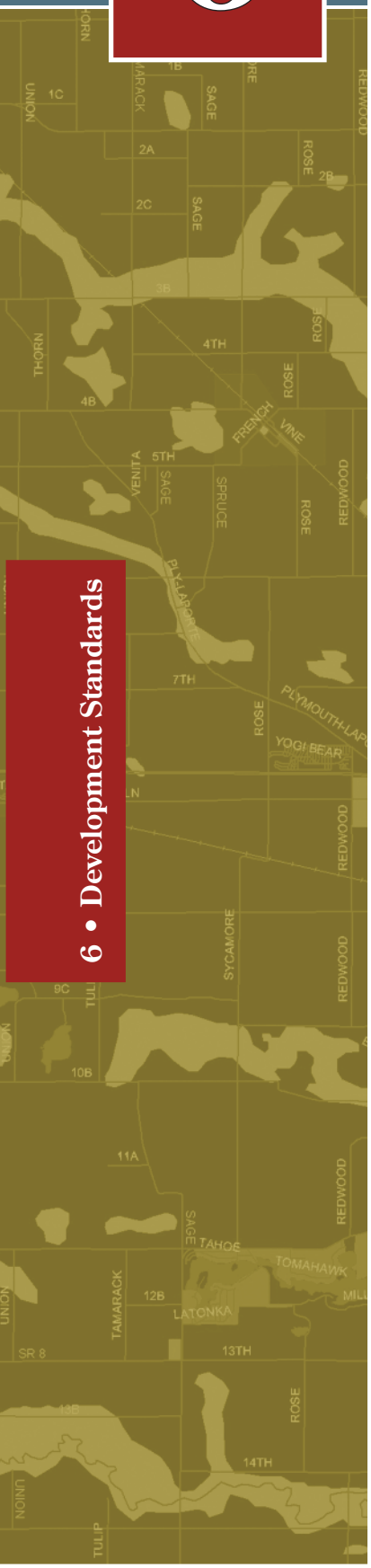
B. Authority
The Marshall County Plan Commission is vested with the authority to review, approve, conditionally approve, and disapprove applications for WECS facilities, including sketch, preliminary, and final plans.

C. Public Purpose
Regulations of the siting of wireless WECS facilities is an exercise of valid police power delegated by the State of Indiana. The developer has the duty of compliance with reasonable conditions laid down by the Marshall County Plan Commission.

D. General Approval Standards

1. All WECS are subject to the air space control height and use restrictions surrounding airports per FAA requirements.

2. No WECS shall be illuminated unless required by a state or federal agency, such as the FAA.



3. The exterior surface of all WECS, including the wind tower and associated outbuildings shall be a non-reflective, neutral color.

4. Minimum clearance between blade tip and ground level is 30'.

5. The minimum separation distance between a wind tower associated with a large and small wind system and all surrounding property lines, overhead utility or transmission lines, other electrical substations, meteorological towers and primary communications towers shall be no less than 1.5 times the total height of the wind tower. This is measured from the base of each wind tower.

6. The minimum setback between a wind tower associated with a large and small wind system and public street(s) shall be no less than 1.5 times the total height of the wind tower.

7. Large wind system(s) must be located at least 1000' from any dwelling unit, except dwelling unit(s) located on-site. Dwelling unit(s) located adjacent to and off-site from a large wind system shall maintain these same minimum separation requirements. No dwelling unit shall be built less than 1000' from any existing large wind system.

8. Wind Farms occupying multiple parcels may have internal property line setbacks waived by execution of a written document signed by all land owners sharing such a property line. All such documents shall be recorded in the office of the Marshall County Recorder.

9. All WECS shall be located so that the level of noise produced by wind turbine operation heard off-site shall not exceed 55 dBA.

10. The base of all WECS, including any guy wires and wind tower, shall be totally and permanently enclosed by a security fence at least 6' high. All guy wires must be fenced if utilized. No fence is required if the climbing apparatus is enclosed inside the wind tower and the entry is secured, or if the climbing apparatus is located at least 12' above the ground level.

11. WECS and their associated outbuildings/cabinets shall meet all setback requirements for primary structures for the zoning district in which the WECS is located.

12. Special Use applications and Improvement Location Permit applications for a large wind system or a wind farm must be accompanied by a decommissioning plan detailing how the large wind system or wind farm will be dismantled and the land restored to its prior state. Such plan would be implemented when such large wind system or wind farm ceases operation for a period of 12 months, with or without notification to the Plan Director. The plan would include the removal of all portions of the WECS, including any components up to 4' below ground level. The decommissioning must be complete within 6 months. A bond may be required by the Plan Commission to implement the decommissioning plan.

13. All WECS shall be equipped with a manual and automatic braking device capable of halting operation.

14. All wiring for wind farm collection system shall be buried to the utility interconnection point.

15. No WECS shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, airport RF signals, television or wireless phone, or other personal communications systems would produce electromagnetic interference with signal transmission or reception unless proven, engineered technology exists to dispel such problems is incorporated into the plans (i.e. detuning or other such systems).

16. All WECS electrical equipment and connections must adhere to all applicable local, state, and national codes, and relevant national and international standards. The applicant may be required to finance outside inspectors deemed necessary by the Plan Commission.

E. WECS Facility Application Procedure and Approval Process

1. General Procedure

In addition to the information required elsewhere in the Marshall County Zoning Ordinance, development applications and approval for WECS facilities shall include the following supplemental information:

a. A report from a qualified and licensed professional engineer which:

i. describes the tower height and design including a cross section, latitude, longitude, and elevation,

ii. describes the tower's capacity.

iii. document what steps the applicant will take to avoid interference with established public safety telecommunications;

iv. includes an engineer's stamp and registration number; and,

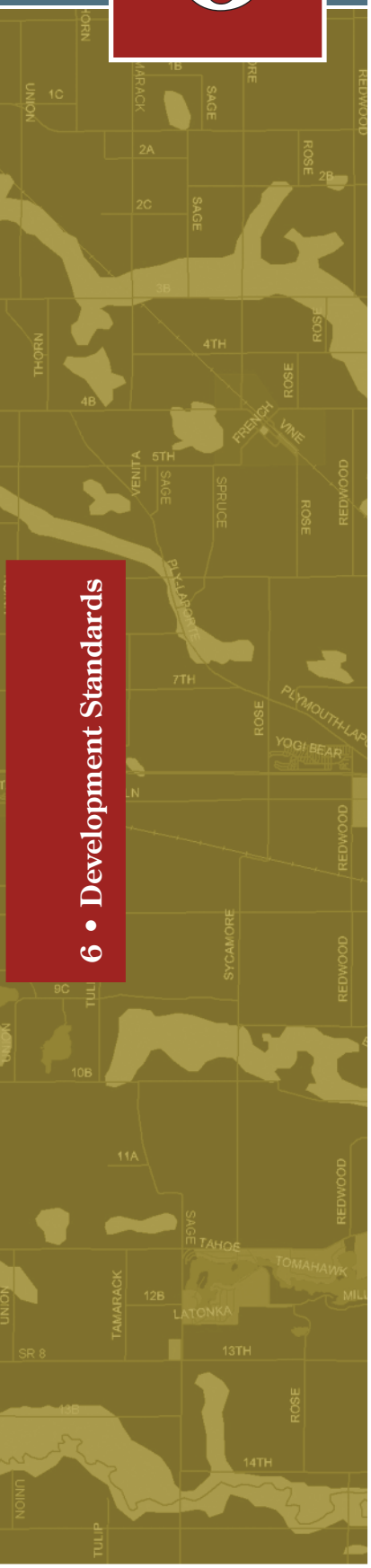
v . includes other information necessary to evaluate the request.

b. Before the issuance of a Improvement Location Permit, the following supplemental information shall be submitted:

i. a copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460 1) shall be submitted to the Plan Commission; and

ii. a report from a qualified and licensed professional engineer which demonstrates the WECS compliance with structural and electrical standards.

c. Within sixty (60) days of completion of the facility, the applicant shall provide the Plan Commission Office with an as built survey from a Registered Land Surveyor verifying the coordinates, height, and site plan of the wireless facility.



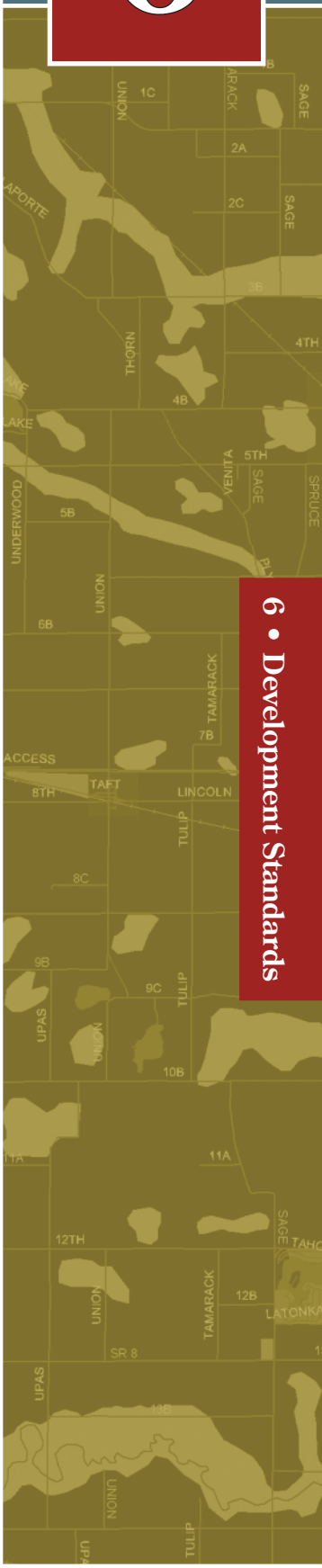
2. Site Plan Requirements

In addition to the Site Plan requirements found elsewhere in the Marshall County Zoning Ordinance, site plans for WECS facilities shall include the following supplemental information:

a. Location and approximate size and height of all buildings and structures within one thousand (1000) feet adjacent to the proposed WECS facility.

b. Site plan of the entire development, indicating all improvements.

c. Elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site.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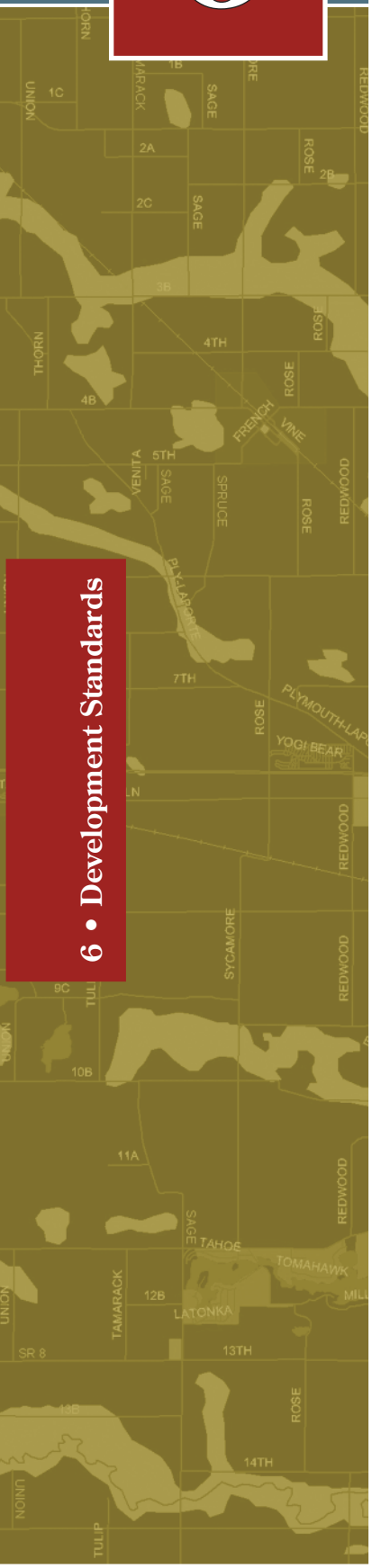
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LATONKA
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Site Development Plans

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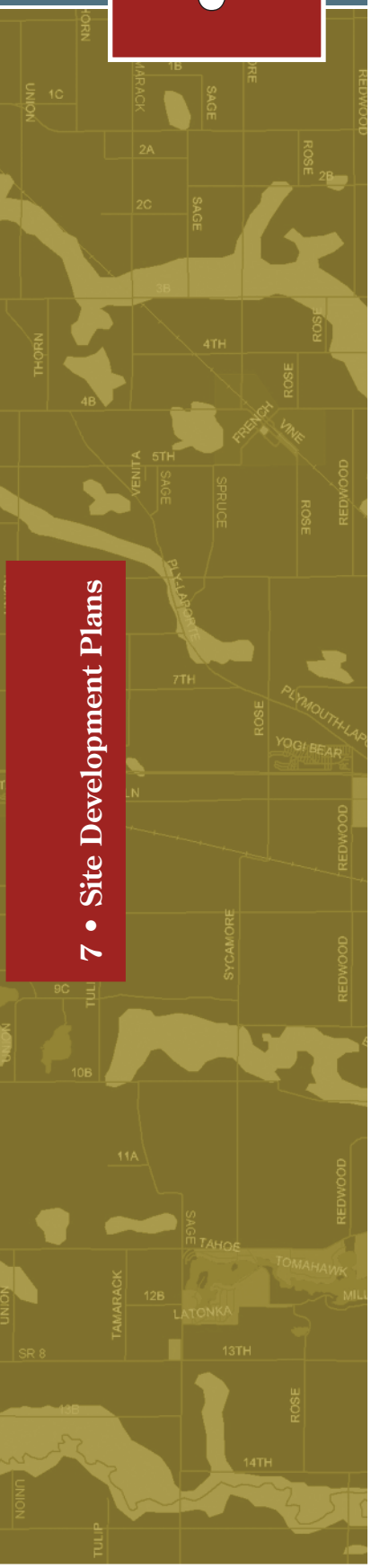
Site Development Plans



010 *Intent*

The intent of this Article is to further the goals of the Marshall County Comprehensive Plan; provide for the adequate, consistent review of new development to ensure compliance with this Ordinance; and address the unique characteristics of certain types of development that require specific review and approval. The site development plan review process is not intended to provide an alternative to rezoning, variance, special exception, platting, or other established procedures, but rather to allow for the administrative review of site conditions and plans for consistency with applicable requirements prior to the issuance of Improvement Location Permits. Generally, the site plan review shall involve individual lots, and shall occur after re-zoning or platting approval. Site plan review may occur before or after any necessary Board of Zoning Appeals petitions based on the characteristics of each individual site plan review petition.

020 *Authority*

A. Site Development Plan Required

Site Development Plans shall be required for all developments for which a Improvement Location Permit is required by this Ordinance and which are located in L-1, C-1, C-2, I-1, and I-2 Districts.

B. Exemptions

The following types of development shall be exempt from the requirements of this Article, but shall be required to obtain an Improvement Location Permit and any other permit or approval required by this Ordinance:

1. Sign Installation
   The replacement or installation of any sign(s) not occurring as part of an improvement to any other aspect of the property;

2. Parking Lot Expansion
   The expansion of an existing parking lot which does not result in a greater than ten percent (10%) or two thousand (2,000) square foot, whichever is less, increase in the surface area of the parking available on the property on the effective date of this Ordinance, exclusive of the alteration or expansion, or the need for modifications to street accesses; or

3. Structural Expansion
   The expansion of an existing structure or the construction of an accessory structure which does not result in a greater than ten percent (10%) increase in the floor area of the structures on the effective date of this Ordinance, exclusive of the alteration or expansion, and does not require the provision of additional landscaping, parking, or other improvement regulated by this Ordinance.

C. Review and Approval Authority

The Technical Review Committee, in its role as staff for the Plan Commission, shall have the authority to review and approve Site Development Plans required by this Article consistent with the Technical Review Committee provisions of this Article and *Article 10-030, Technical Review Committee* of this Ordinance.

1. Waiver of Requirements
   Neither the Technical Review Committee nor the Plan Commission shall have the authority to waive any requirement of this Ordinance in the review of a

Site Development Plan. All variances from the terms of this Ordinance shall be subject to the approval of the Board of Zoning appeals consistent with *Article 9, Board of Zoning Appeals* of this Ordinance.

2. Revision Process
The procedure for the review of proposed changes or revisions to previously approved Site Development Plans shall follow the process for the initial approval of a Site Development Plan outlined in this Article.

030 *Application Materials*

A. General Requirements

All applications may be obtained from the office of the County Plan Commission. All fees required shall be paid at the time petition and permit applications are submitted.

1. Application Forms
All applications shall be made on forms provided by the Plan Director. All petitioners and permit applicants shall submit original applications which are completed in their entirely either in ink or typed. All applications shall be signed.

2. Copies Required
All petitioners and applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the County and the applicable Rules and Procedures of the Plan Commission.

3. Review Schedule
All petitions and permit applications shall be assigned reference and/or docket numbers by the Plan Director. Petition applications shall be scheduled by the Plan Director for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Article and the appropriate adopted calendar of filing and meeting dates for the Plan Commission.

B. Application Submission

The petitioner shall submit:

1. an application for Site Development Plan review including;

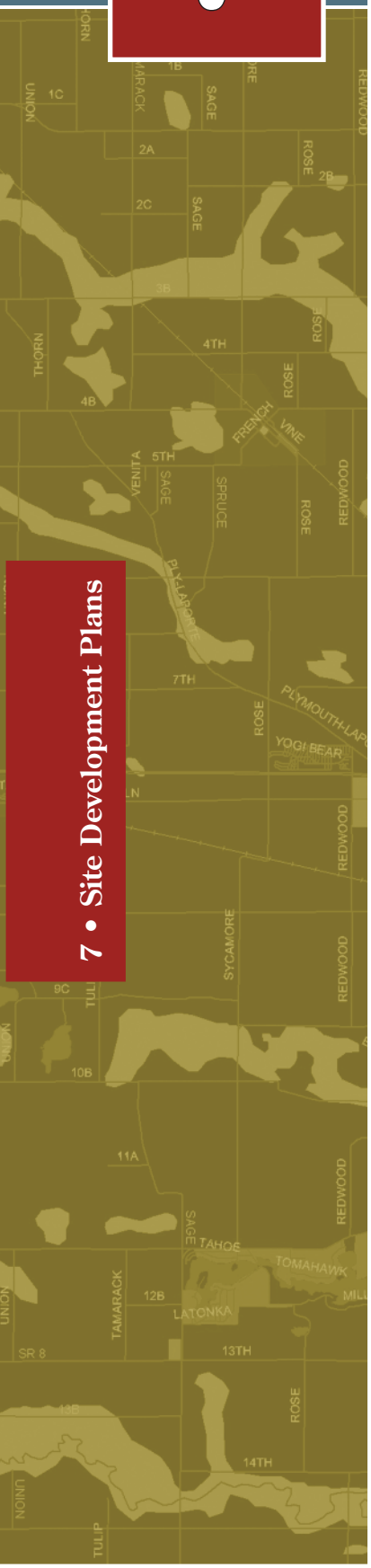
   a. an affidavit and consent of property owner (if the property owner is someone other than the petitioner);

   b. a copy of the deed for the property;

   c. the required filing fee; and

   d. required supporting information to the Plan Director.

(cont.)



030 *Application Materials (cont.)*

Supporting information shall include, but not be limited to the following (the Plan Director, County Surveyor, Technical Review Committee, and/or Plan Commission may request additional supportive information, which shall be provided by the applicant). All drawings shall be provided in hard copy and electronic format in a manner specified by the County (the County may waive the requirement that an electronic version of any or all drawings be provided).

2. Summary Statement
   A summary statement of the characteristics and operation of the development, including the population densities, presence of any adult uses, and number of potential employees. The statement shall include any written commitments being made regarding the Site Development Plan.

3. Statement of Re-use Options
   If the Site Development Plan involves a previously undeveloped location, the petitioner shall provide a detailed statement describing the reasons why available redevelopment and in-fill development sites are not appropriate for this development.

4. Site Description
   A general description of the site and its ownership including:

   a. the name, address, and telephone number of the applicant,

   b. the name, address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Site Development Plan design

   c. the name, address, and phone number of the primary contact individual for the application (it shall be indicated if the primary contact person is the applicant or contracted design professional),

   d. the legal description of the subject property and common address of the site, and

   e. the proposed name of the development (if applicable).

5. Vicinity Map
   A vicinity map showing and clearly identifying the subject property and showing all land within five hundred (500) feet of the subject property. The location map should identify the current zoning and use of all property within five hundred (500) feet of the subject property.

   a. The vicinity map shall also show all property which is contiguous to the subject property that is owned and/or otherwise controlled by the owner or developer of the subject property.

b. A conceptual drawing describing the future development of all contiguous holdings described above shall be provided by the applicant upon the request of the Plan Director, County Surveyor, Technical Review Committee, and/or Plan Commission. At a minimum the conceptual drawings shall include a description of general driveways and access points, general land uses, general lot arrangements, and general drainage conditions and plans.

6. Property Survey
A property survey bearing the seal of a registered land surveyor and drawn to a scale of not more than 1 inch = 100 feet, showing the following existing features for the subject property and all land within two hundred (200) feet of the property lines of the subject property:

a. the boundary line and dimensions of the subject property;

b. all structures;

c. topography interpolated from USGS sources and/or otherwise meeting the requirements of the County (provided topographic information shall tie into horizontal and vertical control points);

d. significant wooded areas and other isolated trees;

e. 100-year floodplain and 100-year floodway boundaries;

f. public and private streets (including street names), rights-of-way and easements;

g. building setback and any build-to lines;

h. all known drainage areas, tiles, pipes and structures;

i. utility services (including fire hydrants);

j. any known underground tanks;

k. street accesses; and

l. any other paved or otherwise improved areas.

7. Site Plan
A site plan, drawn to a scale of not more than 1 inch = 100 feet, and bearing the seal of a professional engineer or land surveyor clearly showing all proposed aspects of the property and all features relevant to the Site Development Plan, including:

a. setbacks and buffer yards;

b. topography (including elevation contour lines at two (2) foot intervals or otherwise meeting the requirements of the County);

(cont.)

030 *Application Materials (cont.)*

c. structures (including buildings, fences, and walls);

d. all structure heights, dimensions, and floor areas;

e. areas of outdoor storage;

f. permanent dumpsters and trash areas;

g. locations, dimensions, and design features (including all curb radii, tapers, and parking space dimensions) of road accesses, interior drives, parking spaces and ramps for the disabled, parking lots, loading docks or areas, sight visibility triangles, and interior sidewalks (all public road access shall be subject to any additional requirements of the County);

h. open spaces and specific landscaped areas;

i. locations and capacities of public and private utilities (all septic systems shall be subject to the approval of the Marshall County Health Department, all public sewer connections shall be subject to the approval of the County);

j. water meter clean out locations and elevations and top of casting elevations;

k. sanitary sewer invert elevations;

l. the location, width, and purpose of all easements;

m. the use of each structure and the amount of parking allocated for those uses (consistent with the requirements of this Ordinance);

n. public improvements including sidewalks, pathways, street trees, and right-of-way dedications; and

o. locations for temporary uses, such as seasonal sales areas.

8. Landscaping Plan
A landscaping plan drawn to a scale of not more than 1 inch = 100 feet, and showing the following:

a. proposed landscaping, buffer yards, and street trees;

b. topography (including elevation contour lines at two (2) foot intervals or otherwise meeting the requirements of the County);

c. 100-year floodplain and 100-year floodway boundaries;

d. existing and proposed public and internal sidewalks and other pedestrian ways,

e. the size and spacing of the plantings at the time of installation and the species proposed to be used to meet the requirements of this Ordinance; and

f. all existing trees and vegetation to be preserved, and the drip lines for such trees.

9. Sign Plan
A sign plan showing the location, height, method of illumination (if any) and dimension of all permanent signs and indications of appropriate locations, heights, and sizes of any temporary signs.

10. Drainage Plan
A site drainage plan bearing the seal of a professional including all calculations required by the County. The drainage plan shall include the location of the following:

a. all natural streams, regulated drains, and watercourses,

b. 100-year floodways and 100-year floodplains,

c. all marshes, wetlands, and wooded areas, and

d. all drainage area features as described in the drainage calculations.

11. Lighting Plan
A site lighting plan, drawn to a scale of not more than 1 inch = 100 feet, showing the type and location of all exterior lighting fixtures.

12. Construction Plan
A site construction plan, drawn to a scale of not more than 1 inch = 100 feet, showing:

a. proposed erosion and sediment control measures;

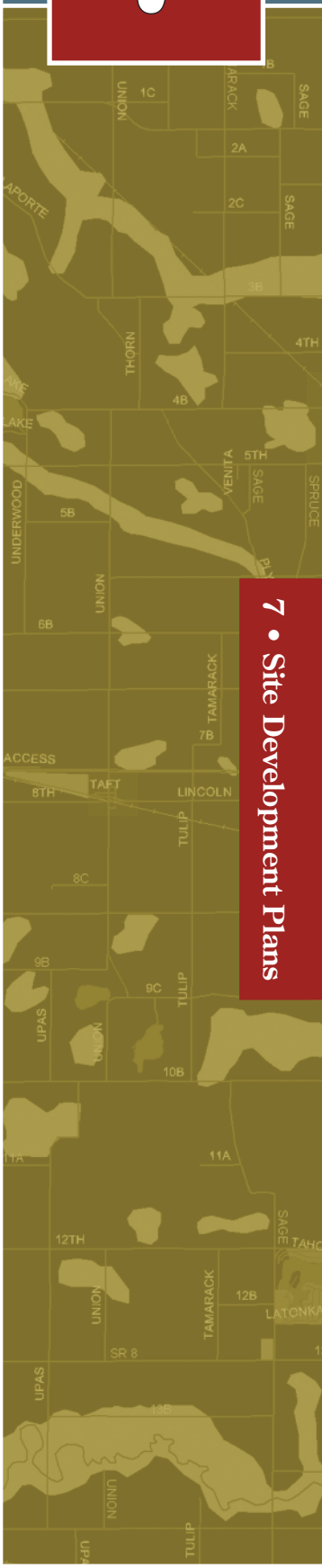
b. the location of any proposed construction trailer and worker parking;

c. the location, height, and dimensions of any temporary construction-related signage;

d. any temporary site accesses to be used during construction;

e. any temporary utility connections; and

f. the location of any stockpiles of dirt, construction materials, and construction waste dumpsters or storage areas.

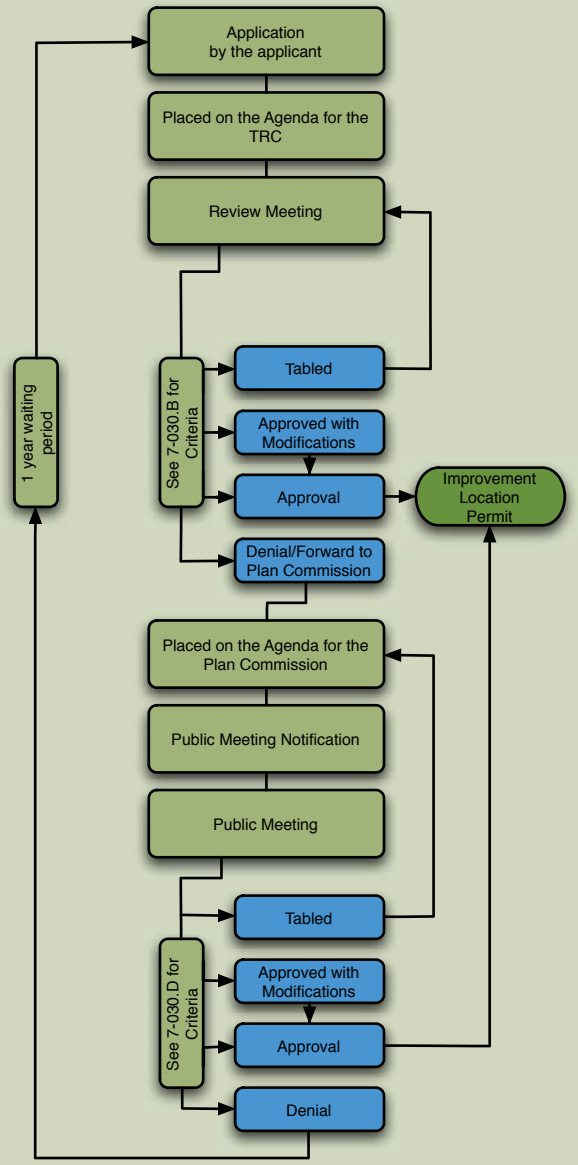


040 *Process*

A. Review Process and Standards

Site Development Plans shall be subject to the following review and approval process:

Chart 7-A, Site Development Plan Process



B. Technical Review Committee Review

The Technical Review Committee shall review the Site Development Plan, including all supportive information on the date established by the adopted calendar of meeting and filing dates. All Technical Review Committee actions and procedures shall be consistent with the provisions of *Article 10-030, Technical Review Committee* of this Ordinance.

1. Considerations

   In reviewing the Site Development Plan, the Committee shall consider whether or not the proposed Site Development Plan is consistent with the requirements of this Ordinance and any other applicable legally adopted requirements of Marshall County.

2. Possible Action

   The Committee may approve, approve with modifications, deny, table, or forward to the Plan Commission the Site Development Plan.

   a. Approve

      The Committee shall approve the Site Development Plan if it complies with all applicable requirements of this Ordinance.

   b. Approve with Modifications

      The Committee shall approve the Site Development Plan with modifications if it is generally consistent with the considerations for approval outlined in B(2)(a) above, but requires minor modifications to be completely in compliance with the requirements and intent of this Ordinance. The applicant shall revise the Site Development Plan proposal consistent with the Committee comments and supply revisions for review of the Plan Director prior to the release of any Improvement Location Permit.

   c. Deny

      The Committee shall deny the Site Development Plan if it is found to be inconsistent with the considerations outlined in this Article and Ordinance. If denied, the TRC decision shall automatically be appealed to the Plan Commission without further application or action by the applicant. The appeal shall be reviewed by the Plan Commission in accordance with *Article 7-060, Appeals*. The applicant may voluntarily withdraw the appeal of the TRC decision to the Plan Commission at any time.

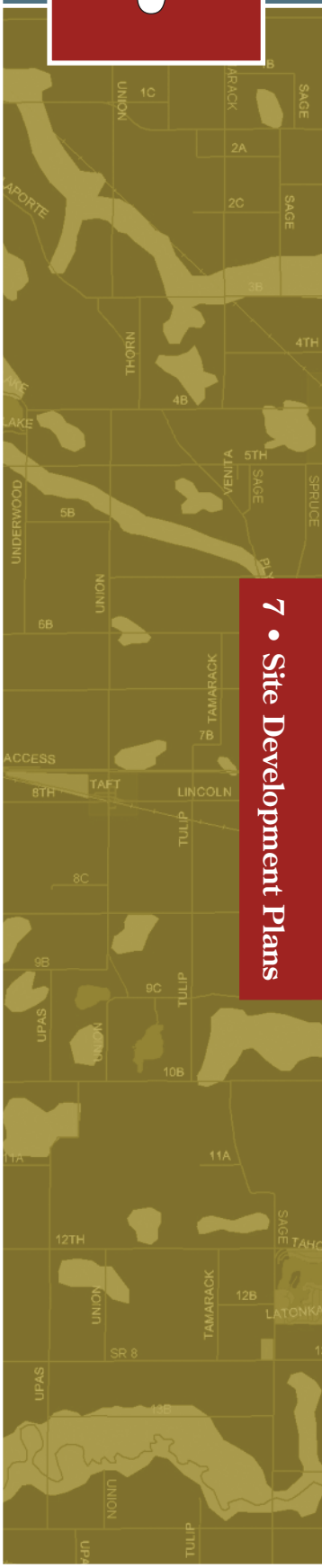
   d. Table

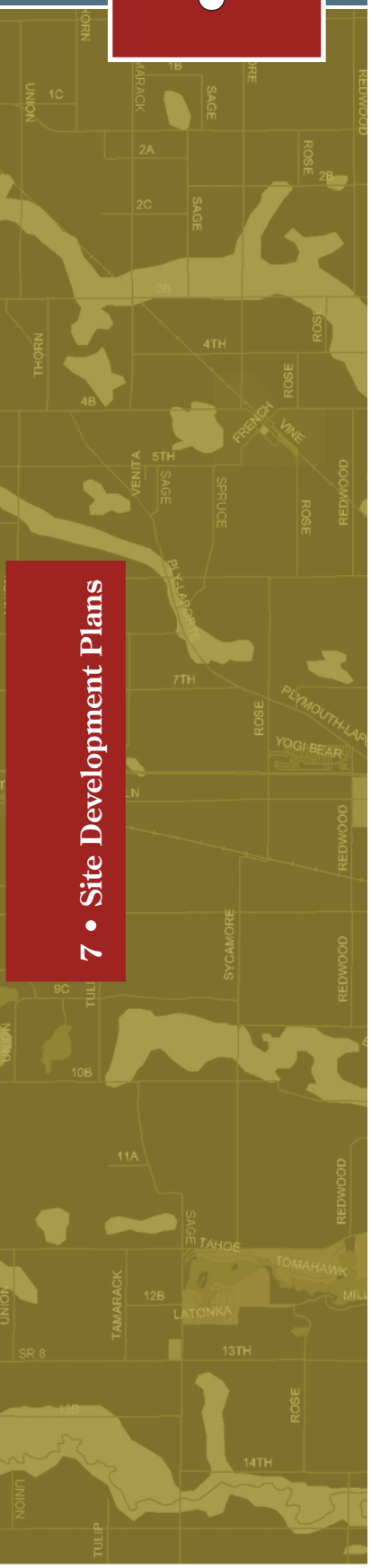
      The Committee shall table the Site Development Plan based on a request by the Plan Director or the petitioner, a determination by the Plan Director that sufficient information has not been provided, or the failure of the petitioner or an appropriate representative of the petitioner to appear at the Committee meeting. Site Development Plan applications which are tabled shall be automatically docketed for the next review meeting.

   e. Forward to Plan Commission

      The Committee shall forward Site Development Plans which are generally consistent with the considerations outlined above to the Plan Commission for a public hearing if the proposal:

(cont.)





040 *Process (cont.)*

i. includes any improvement to be dedicated to the public,

ii. includes proposed written commitments, or

iii. requires the imposition of conditions in order to be completely consistent with the considerations for approval.

3. Plan Commission Preparation
If Plan Commission review is required, the Site Development Plan shall be placed on the agenda for the next meeting of the Plan Commission consistent with the adopted calendar of meeting and filing dates. The applicant shall revise the Site Development Plan proposal consistent with any Committee comments prior to review by the Plan Commission and shall provide such revision for review consistent with the adopted calendar of filing and meeting dates.

C. Public Meeting Notification (if necessary)
Notification for the scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of Indiana State Code, the Rules and Procedures of the Plan Commission, and the provisions of *Article 10-050, Powers and Duties of the Plan Commission* of this Ordinance.

D. Plan Commission Review (if necessary)
The Plan Commission shall, at a meeting scheduled consistent with the adopted calendar of meeting and filing dates, review the Site Development Plan and any supportive information.

1. Representation
The applicant and/or any appropriate representatives of the applicant, such as a surveyor or attorney, must be present at the public hearing to present the Site Development Plan and address any questions the Commission may have.

2. Presentations
The Commission shall consider a report from the Plan Director describing the findings of the Technical Review Committee and testimony from the applicant and any interested parties in making its decision.

3. Possible Action
The Plan Commission shall approve, approve with modifications, deny, or table the Site Development Plan application.

a. Approve
The Plan Commission shall approve the Site Development Plan if it is consistent with all applicable requirements of this Ordinance.

b. Approve with Modification

The Plan Commission shall approve the Site Development Plan with modifications if it is generally consistent with all applicable requirements of this Ordinance. The Plan Commission may impose conditions on the approval of a Site Development Plan, which shall become written commitments of the applicant, if the conditions are necessary to satisfy the requirements and intent of this Ordinance.

c. Deny
The Plan Commission shall deny the Site Development Plan if it is not consistent with the applicable requirements of this Ordinance. Site Development Plan applications which have been denied shall not be re-filed for a period of one (1) year from the date of the denial, unless a different design which addresses the reasons for the denial is submitted.

d. Table
The petition shall be tabled based on a request by the Plan Director, the petitioner, remonstrators, or interested parties; an indecisive vote; or a determination by the Plan Commission that additional information is required prior to action being taken on the request. The tabling of all petitions shall be consistent with the adopted Rules and Procedures of the Plan Commission.

4. Assurance of Completion of Improvements
The Plan Commission may approve a Site Development Plan with the condition that surety be provided that guarantees the timely completion of any proposed public improvements included in the development. The surety shall be in a form acceptable to the Plan Commission, the Plan Director, and the County Attorney, and be consistent with the surety provisions of the Marshall County Subdivision Control Ordinance.

E. Findings of Fact
The Plan Director shall prepare and sign written findings of fact documenting the action taken by the Technical Review Committee and the Plan Commission (if Plan Commission review is necessary). The Plan Director shall make copies of the written findings of fact available to the applicant within five (5) days of the date of the decision.

F. Permits
Prior to any construction activity, the improvements approved through all Site Development Plans shall be required to obtain the appropriate Improvement Location Permit, and any other required permits specified by this Ordinance.

050

Written Commitments

The applicant in any Site Development Plan application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on the subject property consistent with IC 36-7-4-613.

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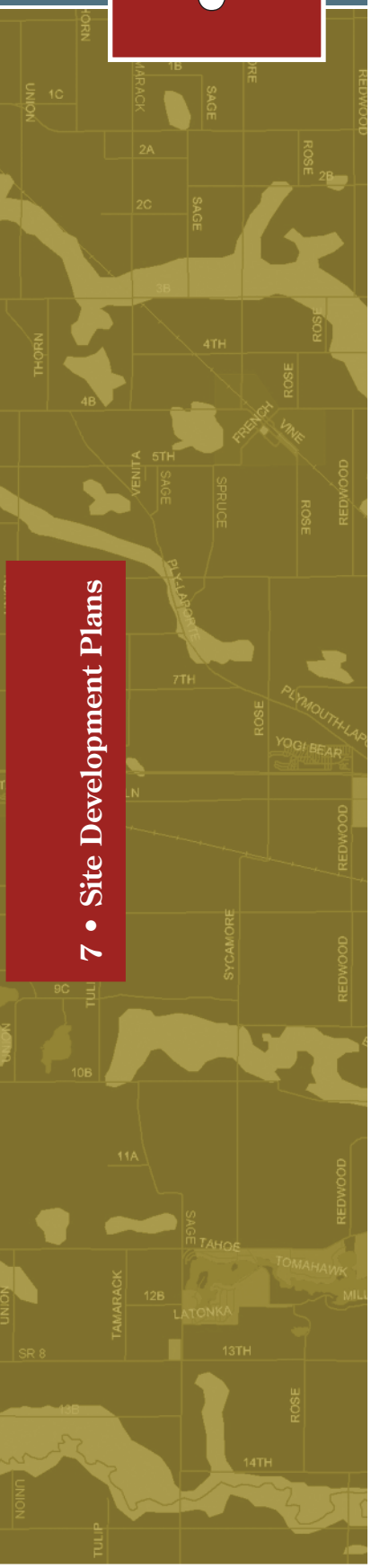


050 *Written Commitments (cont.)*

A. Origin of Commitments

Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made by the Technical Review Committee, or in response to any modifications requested by the Plan Commission.

B. Consideration of Commitments

Any commitments shall be considered by the Technical Review Committee and/or the Plan Commission at the time of their review of the petition.

C. Recording of Commitments

Following final action being taken on the Site Development Plan application, the written commitments shall be recorded by the petitioner in the office of the Marshall County Recorder. A copy of the recorded commitments shall be provided by the petitioner to the Plan Director for the records of the Plan Commission prior to the receipt of an Improvement Location Permit.

D. Enforcement of Commitments

The written commitments shall be considered part of this Zoning Ordinance binding on the subject property.

1. Successors in Interest
   The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or any portion of the subject property.

2. Enforcement
   The written commitments shall be enforceable by the Plan Commission consistent with the adopted provisions for the enforcement of any aspect of this Ordinance.

3. Modification
   The written commitments may be modified by the Plan Commission only through the Site Development Plan process described by this section.

060 *Appeals*

Any applicant or interested party may appeal a determination made by the Technical Review Committee to the Plan Commission through the procedure described below:

A. Application

The person making the appeal shall submit to the Plan Director a letter giving notice of the appeal and required supportive information within thirty (30) days of the decision which is subject to the appeal. Supportive information shall include, but not be limited to the following:

1. Submittals
   Copies of all materials submitted to the Technical Review Committee upon which the decision being appealed was based.

2. Findings of Fact
   Copies of any written decisions or findings of fact which are the subject of the appeal.

3. Description
   A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standards applicable to Marshall County upon which the appeal is based.

B. Public Meeting Notification
Notification for a scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of *Article 10-020, Notice of Public Hearing* of this Ordinance.

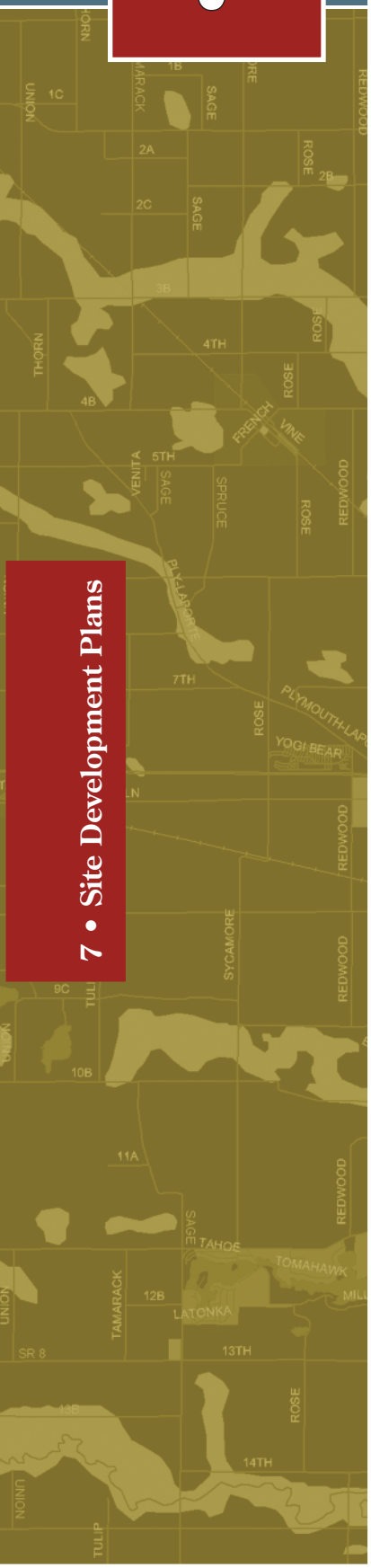
C. Plan Commission Meeting
The Plan Commission will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the appeal and supportive information.

1. Representation
   Either the entity initiating the appeal or their representative must be present at the public hearing to present the appeal and address any questions from the Commission.

2. Presentations
   The Commission shall consider a report from the Plan Director, testimony from the entity making the appeal, and testimony from any interested parties at the public hearing.

3. Proceedings
   The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the requirements of the Rules and Procedures of the Commission.

4. Possible Actions
   Upon hearing the appeal, the Plan Commission may approve, approve with modifications, deny, or table the Site Development Plan application consistent with the approval procedure for applications referred to the Commission by the Technical Review Committee as described in this Article.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Nonconforming Structures, Lots, and Uses

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8 Nonconforming Structures, Lots, and Uses

010 *Intent*

Upon adoption of this Ordinance and Official Zoning Map, some structures, lots, and uses may no longer conform to the regulations of the zoning district in which they are located. For this reason, this Article has been generated to provide the rules, policies and regulations that apply to these structures, lots, and uses; referred to as Legal Nonconforming.

020 *Distinction Between Illegal Nonconforming and Legal Nonconforming*

A structure or lot which was constructed or is being used without an approved Improvement Location Permit or approval from the Board of Zoning Appeals or Plan Commission is considered illegal nonconforming. An illegal nonconforming property shall be subject to actions and penalties allowed by this Ordinance and all other applicable County laws and shall be altered to conform with all applicable standards and regulations of this Ordinance. Further, an illegal nonconforming structure, lot or use is created at the fault of the owner, tenant or property manager.

Legal Nonconforming differs from Illegal Nonconforming in that the reason for the nonconformance is caused by the enactment of a Zoning Ordinance or a change to the Zoning Ordinance (including the Official Zoning Map). The structure, lot or use has not changed, but due to the Zoning Ordinance enactment or change, the property no longer conforms to the policies and standards of the zoning district in which it is located. When this situation occurs, the property is deemed Legal Nonconforming or "Grandfathered".

030 *Nonconforming Signs*

A. Definition

Any sign, lawfully established prior to the effective date of this Ordinance, or its subsequent amendments, that no longer meets the developmental standards shall be deemed a Legal Nonconforming Sign. For the purposes of this Article, a sign shall include the sign face and any supports, poles, or frames.

B. Continuation of Nonconforming Signs

Legal nonconforming sign may continue provided that it remains the same or fits within the below described tolerances:

1. Any legal nonconforming sign shall not be enlarged or altered in terms of face area, height, or any other aspect that increases its nonconformity. However, any sign or portion thereof may be altered to decrease its nonconformity.

2. Any legal nonconforming sign which is intentionally altered to conform to the requirements of this Ordinance shall thereafter conform to the regulations of the district in which it is located, and the legal nonconforming features may not be resumed.

3. If a sign is moved or removed for any reason, for any distance, it shall thereafter conform to the provisions of this Ordinance.

4. The sign faces and/or message on a legal nonconforming sign may be altered, replaced, repainted, and repaired provided that the nonconformity of the sign is not increased. Nothing in this Article shall be interpreted as requiring a sign to be brought into conformance with this Ordinance if only the face is changed,

but not increased in size or altered in shape.

040 *Nonconforming Structures*

A. Definition

Any structure, lawfully established prior to the effective date of this Ordinance, or its subsequent amendments, that no longer meets the developmental standards shall be deemed a Legal Nonconforming Structure.

B. Continuation of Legal nonconforming structure

1. Legal nonconforming structure may continue provided that it remains the same or fits within the below described tolerances:

   a. Any legal nonconforming structure shall not be enlarged or altered in a manner that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

   b. Any legal nonconforming structure which is intentionally altered to conform to the requirements of this Ordinance shall thereafter conform to the regulations of the district in which it is located, and the legal nonconforming features may not be resumed.

   c. If a building or structure is moved for any reason, for any distance, it shall thereafter conform to the provisions of this Ordinance.

050 *Nonconforming Lots of Record*

All lots legally established and recorded prior to the effective date of this Ordinance, or its subsequent amendments, that no longer meet applicable provisions of this Ordinance shall be deemed a Legal Nonconforming Lot of Record. Legal Nonconforming Lots of Record may be built upon only if the proposed use is permitted and all development standards of the applicable zoning district of this Ordinance are met. Any lot which met minimum lot standard area at the time it was created, shall be deemed buildable for a single family residence.

060 *Nonconforming Uses of Structures, Land, or Structures and Land in Combination*

Any lawful use of structures, land, or structures and land in combination established prior to the effective date of this Ordinance or its subsequent amendments that is no longer a permitted use in the district where it is located shall be deemed a Legal Nonconforming Use. A legal nonconforming use may continue provided that it remains otherwise lawful, subject to the following conditions:

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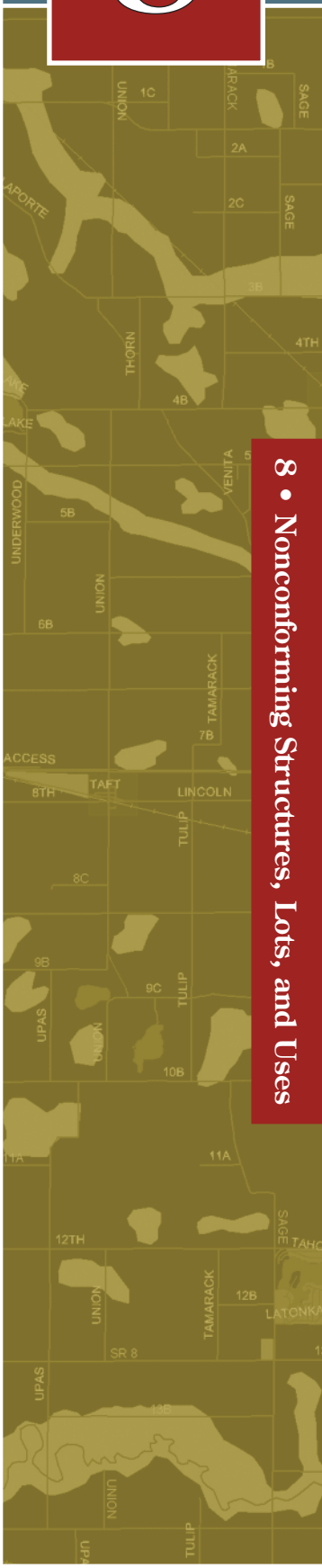

060 *Nonconforming Uses of Structures, Land, or Structures and Land in Combination (cont.)*

A. Parcels that were zoned business and/or industrial on the zoning map that was in effect prior to the adoption of this ordinance, may be expanded by Special Exception through the Marshall County Board of Zoning Appeals, up to 25% of their floor area (as it existed prior to the adoption of this ordinance). In addition, when the expansion exceeds 10% of the floor area, site plan approval from the Marshall County Technical Review Committee must be obtained. No other existing structure devoted to a legal nonconforming use shall be enlarged, expanded, increased, extended, constructed, reconstructed, moved, or structurally altered except as to change the use of the structure to a use permitted in the district in which it is located or as otherwise specified in this Article.

B. No structure shall be constructed in connection with an existing legal nonconforming use of land.

C. Any legal nonconforming use of a structure may be extended throughout any parts of a building which were plainly arranged or designed for such use at the effective date of this Ordinance or its subsequent amendments, but no such use shall be extended to occupy any land outside the building.

D. If no structural alterations are made, any non-conforming use may be changed to another non-conforming use with the approval of the Board of Zoning Appeals. The Board shall find that the proposed use is equally or more appropriate to the district in which it is located than the existing use. The Board shall consider the development standards applicable to the proposed use established by this Ordinance and may make reasonable conditions as part of any approval.

E. Where legal nonconforming use status applies to a structure and land in combination, the intentional removal of the structure shall eliminate the legal nonconforming status of the land.

F. No legal nonconforming use of land shall be enlarged, increased, extended to occupy a greater area of land, or moved in whole or in part to any other portion of a lot than was occupied at the effective date of this Ordinance.

G. If a legal nonconforming use is intentionally discontinued for one (1) year or longer, any subsequent use of such land, structure or land and structure shall conform to the provisions of this Ordinance. Uses which are required to be discontinued due to government action which impedes access to the premises, or damage resulting from fire, flood, other natural disaster, or a criminal act shall be exempt from this provision. Such exempt uses, if rebuilt or restored, shall be identical in scale, lot coverage, and all other aspects to that which was discontinued.

H. When a legal nonconforming use is superseded by a permitted use, it shall thereafter conform to the regulations of the district in which it is located, the legal nonconforming use may not thereafter be resumed.

I. Any use which is legal nonconforming due to its presence in a 100-year floodplain may be altered, enlarged, or extended on a one-time only basis provided that the new construction conforms with the Flood Hazard Area Standards section included in this Ordinance and does not increase the value of the structure or use (excluding the value of the land) by more than 50% of its pre-improvement market value.

070 *Repairs and Maintenance*

The following applies to legal nonconforming structures and legal nonconforming uses of structures, or structures and land in combination:

A. Work may be done for ordinary repairs or replacement of walls, heating, fixtures, wiring, or plumbing; under the condition that the cubic content existing when the structure became nonconforming shall not be increased.

B. If a structure becomes unsafe or unlawful due to physical condition and is razed, the structure shall be rebuilt in conformity with the district in which it is located.

C. Nothing in this Chapter shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting public safety upon order of such official.

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REDWOOD
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FRENCH
VINE
5TH
VENITA
SPRUCE
7TH
PLYMOUTH-LAP
YOGI BEAR
SYCAMORE
11A
TAHOE
TOMAHAWK
TAMARACK
12B
LATONKA
SR 8
13TH
14TH
TULIP
UNION
THORN

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Board of Zoning Appeals

010 *Establishment and Membership*

A. Establishment

Pursuant with IC 36-7-4-901, the Marshall County Board of County Commissioners establishes the Marshall County Advisory Board of Zoning Appeals which shall conduct business consistent with all requirements of the Indiana Code and this Ordinance.

B. Appointments

The Board of Zoning Appeals (otherwise referred to in this Ordinance as the "BZA" or the "Board") shall consist of, and continue as a five (5) member Board. Members shall be appointed pursuant to IC 36-7-4- 902 through 906 as follows.

1. Board of County Commissioners Appointment
   3 members appointed by the Board of County Commissioners, 1 of which must be a member of the Plan Commission, and 2 of which must not be members of the Plan Commission.

2. County Council Appointment
   1 member appointed by the County Council who must not be a member of the Plan Commission.

3 Plan Commission Appointment
   1 member appointed by the Plan Commission from its citizen membership, other than those appointed to the BZA by the Board of County Commissioners.

C. Alternates and Vacancies

Alternate Board of Zoning Appeal members may be appointed consistent with IC 36-7-4-907. If a vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.

D. Territorial Jurisdiction

The Board of Zoning Appeals shall have jurisdiction over all the land subject to the Marshall County Zoning Ordinance consistent with *Article 1-050, Jurisdiction* of this Ordinance.

E. Powers and Duties

The Board of Zoning Appeals shall have exclusive subject matter jurisdiction for:

1. Development Standards Variances;

2. Flood Hazard Area Standards Variances.

3. Use Variances;

4. Special Exceptions; and

5. Administrative Appeals.

F. Rules and Procedures

The Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code Section 36-7-4-916 and any and all procedures concerning organization, selection of officers, forms for applications, filing requirements, procedures, notices and conduct of meetings, and public hearings.

G. Filing

All applications for variances, special exceptions, and requests for administrative appeal shall be filed by the applicant with the Plan Director in the manner prescribed by the Board.

H. Hearing Schedule

The Board shall fix a reasonable time for the hearing of administrative appeals, special exceptions, and variances.

I. Communication with Board Members

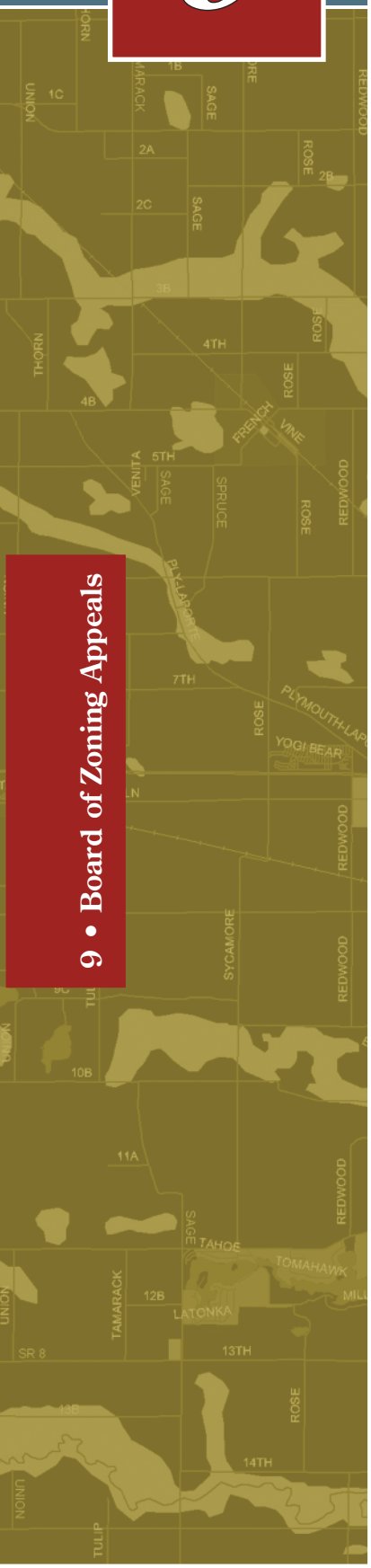
A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board.

J. Notice of Public Hearing

For all public hearings, notice shall be provided to the public consistent with the requirements of *Article 10-020, Notice of Public Hearing* of this Ordinance.

K. Appeals

Every decision of the Board of Zoning Appeals shall be subject to review by a court of jurisdiction (writ of certiorari) as prescribed in IC 36- 7-4-1000 series. All appeals shall be presented to a court of jurisdiction within thirty (30) days of the Board's decision.



020 *Development Standards Variances*

A. Decision Criteria

The Board may grant a variance from the development standards of this Ordinance (such as height, bulk, area) if, after a public hearing, it makes findings of facts in writing, that:

1. General Welfare
   The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

2. Adjacent Property
   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

3. Practical Difficulty
   The strict application of the terms of this Ordinance will result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.

B. Conditions

The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in *Article 9-020.A, Decision Criteria* of this Ordinance above will be served.

C. Commitments

The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and have such commitments recorded in the Marshall County Recorder's Office. A copy of the recorded commitments shall be provided to the Plan Director for inclusion in the petition file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with he recorded commitments.

D. Limitations

A development standards variance granted by the Board and executed in a timely manner as described in this Article shall run with the parcel until such time as:

1. the property conforms with the Ordinance as written, or

2. the variance is terminated.

030 *Flood Hazard Area Standards Variances*

A. Decision Criteria

The Board of Zoning Appeals may grant a variance from the Flood Hazard Area Standards of *Article 6-070, Flood Hazard Area Standards* of this Ordinance only if, after a public hearing, it makes findings of facts in writing, that:

1. Good Cause
   There exists a good and sufficient cause for the requested variance;

2. Exceptional Hardship
   The strict application of the terms of this Ordinance will constitute an exceptional hardship to the applicant; and

3. Public Safety Hazards
   The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with other existing laws or ordinances.

B. Compliance With Flood Hazard Area Standards

The Board of Zoning Appeals may only issue a variance to the terms and provisions of the Flood Hazard Area Standards of this Ordinance subject to *Article 6-070.E, Variance Procedures* of this Ordinance and the following conditions.

1. Maximum Protection
   All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and

2. Written Notice
   The Board of Zoning Appeals shall issue a written notice to the recipient of the variance that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

3. Other Conditions
   The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in *Article 9-030.A, Decision Criteria* of this Ordinance above will be served.

C. Commitments

The Board may require the owner of the property to make written commitments concerning the use or development of the property and have such commitments recorded in the Marshall County Recorder's Office. A copy of the recorded commitments shall be provided to the Plan Director for inclusion in the petition file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the recorded commitments.

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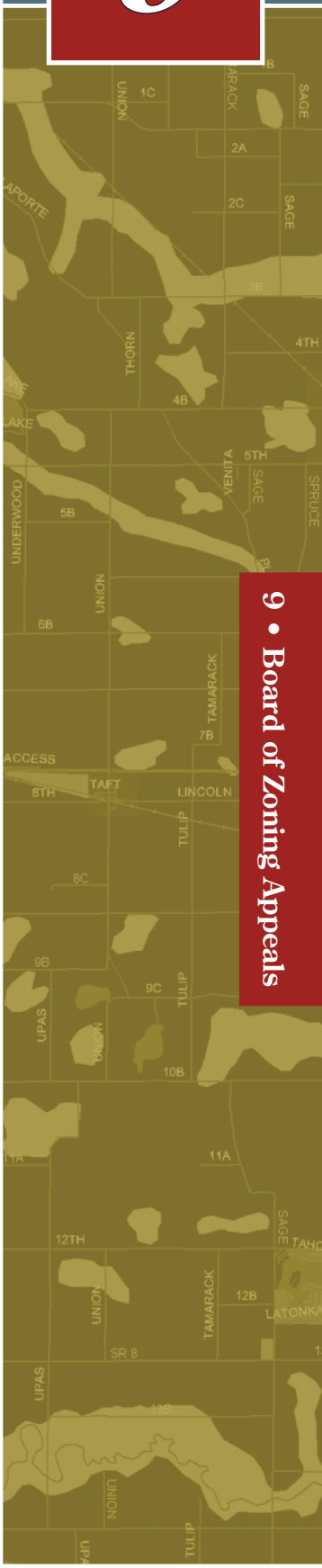
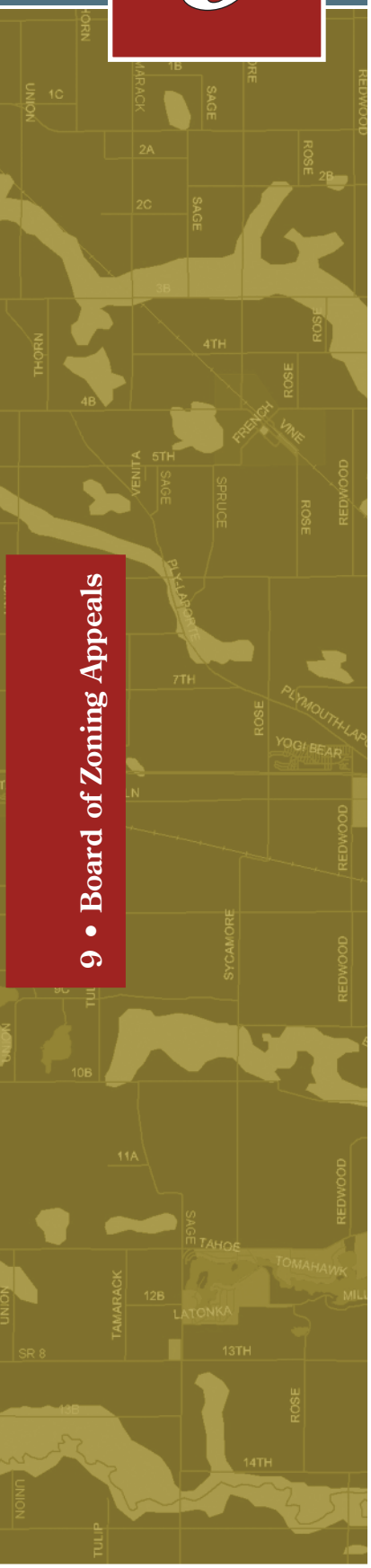




030 *Flood Hazard Area Standards Variances (cont.)*

D. Limitations

A flood hazard area standards variance granted by the Board and executed in a timely manner as described in this section shall run with the parcel until such time as:

1. the property conforms with the Ordinance as written, or

2. the variance is terminated.

040 *Use Variances*

A. Decision Criteria

The Board may grant a variance from the use requirements and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing, that:

1. General Welfare
   The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

2. Adjacent Property
   The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

3. Practical Difficulty
   The strict application of the terms of this Ordinance will result in a practical difficulty in the use of the property (this situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on economic gain);

4. Unnecessary Hardship
   The strict application of the terms of this Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought; and,

5. Comprehensive Plan
   The granting of the variance does not interfere substantially with the Comprehensive Plan.

B. Conditions

The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in *Article 9-040.A, Decision Criteria* of this Ordinance above will be served.

C. Commitments

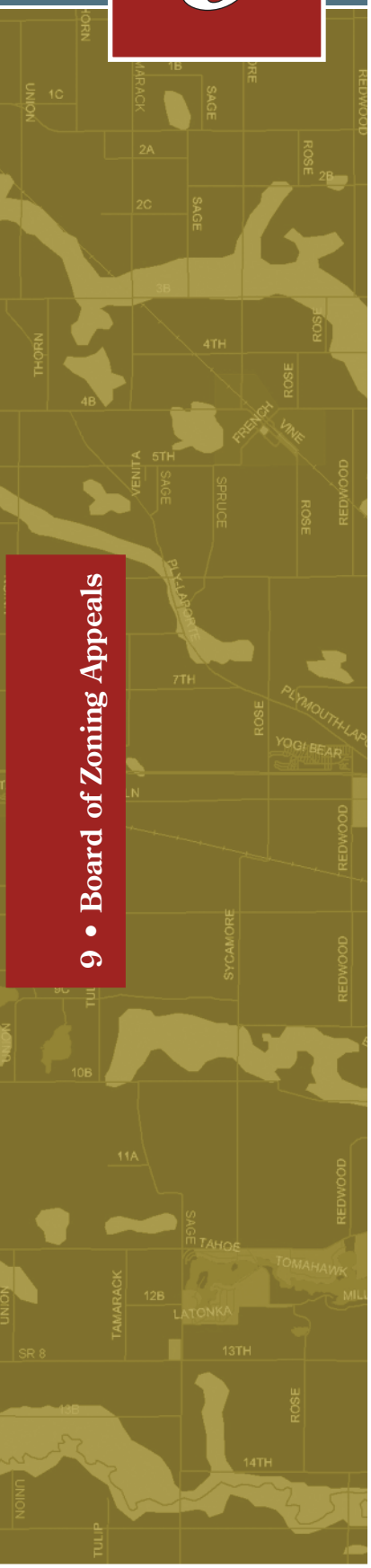
The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and have such commitments recorded in the Marshall County Recorder's Office. A copy of the recorded commitments shall be provided to the Plan Director for inclusion in the petition file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the recorded commitments.

D. Limitations

Unless otherwise specified by the Board, use variance approvals shall be limited to, and run with the property specified in the petition. The Board may also limit use variances to a specific time period and a specific use. Use variances shall be invalid if:

1. The property conforms with the Ordinance as written, or

2. The variance is terminated.



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Special Uses

In no case shall special exception uses be authorized without the approval of the BZA. Further, no decisions on previous applications shall serve to set a precedent for any other application before the BZA.

A. Decision Criteria

The Board may grant a special use for a use listed as such in the appropriate zoning district in *Article 3-120, Land Use Matrix* of this Ordinance if, after a public hearing, it makes findings of facts in writing, that:

1. General Welfare
   The proposal will not be injurious to the public health, safety, morals, and general welfare of the community;

2. Development Standards
   The requirements and development standards for the requested use as prescribed by this Ordinance will be met;

3. Ordinance Intent
   Granting the special use will not be contrary to the general purposes served by this Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity; and

4. Comprehensive Plan
   The proposed use will be consistent with the character of the zoning district in which it is located and the Marshall County Comprehensive Plan.

B. Other Considerations

When considering a special exception the Board of Zoning Appeals may examine the following items as they relate to the proposed use:

1. topography and other natural site features;
2. zoning of the site and surrounding properties;
3. driveway locations, street access and vehicular and pedestrian traffic;
4. parking (including amount, location, and design);
5. landscaping, screening, buffering;
6. open space and other site amenities;
7. noise production and hours of any business operation;
8. design, placement, architecture, and building material of the structure;
9. placement, design, intensity, height, and shielding of lights;
10. traffic generation; and
11. general site layout as it relates to its surroundings.

C. Conditions

The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in *Article 9-050.A, Decision Criteria* of this Ordinance above will be served.

D. Commitments

The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and have such commitments recorded in the Marshall County Recorder's Office. A copy of the recorded commitments shall be provided to the Plan Director for inclusion in the petition file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the recorded commitments.

E. Limitations

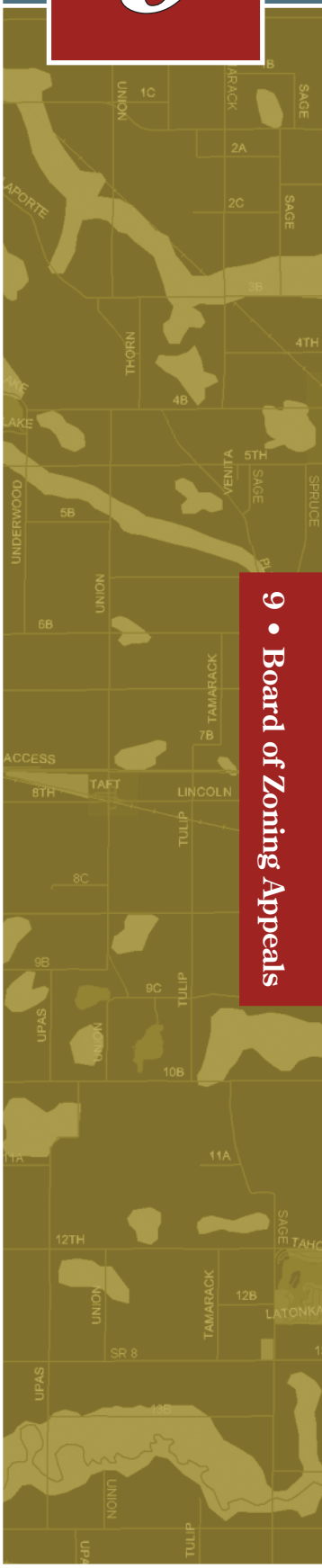
Unless otherwise specified by the Board, special use approvals shall be limited to, and run with the applicant at the location specified in the petition. The Board may also limit special uses to a specific time period and a specific use. Special Exceptions shall also be invalid if:

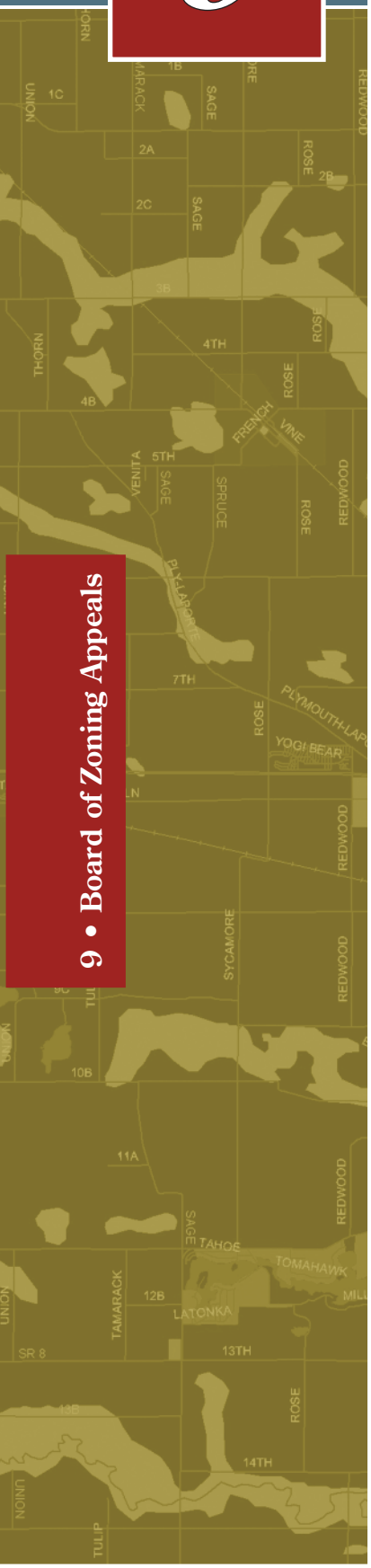
1. the property conforms with the Ordinance as written, or

2. the special exception approval is terminated.

F. Special Exception Use Expansion

A use authorized as a special use may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Article for granting a special use.





060 *Administrative Appeals*

A. Appeals

The Board may grant an appeal of any decision, interpretation, or determination made by the Plan Director, other Plan Commission staff members, or any other administrative official or board charged with the duty of enforcing and interpreting this Ordinance.

B. Decision Criteria

The Board shall only grant an appeal of such an administrative decision based on a finding, in writing, that the decision of the administrative person or board was inconsistent with the provisions of this Ordinance.

C. Termination

The approval of an administrative appeal may be terminated by the Board of Zoning Appeals under the following procedure.

1. Public Hearing
   Upon determination by the Plan Director that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.

2. Grounds for Termination
   At the public hearing the appeal approval shall be terminated if a finding is made by the Board that the approval was the result of fraud or the misrepresentation of facts.

3. Time Limitation
   No administrative appeal may be reviewed by the Board of Zoning Appeals for the same cause more then once in any one (1) year period.

D. Refund of Appeal Fees

If an administrative appeal is granted, the Board may refund any application fees which have been paid to the County by the applicant in petitioning for the appeal. In no way shall this provision be interpreted as providing the applicant with the ability to seek the refund of any other fees or costs associated with the appeal or the application which is the subject of the appeal.

070 *Approval Expiration and Termination*

A. Improvement Location Permit Required

If the Board grants a special exception or variance, it shall direct the applicant to apply for an Improvement Location Permit. If such application complies with all established requirements and this Ordinance, an Improvement Location Permit for the execution of the approved variance or special exception shall be issued.

B. Expiration

A special exception or variance ceases to be authorized and is expired if an Improvement Location Permit for the execution of the approval has not been obtained within one (1) year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Plan Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within two (2) years of the date the approval is granted.

C. Termination

A variance or special exception may be terminated by the Board of Zoning Appeals under the following procedure.

1. Public Hearing

   Upon determination by the Plan Director that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.

2. Grounds for Termination

   At the public hearing the variance or special exception shall be revoked if a finding is made by the Board that one or more of the following is true.

   a. The execution of the approval is not consistent with any requirement of this Ordinance,

   b. The execution of the approval is not consistent with any condition of approval,

   c. The execution of the approval is not consistent with any written commitment, or

   d. The approval was the result of fraud or the misrepresentation of facts.

3. Time Limitation

   No special use or variance may be reviewed by the Board of Zoning Appeals for the same cause more then once in any one (1) year period.

A. Re-filing of Denied Applications

No request for variance, special exception, or administrative appeal which has been denied may be re-filed for a period of one (1) year from the date of the denial.

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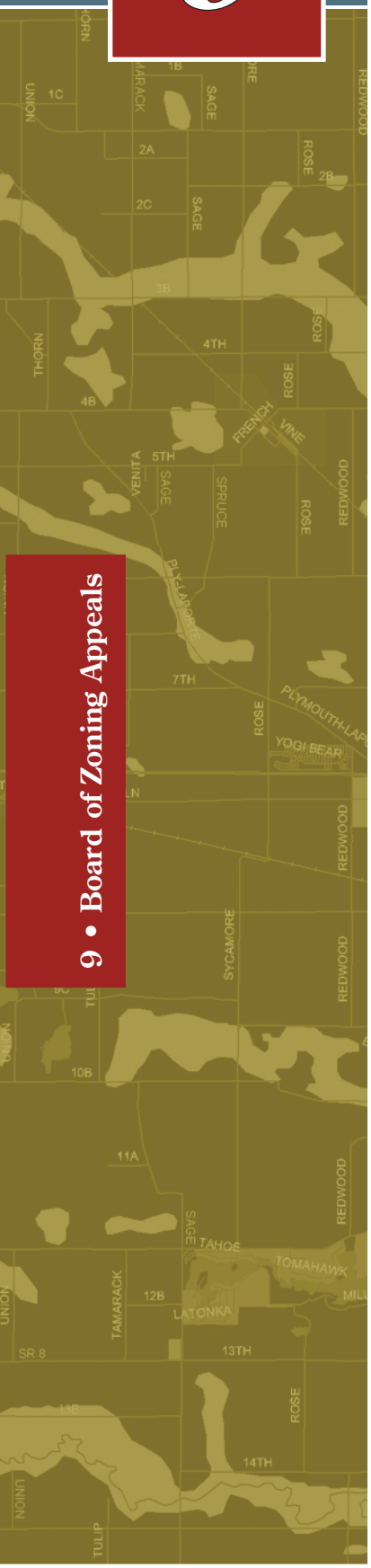

070 *Approval Expiration and Termination (cont.)*

B. Re-Consideration of Applications

Either the petitioner or any interested party may seek the reconsideration of any variance, special exception, or administrative appeal by submitting a written request to the Plan Director within thirty (30) days of the date of Board action on the request. A variance, special exception, or administrative appeal may be reconsidered by the Board of Zoning Appeals under the following procedure.

1. Public Hearing

   Upon receipt of the written request for reconsideration by the Plan Director the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. At the public hearing the Board shall only consider whether or not sufficient grounds for reconsideration are present, but shall not take any new action on the petition. If sufficient grounds are present, the Board shall place the petition on the agenda for its next regularly scheduled meeting at which time the petition shall be reconsidered and subsequent action taken.

2. Grounds for Reconsideration

   At the public hearing the Board shall determine whether or not the variance, special exception, or administrative appeal shall be reconsidered.

   a. The Board may reconsider the application if a finding is made that the entity seeking the reconsideration is able to provided substantial new information or clarified facts that were not known or available at the initial hearing on the petition and such new information or facts is directly related to the decision criteria established by this Ordinance.

   b. In no instance shall a reconsideration be granted to allow a petitioner to modify their application.

3. Time Limitation

   In no case shall the Board hear more that one (1) request for reconsideration for any single petition.

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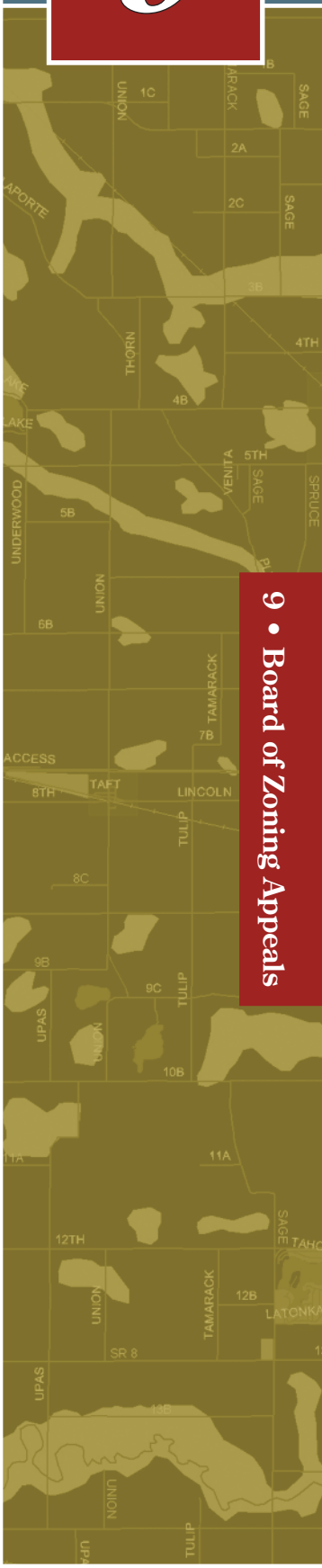

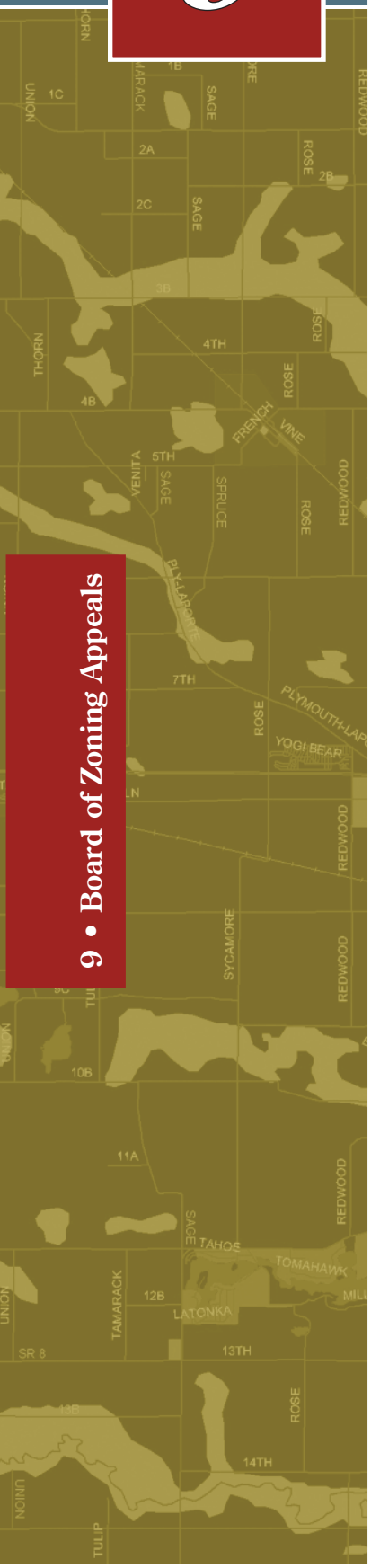
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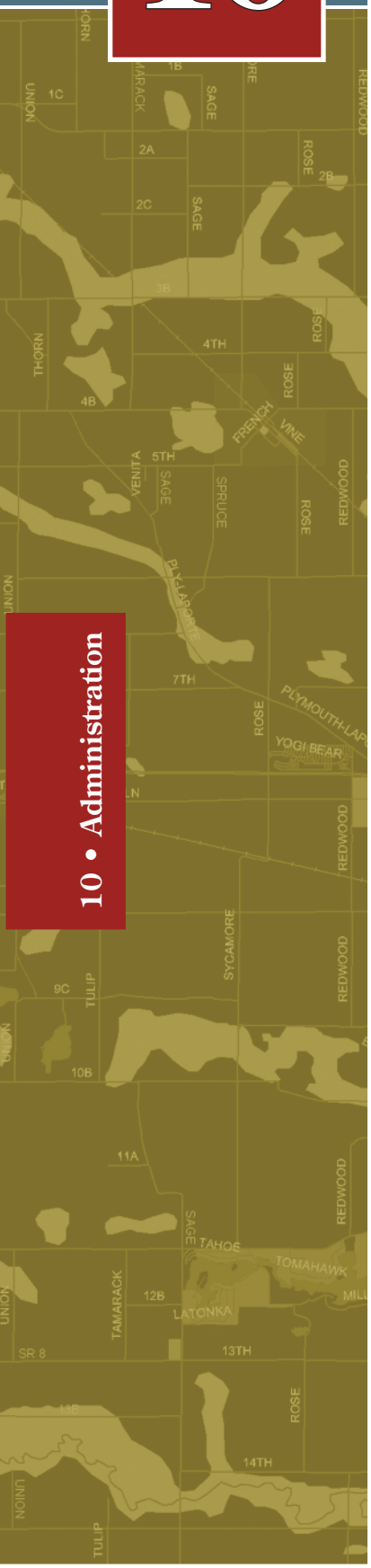


010 *General Administration*

A. Administrative Officer

The Marshall County Plan Director (including any designee(s) of the Plan Director), will have the principal responsibility for the administration and enforcing and/or coordination of the enforcement of this Ordinance within the Plan Commission's planning jurisdiction. The duties of the Plan Director, or his/her designee shall include, but not be limited to:

1. Improvement Location Permits
   Reviewing, approving, or disapproving all Improvement Location Permits and keeping permanent records of applications made and actions taken;

2. Inspections
   Conducting inspections of structures, and properties to determine compliance with the requirements of this Ordinance and all approvals granted by the Plan Commission, Technical Review Committee, Board of County Commissioners, and Board of Zoning Appeals;

3. Record Keeping
   Maintaining permanent and current records documenting the application of this Ordinance including, but not limited to, all maps, amendments, special exceptions, variances, and appeals;

4. Plan Commission Applications
   Receiving, processing, docketing, and referring to the Plan Commission all amendment applications;

5. Board of Zoning Appeals Applications
   Receiving, processing, docketing, and referring to the Board of Zoning Appeals all appeals, variances, special exceptions, and other matters upon which it is authorized to act under this Ordinance and Indiana State Code; and

6. Clerical & Technical Assistance
   Providing all such clerical and technical assistance as may be required by the Board of Zoning Appeals, Plan Commission, Technical Review Committee, or other body in the execution of its duties as established by this Ordinance and Indiana State Code.

7. Review of Zoning Ordinance
   Present Zoning Ordinance, with suggested amendments (if any), to the Plan Commission for review on an annual basis. Undertake a comprehensive review of the Zoning Ordinance every five (5) years.

B. Fee Schedule Established

The Plan Director shall maintain a schedule of fees for all applications, permits, and other processes outlined in this Ordinance.

1. Fee Basis
   All fees shall be intended to reimburse the Commission for the time and cost of processing the required materials. In no instance shall a fee be used as

a means of discouraging or encouraging any particular types of petitions or applications.

2. Public Access
   The fee schedule shall be made available to the public by the Plan Director.

3. Establishment and Revisions
   The fee schedule shall be prepared by the Plan Director, reviewed by the Plan Commission, and approved by Ordinance by the Board of County Commissioners.

   a. The fee schedule may be amended by a recommendation submitted to the Board of County Commissioners by the Planning Commission followed by the Board of County Commissioners approval of a revised fee schedule Ordinance.

   b. The Plan Director shall review the fee schedule annually and bring any necessary revisions to the attention of the Plan Commission and Board of County Commissioners.

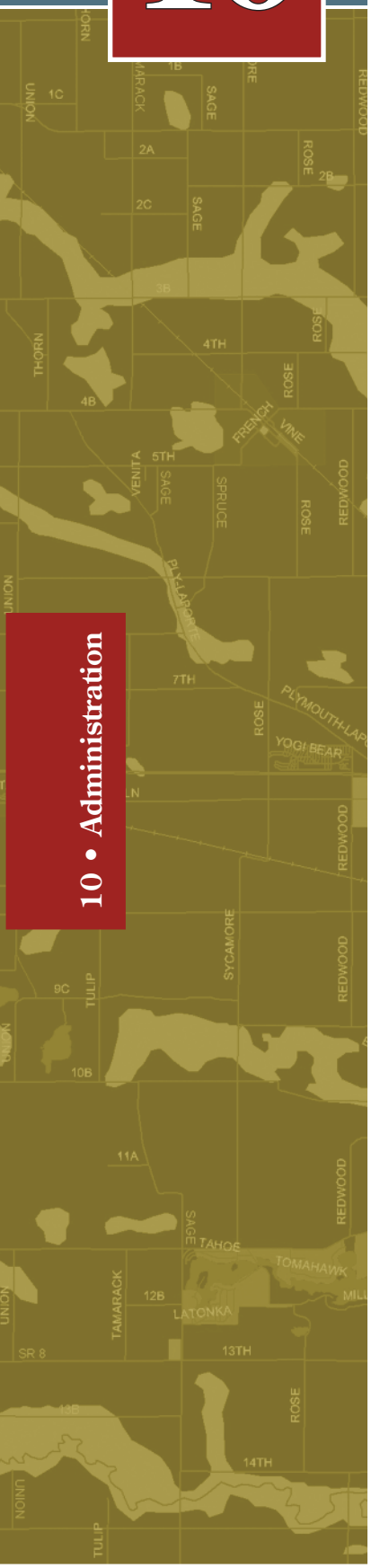
4. Payment Required
   Until all applicable fees have been paid in full, no final action shall be taken on any permit application, appeal, or petition.

5. Fines for Failing to Obtain a Permit
   Any person who initiates construction of a structure or the alteration of land prior to obtaining any required permit shall pay three (3) times the amount of the normal permit fee listed on the fee schedule.

C. Schedule of Meeting and Filing Dates

The Plan Director shall maintain an annual calendar of meeting and filing dates separately for the Technical Review Committee, Plan Commission, and Board of Zoning Appeals. The calendars of the TRC and Plan Commission shall be coordinated to ensure the efficient processing of petitions. All meeting and filing dates shall be based on the requirements of this Ordinance and the laws of the State of Indiana.

The calender of meeting and filing dates shall be prepared by the Plan Director and adopted by resolution by the Plan Commission and Board of Zoning Appeals (the Plan Commission shall be responsible for adopting a coordinated calendar for the Technical Review Committee). The calender of meeting and filing dates shall be reviewed and updated annually by the Plan Director.



020 *Notice of Public Hearing*

For all public hearings, the notice shall be provided to the public consistent with the requirements of this Chapter. Required public notice shall include the following:

A. Legal Notice

The Plan Director shall prepare a legal notice consistent with the requirements of IC 5-3-1 for publication in the Plymouth-Pilot News newspaper. The legal notice shall appear in the newspaper no less than one (1) time at least ten (10) days prior to the date of the public hearing. Legal notices shall include each of the following:

1. Property Location
   The general location of the subject property, including its common address and a legal description of the land which is included,

2. Available Plans
   That the project plans are available for examination at the office of the Marshall County Plan Commission office,

3. Hearing Information
   That a public hearing will be held giving the date, place, and hour of the hearing, and

4. Written Comments
   That written comments on the petition will be accepted prior to the public hearing and may be submitted to the Plan Director.

B. Notice to Interested Parties

The Plan Director shall prepare and distribute written notice of the petition to all property owners within two (2) ownerships or three hundred (300) feet of the boundaries of the subject property, whichever is greater. In no instances shall streets, streams, or other features be considered boundaries precluding notification.

1. Notice Information
   The notice shall contain the same information as the legal notice which is published in the newspaper as outlined in *Article 10-020, Notice of Public Hearing* of this Ordinance.

2. Responsibility
   The distribution of the notice shall be the responsibility of the Plan Director. The cost of the notice shall be the responsibility of the petitioner through application fees.

3. Ownership Information
   The Plan Director shall obtain ownership information from the most recent data available from the tax records of Marshall County.

4. Notification Requirements
   The notices shall be sent to each property owner at least one (1) time, and must be postmarked a minimum of at least ten (10) days before the date of the public hearing. The mailing shall be via First Class Mail through the United States Postal Service.

030 *Technical Review Committee*

A. Intent

The Marshall County Technical Review Committee (also known and referred to in this Article as the "TRC" and the "Committee") is hereby formed for the purpose of providing technical review of certain types of petitions and applications. The intent of the Technical Review Committee is to provide efficiency in the work load of the Plan Commission, as well as applicants, by establishing a body to make determinations regarding petitions for which the only criteria is consistency with the applicable adopted standards of Marshall County.

Further, the TRC shall provide for efficiency in the approval process of petitions determined by the Plan Commission and Board of County Commissioners by providing an initial examination and report based on all applicable adopted requirements of the County.

All approval processes and actions of the Technical Review Committee shall be consistent with the requirements of Indiana Law.

B. Authority and Approvals

The authority of the Technical Review Committee and appeals of its decisions shall be as follows:

1. Review Authority
   The Technical Review Committee shall have the authority to review the following types of petitions, forwarding comments to the Marshall County Plan Commission:

   a. Re-Zoning Petitions,

   b. Planned Unit Development Concept Plans, and

   c. Planned Unit Development Detailed Plans.

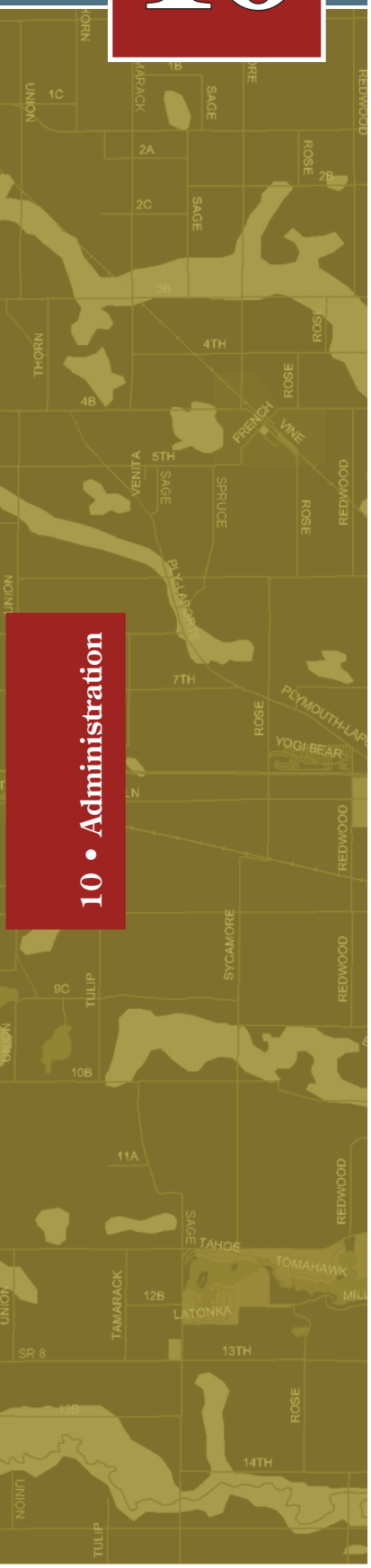
2. Approval Authority
   The Technical Review Committee shall have the authority to approve Site Development Plans as defined by *Article 7, Site Development Plans* of this Ordinance.

3. Appeal Rights
   All decisions of the Technical Review Committee may be appealed to the Plan Commission following the procedure outlined in *Article 7-060, Appeals* of this Ordinance.

C. Committee Structure

The Plan Director shall serve as the staff for the Technical Review Committee. He/she shall distribute all appropriate materials and keep all necessary files and meeting records. The organization of the Technical Review Committee shall be as described below:

(cont.)



030 *Technical Review Committee (cont.)*

1. Membership
   The Technical Review Committee shall, at a minimum, consist of the following members:

   a. the Plan Director;

   b. the County Surveyor;

   c. the Superintendant of the Marshall County Highway Department;

   d. a member of the staff of the Marshall County Health Department;

   e. two (2) members of the Plan Commission (in addition to the County Surveyor) appointed by the Plan Commission; and

   f. any others deemed necessary by the Technical Review Committee (such as representatives of the Soil and Water Conservation District, utilities, and other appropriate jurisdictions).

2. Attendance
   Members of the Committee shall either be present at the time of the scheduled Committee meeting or submit written comments regarding each specific petition to the Plan Director prior to the appropriate meeting.

   a. Each committee member shall only comment on the aspects of each petition that directly relate to their area of expertise regarding the applicable adopted standards of Marshall County.

   b. If no comments are received from any member of the Committee it shall indicate that individually they have no objection to any aspect of the petition.

3. Duties of the Plan Director
   The Plan Director shall oversee the operation of the Technical Review Committee and shall make the final determination regarding any specific aspect of a petition on which members of the Technical Review Committee disagree.

   a. In cases of disagreement and at his/her discretion, the Plan Director may forward any petition before the Technical Review Committee to the Plan Commission for a determination on the request.

   b. The Plan Director shall determine the action to be taken on each petition by the Committee based on the comments of the Committee members.

4. Tabled Petitions
   All petitions which are not approved by the Technical Review Committee and not forwarded to the Plan Commission shall be denied or tabled and placed on the agenda for the next appropriate Committee meeting.

a. Prior to that meeting the petitioner shall address the comments of the Committee, making appropriate modifications to the application materials.

b. The petitioner shall provide appropriate copies of the revised materials prior to the next Committee meeting based on the adopted calendar of meeting and filing dates.

c. The petitioner may withdraw any petition following the review of the Technical Review Committee by submitting a notice of such withdrawal in writing to the Plan Director. Any petitions which are withdrawn and are subsequently re-filed shall be considered a new petition and shall be subject to all applicable requirements for new petitions established by this Ordinance.

C. Attendance Required

The petitioner and/or a representative of the petitioner shall be required to attend all Technical Review Committee meetings at which their petition shall be reviewed. If the petitioner or their representative is not present, the petition shall automatically be tabled and placed on the agenda for the next appropriate TRC meeting.

D. Meeting Record

The Plan Director shall make written documentation of the comments and findings of the Technical Review Committee for each petition and make those findings available to the petitioner within five (5) business days of the Committee's review. The written documentation shall consist of the following:

1. Action Taken
   a letter to the petitioner stating the action taken by the Committee, and

2. Outstanding Comments
   a list of any outstanding comments made by the members of the TRC, including references to appropriate sections of adopted, applicable requirements of Marshall County, the State of Indiana, and/or the Federal government.

E. Decision Criteria

In all cases, the Technical Review Committee shall only consider the applicable adopted requirements of this Ordinance, the Marshall County Subdivision Control Ordinance, any adopted Marshall County Construction or Improvements Standards, and any other adopted and applicable standards of Marshall County, the State of Indiana, and/or the Federal government.

1. Mandatory Approval
   In all cases in which the TRC has approval authority and a petition conforms to the applicable standards, that petition shall be approved.

2. Committee Member Comments
   In no case shall any petitioner be required to make any modifications to any petition based solely on the opinions or other undocumented and adopted standards of any member of the Committee.

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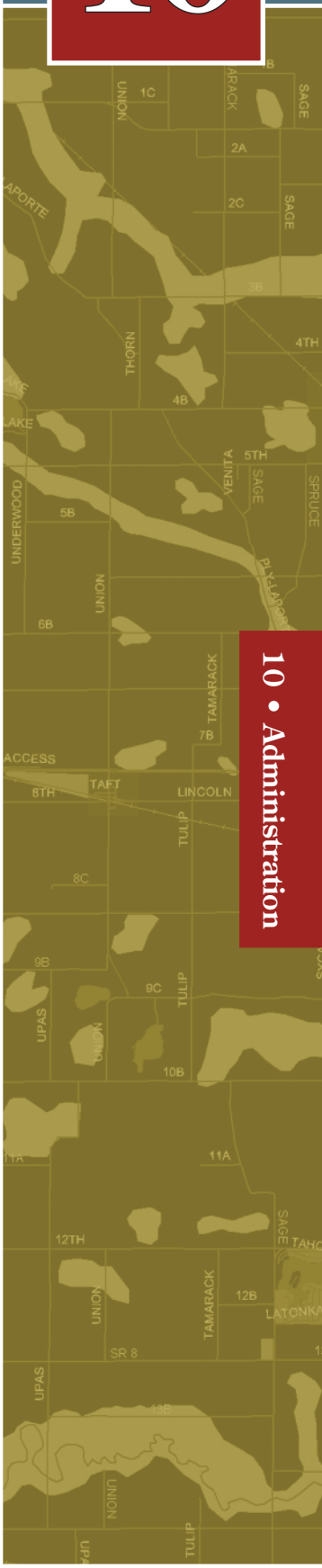
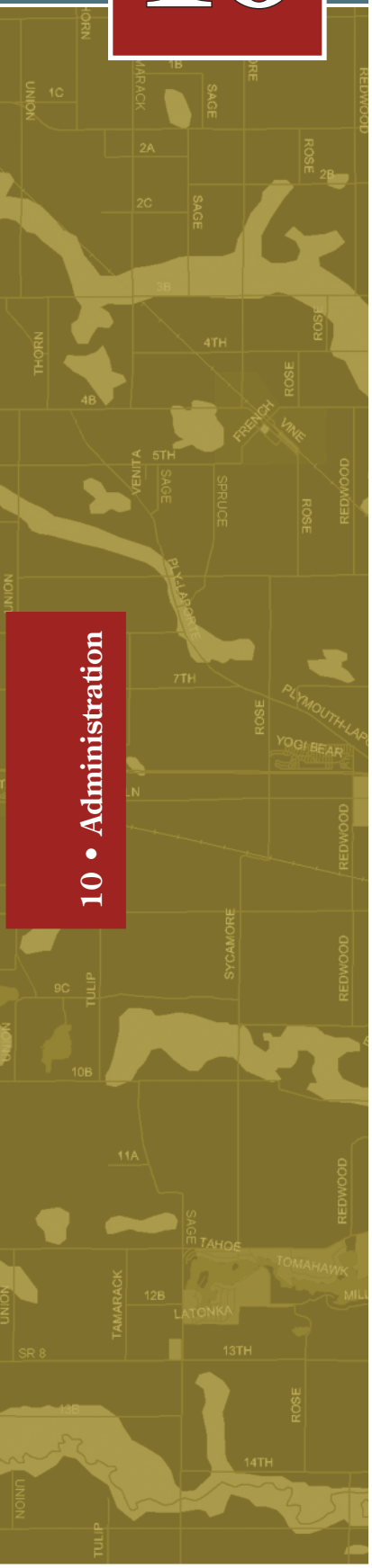




030 *Technical Review Committee (cont.)*

a. This shall not be interpreted as prohibiting any committee member from providing comments which express their professional opinions regarding a petition being forwarded to the Plan Commission.

b. This shall further not be interpreted as preventing the Plan Director from establishing requirements for individual petitions based on professional norms in the instances where such requirements are authorized by this Ordinance.

F. Appeals

Any applicant or interested party may appeal the decision of the Technical Review Committee to the Plan Commission.

1. Relief from Specific Requirements
   Applicants seeking relief from specific development standards or other requirements of the Zoning Ordinance which are unrelated to the Committee's interpretation of the applicable requirements shall be required to obtain variance approval from the Board of Zoning Appeals.

2. Appeal Procedure
   All appeals of determinations of the TRC shall meet the following requirements:

   a. The appealing party shall be required to provide the Plan Director with written notice of the appeal within thirty (30) days of the date of the Committee decision.

   b. The Plan Director shall place the appeal on the agenda for the next appropriate Plan Commission meeting consistent with the adopted calendar of meeting and filing dates.

   c. Public notice for the meeting shall be required, consistent with the provisions *Article 10-020, Notice of Public Hearing* of this Ordinance.

   d. The Plan Commission shall consider the provisions of this Ordinance and all other documented, applicable standards in deciding the appeal.

G. Consistency

In all cases, the application materials, including any drawings which are presented to the Plan Commission, or provided to the Plan Director with an Improvement Location Permit application, following TRC review shall be completely consistent with those presented to the TRC, with the exception of any revisions requested by the Committee. Any petition which is inconsistent with the approval of the Technical Review Committee shall be referred back to the TRC for review and comment.

040 *Powers and Duties of the Board of County Commissioners*

A. Duties

Duties should be interpreted as activities that are obligations. Board of County Commissioners duties include:

1. Plans and Ordinances
   Adopt, reject or amend the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Control Ordinance that has been certified and submitted by the Plan Commission;

2. Plan and Ordinance Amendments
   Adopt, reject, or amend proposals to amend or partially repeal the text of the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Control Ordinance that have been certified and submitted by the Plan Commission;

3. Zoning Map Amendments
   Adopt, reject or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission;

4. Planned Unit Developments
   Adopt, reject or amend proposals for a Planned Unit Development District that have been certified and submitted by the Plan Commission;

5. Fee Schedule
   Adopt, reject or amend proposals to adopt or amend a Fee Schedule that have been certified and submitted by the Plan Commission;

6. Public Improvements
   Accept or decline public improvements installed as requirements of a development; and

7. Other Duties
   All additional duties as permitted by Indiana State Code.

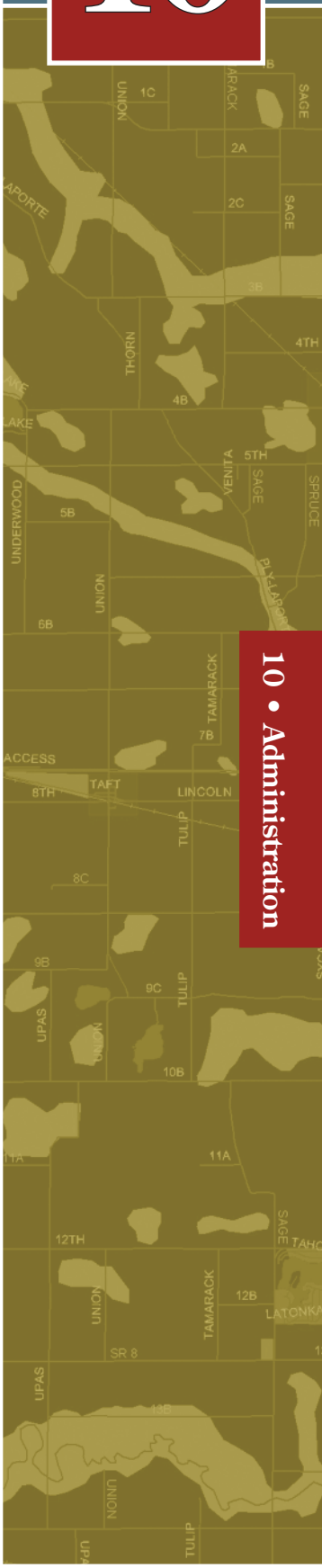
B. Powers

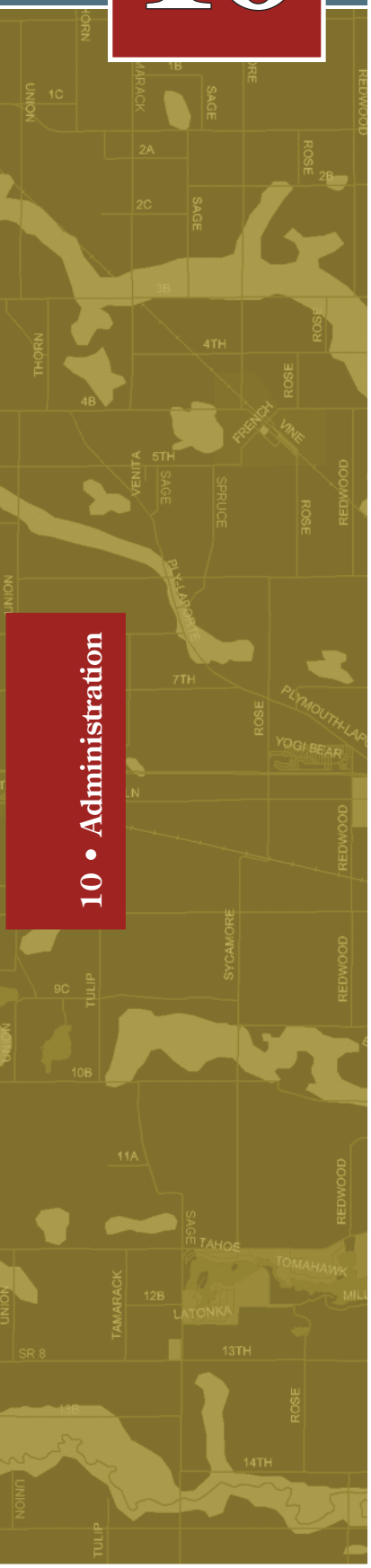
Powers should be interpreted as activities that are optional and may be initiated by the Board of County Commissioners. The Board of County Commissioners powers include:

1. Plan and Ordinance Amendments
   Initiate amendments to the text of the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Control Ordinance;

2. Zoning Map Amendments
   Initiate amendments to the Official Zoning Map; and

3. Other Powers
   All additional powers as permitted by Indiana State Code.





050 *Powers and Duties of the Plan Commission*

The powers, duties, rules and procedures are further described by the Plan Commission Rules and Procedures (IC 36-7-4-400 Series)

A. Duties

Duties should be interpreted as activities that are obligations. Plan Commission duties include:

1. Plan and Ordinances
   Make recommendations concerning Board of County Commissioners approved Comprehensive Plan, Zoning Ordinance and Subdivision Control Ordinance as authorized under Indiana State Law;

2. Rules and Procedures
   Adopt and maintain rules and procedures for holding meetings, holding public hearings, and administrating and enforcing the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance;

3. Record Keeping
   Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission;

4. Surety
   Record and file bonds and contracts for development and land use activities;

5. Publications
   Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission;

6. Certification
   Adopt and maintain a permitting process and seal used to certify official or approved documents;

7. Recommendations
   Certify and submit recommendations to the Board of County Commissioners including new versions of, and revisions to the Comprehensive Plan, Zoning Ordinance, Subdivision Control Ordinance, and Official Zoning Map;

8. Planned Unit Developments
   Certify and submit recommendations to the Board of County Commissioners for approving Planned Unit Developments;

9. Fiscal Records
   Maintain monetary and fiscal records of the Plan Commission;

10. Budgeting
    Prepare and submit an annual budget to the County Council;

11. Petitions
    Approve or deny preliminary plats, re-plats, and the vacation of plats of subdivisions;

12. Street Names and Addresses
    Assign street numbers to new lots and structures, renumber lots and structures, assign street names, and approve or deny proposed street names in new developments (the assigning of all addresses should be coordinated with E-911 of Marshall County);

13. Fee Schedule
    Establish and maintain a Board of County Commissioners approved Fee Schedule that assigns a fee to permits, processes, and official actions of the Plan Commission in order to defray the administrative costs of such duties and powers;

14. Enforcement
    Enforce regulations and procedures of the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance to the extent of the local resolutions, ordinances, and State of Indiana Law;

15. Other Duties
    All additional duties as permitted by Indiana State Code.

B. Powers

Powers should be interpreted as activities that are optional and may be initiated. Plan Commission powers include:

1. Staff
   Hire, remove, and determine job descriptions for support staff to the Plan Commission;

2. Compensation
   Determine the compensation for support staff and Plan Commission members as provided within the annual budget of the Plan Commission;

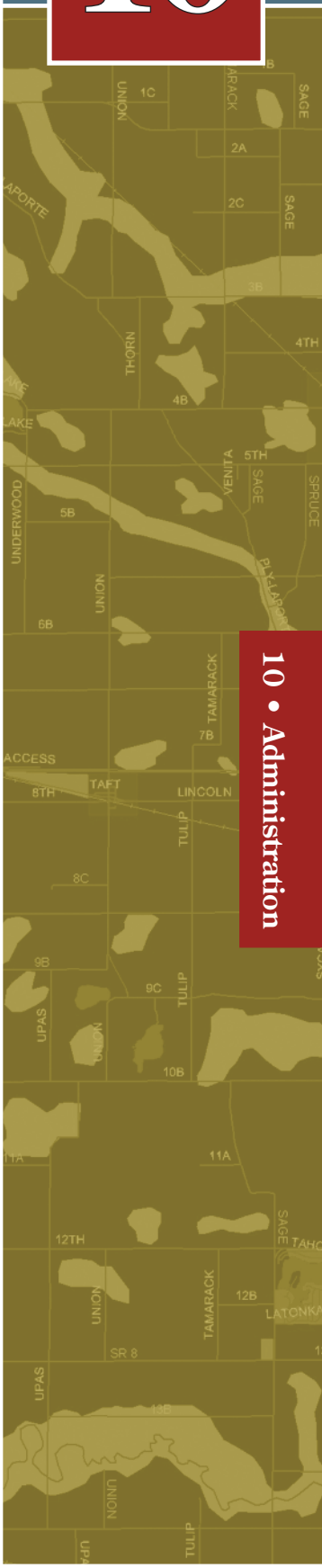
3. Advisory Committees
   Establish advisory committees as necessary, made up of County officials and the general public;

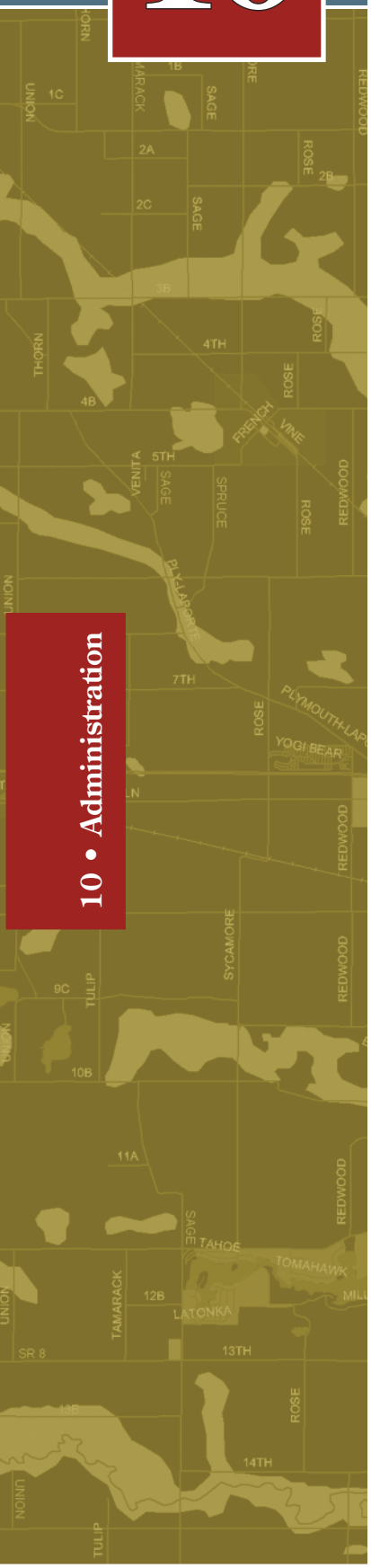
4. Executive Committee
   Establish an executive committee;

5. Funding Assistance
   Seek funding assistance through grant programs as necessary ;

6. Publications
   Distribute copies or summaries of the Comprehensive Plan, Zoning Ordinance, or Subdivision Control Ordinance to the general public and development community; and

7. Other Powers
   All additional powers as permitted by Indiana State Code.





060 *Board of Zoning Appeals Duties and Powers*

The powers and duties of the Board of Zoning Appeals are described below. The powers, duties, rules and procedures are further described by *Article 10-060, Board of Zoning Appeals Duties and Powers* of this Ordinance and the Board of Zoning Appeals Rules and Procedures.

A. Duties

Duties should be interpreted as activities that are obligations. Board of Zoning Appeals duties include;

1. Variances
   Review, hear, and approve or deny all petitions for variances from development standards (such as height, bulk, or area), variances from the Flood Hazard Area standards, and variances of use based on the provisions of this Ordinance and Indiana State Code; and

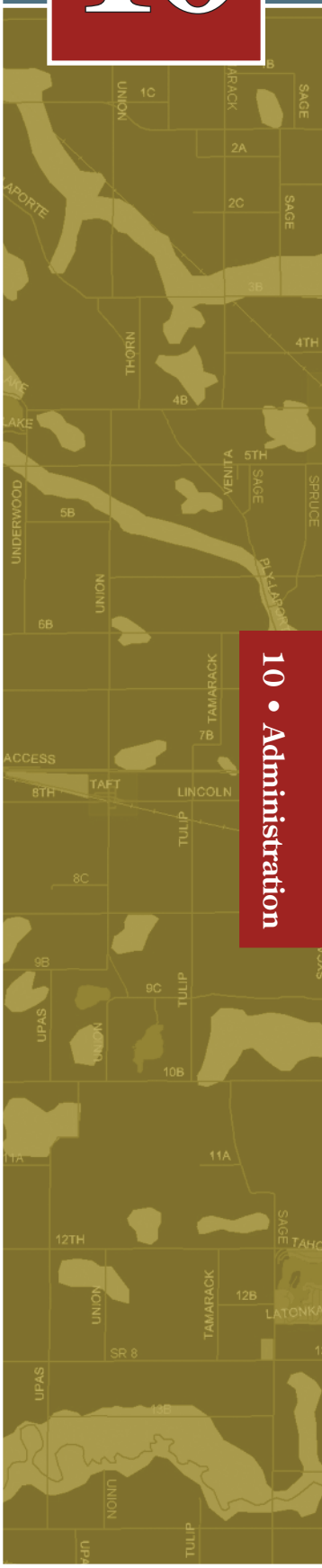
2. Special Exceptions
   Review, hear and approve or deny all petitions for special exceptions based on the provisions of this Ordinance and Indiana State Code;

3. Appeals
   Review and hear appeals of decisions made under this Ordinance or in the enforcement of this Ordinance by the Plan Director or other Plan Commission staff, committees or administrative boards or any other body except the Plan Commission (IC 36-7-4-913 through 900 Series);

4. Other Duties
   All additional duties as permitted by Indiana State Code.

B. Powers

Powers should be interpreted as activities that are optional and may be initiated. Board of Zoning Appeals powers include any powers as permitted by Indiana State Code.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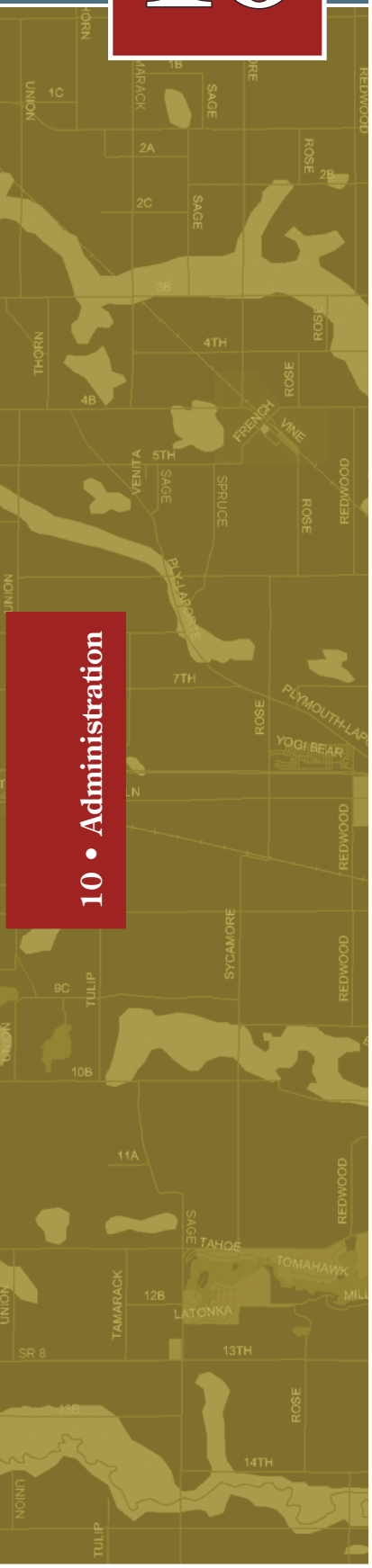
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Notes

Notes

Suggestions for Future Changes

11

Processes, Permits, and Fees

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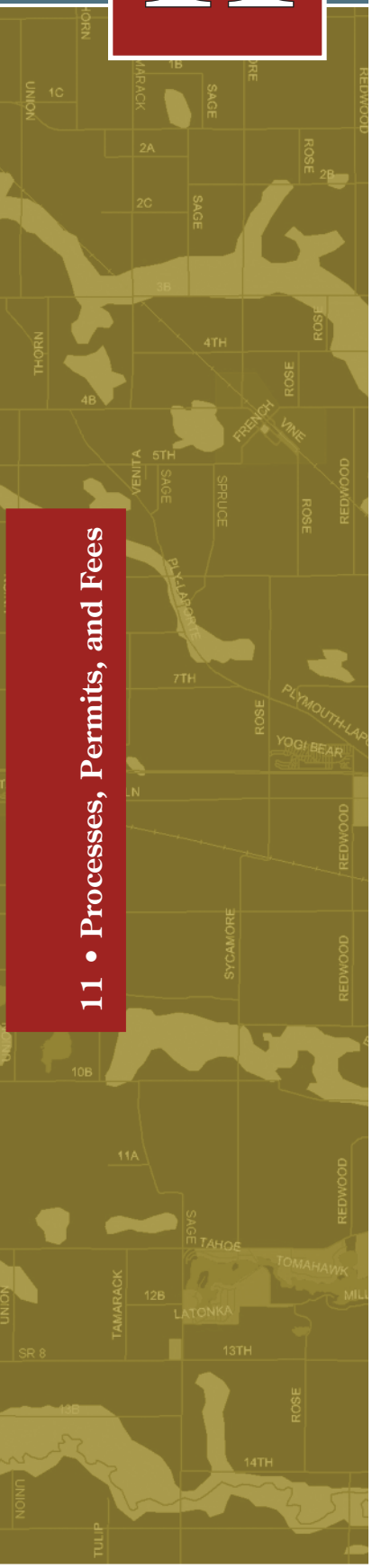


010 *Petition and Permit Application Types*

A. Petition Applications Required

Marshall County hereby requires that an application be submitted for the following types of petitions:

1. Variance (use, development standards, and flood hazard area standards),
2. Special Exception,
3. Administrative Appeal,
4. Zoning Map Amendment,
5. Planned Unit Development (subject to the requirements of *Article 5, Planned Unit Developments* of this Ordinance), and
6. Site Development Plan (subject to the requirements of *Article 7, Site Development Plans* of this Ordinance).

B. Permit Applications Required

Marshall County hereby requires that an application be submitted for the following types of permit applications:

1. Improvement Location Permit
2. Certificate of Occupancy, and
3. Sign Permit (permanent and temporary).

C. Application Materials

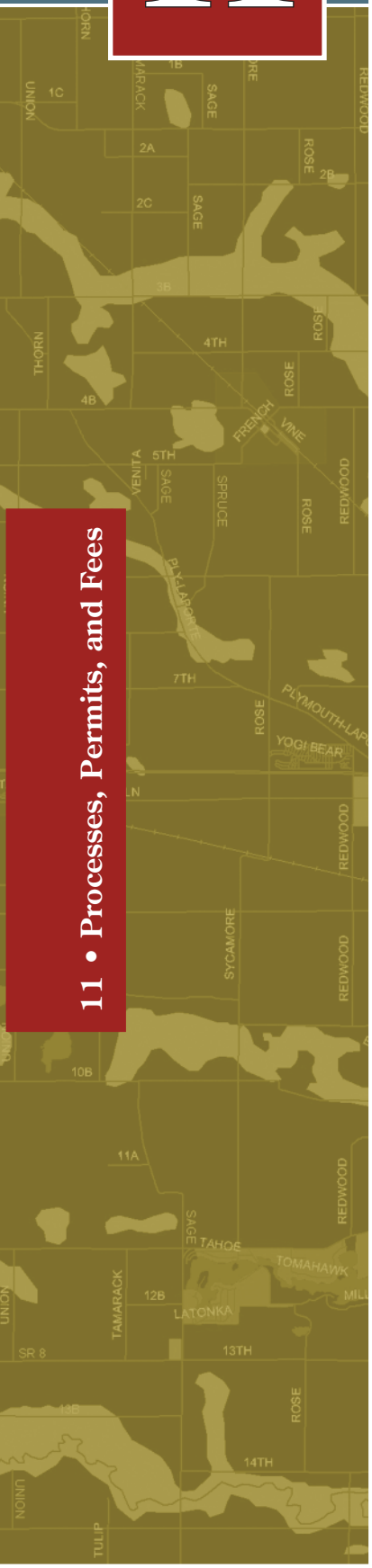
All applications may be obtained from the Plan Director. Fees shall be paid to the Plan Director at the time the petition and/ or permit applications are submitted.

1. Application Forms
   All applications shall be made on forms provided by the Plan Director. All petitioners and permit applicants shall submit original applications which are completed in their entirety in ink or typed. All applications shall be signed and notarized (if required).

2. Copies of Materials
   All petitioners and applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the Plan Director and the applicable Rules and Procedures of the Plan Commission and Board of Zoning Appeals.

3. Scheduling
   All petitions and permit applications shall be assigned reference and/or docket numbers by the Plan Director. Petition applications shall be scheduled by the Plan Director for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Article and the

appropriate adopted calendars of filing and meeting dates for the Board of Zoning Appeals and/or Plan Commission.



020 *Variance Petitions*

The following procedure shall apply to all variance petitions;

A. Application

The petitioner shall submit:

1. a variance application
2. affidavit and consent of property owner (if the owner is someone other than the petitioner)
3. a copy of the deed for the property involved
4. the required filing fee; and
5. required supportive information

   Supportive information shall include, but not be limited to the following

   a. Site Plan

   A site plan drawn with a straight edge, signed, and dated, clearly showing the entire layout of the property and all features relevant to the variance request.

   b. Letter of Intent

   A letter of intent to the Board of Zoning Appeals describing the details of the variance being requested and stating how the request is consistent with the required findings of fact described by *Article 9, Board of Zoning Appeals* of this Ordinance. The letter should include any written commitments being made by the petitioner.

   c. Health Department Approval (if applicable)

   A letter from the Marshall County Board of Health indicating that the variance will not negatively affect the operation of a septic system (if any septic system is, or is to be located on the subject property).

B. Notification

Notification for the scheduled public hearing regarding the variance request shall be completed consistent with *Article 10-020, Notice of Public Hearing* of this Ordinance and the Rules and Procedures of Marshall County Board of Zoning Appeals.

C. Public Hearing

The BZA will then, in a public hearing scheduled consistent with the adopted calender of filing and meeting dates, review the variance application and required supportive information.

1. Representation

   The petitioner and any representative of the petitioner must be present at the public hearing to present the petition and address the required findings of fact.

2. Testimony
   The Board shall consider a report from the Plan Director and testimony from the petitioner, remonstrators, the public and interested parties at the hearing.

3. Procedures
   The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Board and Article 9, Board of Zoning Appeals of this Ordinance.

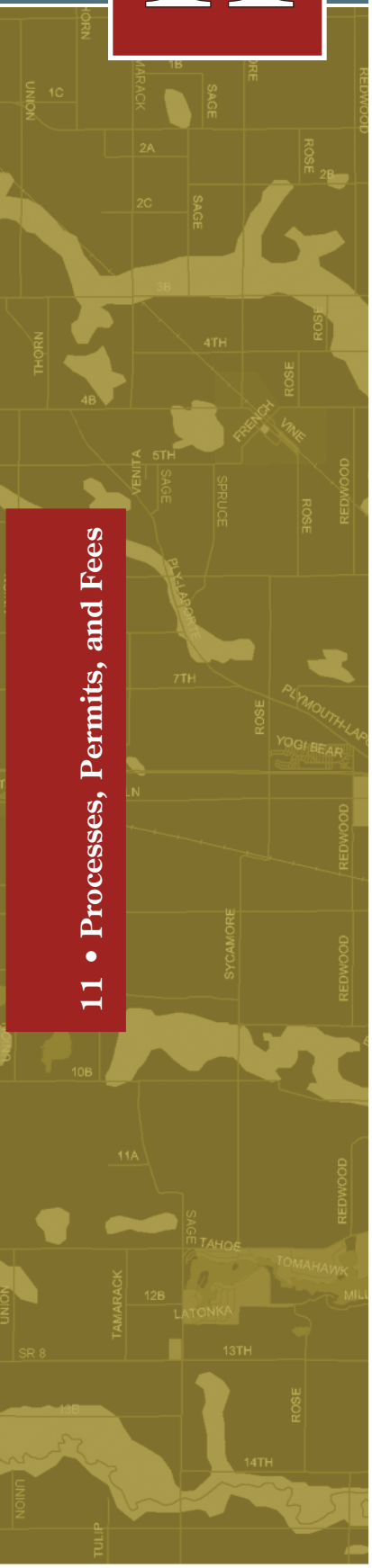
4. Possible Action
   The BZA may approve, approve with conditions, deny, or table the petition.

   a. Approval
      The petition shall be approved if findings of fact are made consistent with the requirements of *Article 9, Board of Zoning Appeals* of this Ordinance and Indiana State Code.

   b. Approval with Modifications
      The petition shall be approved with modifications if the Board of Zoning Appeals determines that the required findings of fact may be made if certain conditions are applied to the petition. The Board may make reasonable conditions related to the required finding of facts part of its approval and/or accept written commitments from the petitioner.

   c. Denial
      The petition shall be denied if findings of fact consistent with the requirements of *Article 9, Board of Zoning Appeals* of this Ordinance and the Indiana State Code are not made. Petitions which are denied shall not be eligible for consideration again by the Board for a period of one (1) year from the date of denial.

   d. Tabled
      The petition may be tabled based on a request by the Plan Director, petitioner, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request. The tabling of all petitions shall be consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.



030 *Special Use Process*

The following procedure applies to special use petitions:

A. Application

The petitioner shall submit;

1. a special exception application;
2. affidavit and consent of property owner (if the owner is someone other than the petitioner);
3. a copy of the deed for the property involved;
4. the required filing fee; and
5. required supportive information.
   Supportive information shall include, but not be limited to the following:

   a. Site Plan
   A site plan drawn with a straight edge, signed, and dated, clearly showing the entire layout of the property and all features relevant to the special exception request.

   b. Letter of Intent
   A letter of intent to the Board of Zoning Appeals describing the details of the special exception request including but not limited to:

      i. The ways in which the special use shall comply with the applicable development standards of this Ordinance,

      ii. The ways in which the special exception shall be consistent with the required findings of fact described by Chapter 10.5, Special Exceptions of this Ordinance, and

      iii. Any written commitments being made by the petitioner.

   c. Waste Disposal Verification
   A letter from the Marshall County Board of Health indicating that the special use will make acceptable use of an existing or proposed septic system, or a letter from a public sewer provider stating that the proposed special use shall be served by its utility. This required supportive information may be waived by the Plan Director.

B. Notification

Notification for the scheduled public hearing regarding the special use request shall be completed consistent with *Article 10-020, Notice of Public Hearing* of this Ordinance and the Rules and Procedures of Marshall County Board of Zoning Appeals.

C. Public Hearing

The BZA will then, in a public hearing scheduled consistent with the adopted calender of filing and meeting dates, review the special use application and required supportive information.

1. Representation
   The petitioner and any representative of the petitioner must be present at the public hearing to present the petition and address the required findings of fact.

2. Testimony
   The Board shall consider a report from the Plan Director and testimony from the petitioner, remonstrators, the public and interested parties at the hearing.

3. Procedures
   The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Board and *Article 9, Board of Zoning Appeals* of this Ordinance.

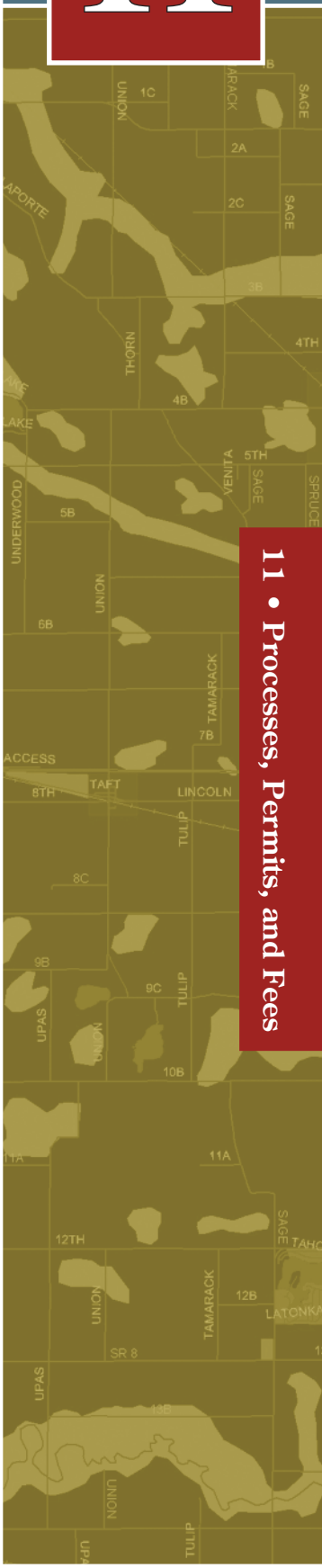
4. Possible Action
   The BZA may approve, approve with conditions, deny, or table the petition.

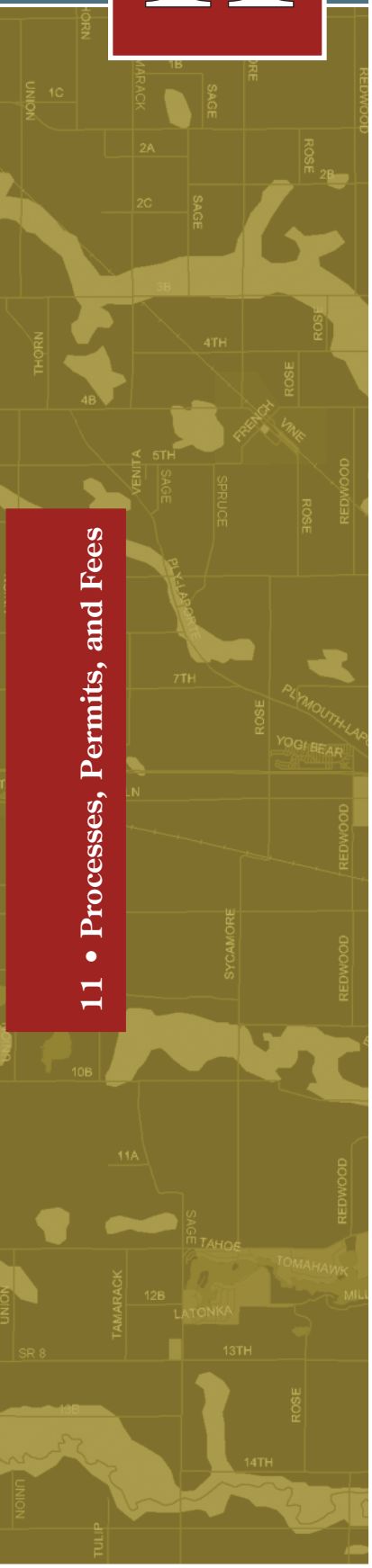
   a. Approval
      The petition shall be approved if findings of fact are made consistent with the requirements of *Article 9-050, Special Exception* of this Ordinance and Indiana State Code.

   b. Approval with Modifications
      The petition may be approved with modifications if the Board of Zoning Appeals determines that the required findings of fact may be made only if certain conditions are applied to the petition. The Board may make reasonable conditions related to the required finding of facts part of its approval and/or accept written commitments from the petitioner.

   c. Denial
      The petition shall be denied if findings of fact consistent with the requirements of *Article 9-050, Special Uses* of this Ordinance and the Indiana State Code are not made. Petitions which are denied shall not be eligible for consideration again by the Board for a period of one (1) year from the date of denial.

   d. Tabled
      The petition shall be tabled based on a request by the Plan Director, petitioner, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request. The tabling of all petitions shall be consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.





040 *Administrative Appeal Petitions*

The following procedure shall apply to all appeals of administrative decisions;

A. Application

The petitioner shall submit an administrative appeal application and required supportive information. Supportive information shall include, but not be limited to the following:

1. Original Submittals
   Copies of all materials submitted to the staff member or administrative board upon which the decision being appealed was based.

2. Written Decisions
   Copies of any written decisions which are the subject of the appeal.

3. Appeal Basis
   A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standards applicable to Marshall County upon which the appeal is based.

B. Notification

Notification for the scheduled public hearing regarding the administrative appeal shall be completed consistent with *Article 10-020, Notice of Public Hearing* of this Ordinance and the Rules and Procedures of Marshall County Board of Zoning Appeals.

C. Public Hearing

The BZA will then, in a public hearing scheduled consistent with the adopted calender of filing and meeting dates, review the administrative appeal application and supportive information.

1. Representation
   The petitioner and any representative of the petitioner must be present at the public hearing to present the petition and address the required findings of fact.

2. Testimony
   The Board shall consider a report from the Plan Director and testimony from the petitioner, remonstrators, the public and interested parties at the hearing.

3. Procedures
   The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Board and *Article 9-060, Administrative Appeals* of this Ordinance.

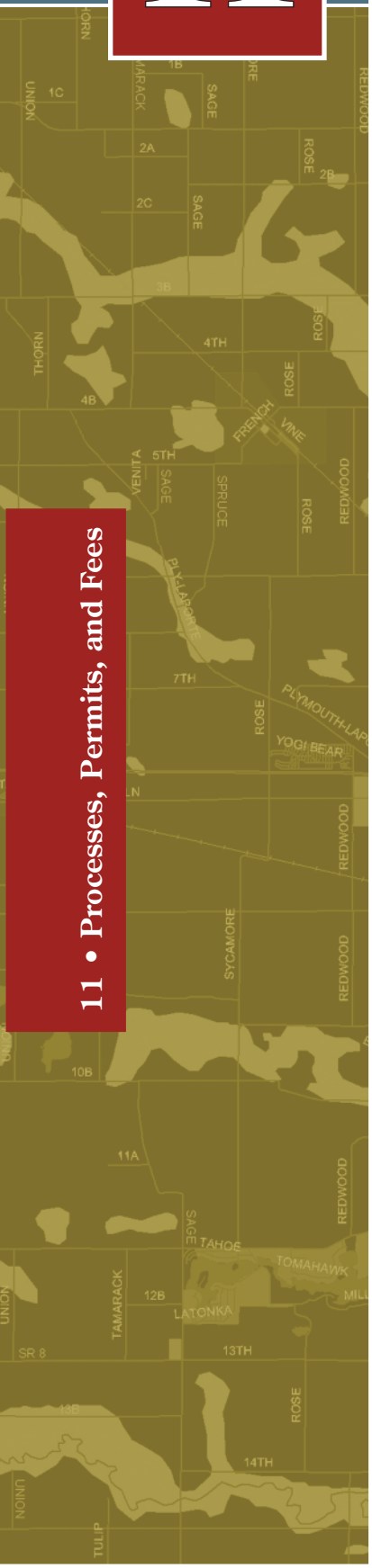
4. Possible Action
   The BZA may grant, grant with modifications, deny, or table the appeal.

   a. Granted
      The appeal shall be granted if findings of fact are made consistent with the requirements of *Article 9-060, Administrative Appeals* of this Ordinance and Indiana State Code.

b. Granted with Modifications
The appeal shall be granted with modifications if the Board of Zoning Appeals determines that the proper interpretation of the provision(s) which are subject to the appeal is consistent with neither the administrative decision nor the requested interpretation of the applicant.

c. Denied
The petition shall be denied if findings of fact are made supporting the administrative decision.

d. Tabled
The petition shall be tabled based on a request by the Plan Director, petitioner, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required. The tabling of all petitions shall be consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.



050 *Zoning Map Amendment Petitions*

The following procedure shall apply to all Zoning Map Amendment ("rezoning") petitions:

A. Petition Initiation

Proposals for Zoning Map Amendments may be initiated by either the Plan Commission, the Board of County Commissioners, or through a petition signed by property owners of at least fifty (50) percent of the land involved.

1. County Initiation
   The Plan Commission shall prepare the petition for zoning map amendment if either the Commission or the Board of County Commissioners has initiated the petition. The Plan Director shall serve as the representative of the petitioner for such proposals.

2. Property Owner Initiation
   Any property owners requesting a zoning map amendment shall be the petitioners and assume responsibility for preparing application materials.

B. Application

The petitioner shall submit a

1. rezoning application;

2. affidavit and consent of property owner (if the owner is someone other than the petitioner);

3. a copy of the deed for the property involved;

4. the required filing fee; and

5. required supportive information
   Supportive information shall include, but not be limited to the following:

   a. Site Plan
      A site plan drawn to scale showing, at a minimum, all existing and proposed structures, setbacks, easements, rights-of-way, floodplains, and any other feature relevant to the petition.

   b. Vicinity Map
      A vicinity map showing the use and zoning of all properties within one thousand (1,000) feet of the property subject to the rezoning request.

   c. Letter of Intent
      A letter of intent to the Plan Commission stating the reasons for the rezoning, including a detailed description of any proposed development for which the rezoning is sought. The letter should include any written commitments being made by the petitioner.

C. Technical Review

The application materials shall be reviewed by Marshall County Technical Review Committee consistent with the provisions of *Article 10-030, Technical Review Committee* of this Ordinance.

1. Representation
   The petitioner(s) and any representative of the petitioner(s) shall be present during the review to answer questions regarding the petition.

2. Revisions
   Any revisions to the application materials or the proposal requested by the Committee shall either be addressed during the review meeting or through revised application materials submitted prior to the Plan Commission hearing. All revised submittals shall be submitted to the Plan Director in a timely manner as specified in the Plan Commission Rules and Procedures and be consistent with the calendar of meeting and filing dates.

D. Notification

Notification for the scheduled public hearing regarding the rezoning request shall be completed consistent with the requirements of *Article 10-020, Notice of Public Hearing* of this Ordinance and the Rules and Procedures of Marshall County Plan Commission.

E. Plan Commission Public Hearing

The Plan Commission will then, in a public hearing scheduled consistent with the adopted calender of filing and meeting dates (but no later than sixty (60) days following the receipt of the application, per I.C. 36-7-4-608), review the rezoning application and required supportive information.

1. Representation
   The petitioner and any representative of the petitioner must be present at the public hearing to present the petition and address any questions the Commission might have.

2. Testimony
   The Commission shall consider a report from the Plan Director and testimony from the petitioner, remonstrators, the public and interested parties at the hearing.

3. Procedures
   The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Commission.

4. Possible Action
   The Commission shall either forward the petition to the Board of County Commissioners with a favorable recommendation, an unfavorable recommendation, or no recommendation, or table the request.

   a. Favorable Recommendation

(cont.)

050 *Zoning Map Amendment Petitions (cont.)*

The petition shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed in *Article 11-050(h), Decision Criteria* in this Chapter. The recommendations may include requested commitments from the petitioner.

b. Unfavorable Recommendation
The petition shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed in *Article 11-050(h), Decision Criteria* in this Chapter.

c. No Recommendation
The petition may be forwarded with no recommendations if, by a majority vote of the Commission, it is determined that the petition includes aspects which the Commission is not able to evaluate.

d. Tabled
The petition shall be tabled based on a request by the Plan Director, petitioner, remonstrator, or interested party; an indecisive vote; or a determination by the Commission that additional information is required prior to action being taken on the request. The tabling of all petitions shall be consistent with the adopted Rules and Procedures of the Commission.

F. Certification
The Plan Commission shall certify its recommendation by resolution to the Board of County Commissioners within ten (10) days (per I.C. 36-7-4-608). The Plan Commission staff shall forward to the Board of County Commissioners appropriate copies of the Plan Commission resolution, the original application and all supportive information, any staff reports regarding the petition, and an ordinance for the Commissioners' consideration.

G. Board of County Commissioners Hearing
The Board of County Commissioners shall hold a public hearing and vote on the proposed rezoning ordinance within ninety (90) days of its certification by the Plan Commission.

1. Notification
The Commissioners shall provided notification of action on the ordinance consistent with Indiana State Code.

2. Possible Action
The Board of County Commissioners may either approve or deny the ordinance. If the Commissioners fail to act within the ninety (90) day time frame specified above, the ordinance shall become affective or be defeated consistent with the provisions of IC 36-7-4-608. The Commissioners may also seek modifications or additions to any written commitments as described in *Article 11-050.I(2b), Written Commitments* of this Ordinance below.

H. Decision Criteria
In reviewing the rezoning petition, the Plan Commission and Board of County Commissioners shall pay reasonable regard to the following:

1. Comprehensive Plan
   Marshall County Comprehensive Plan and any other applicable, adopted planning studies or reports;

2. Current Conditions
   The current conditions and the character of current structures and uses in each district;

3. Desired Use
   The most desirable use for which the land in each district is adapted;

4. Property Values
   The conservation of property values throughout Marshall County; and

5. Responsible Growth
   Responsible growth and development.

I. Written Commitments

The petitioner in any rezoning application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on the subject property consistent with IC 36-7-4-615.

1. Origin of Commitments
   Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made through the Technical Review Committee, or in response to any modifications requested by the Plan Commission or Board of County Commissioners.

2. Consideration of Commitments
   All commitments shall be considered by the Technical Review Committee, the Plan Commission, and the Board of County Commissioners in the review of the petition.

   a. Commitments shall be included as an element of the rezoning ordinance prepared by the Commission following action taken at the public hearing.

   b. Any deletion, addition, or alteration of the written commitments proposed by the Board of County Commissioners shall be referred back to the Plan Commission for consideration and inclusion in a revised or affirmed recommendation regarding the application.

3. Recording of Commitments
   Following final action being taken on the rezoning application, the rezoning ordinance, written commitments included, shall be recorded in the office of the Marshall County Recorder. A copy of the recorded commitments shall be provided to the Plan Director for inclusion in the petition file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the recorded commitments.

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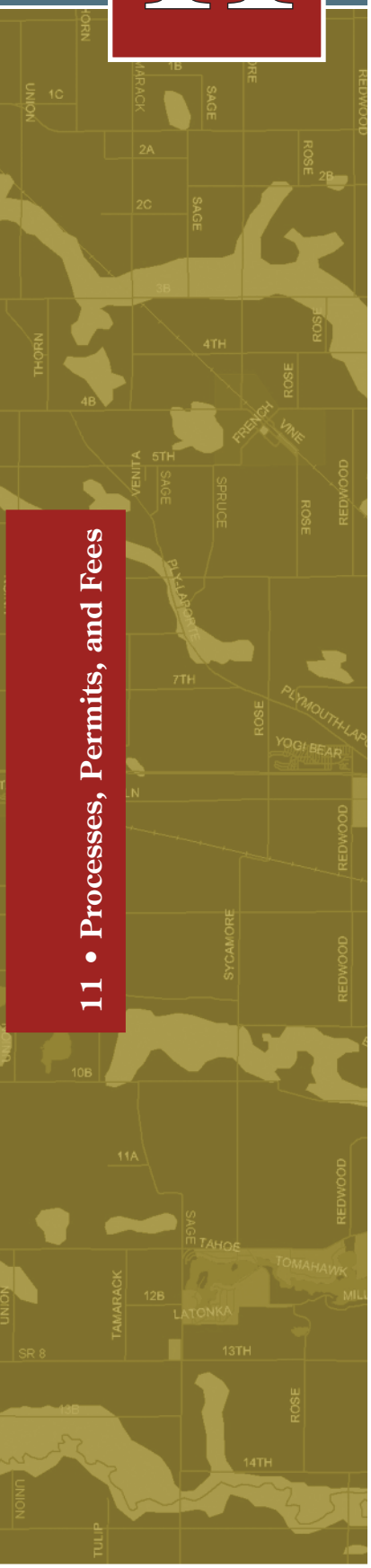


4. Enforcement of Commitments
   The written commitments shall be considered part of this Ordinance binding on the subject property.

   a. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.

   b. The written commitments shall be enforceable by Marshall County Plan Commission consistent with the adopted provisions for the enforcement of any other aspect of this Ordinance, as described in *Article 12, Enforcement and Penalties* of this Ordinance.

   c. The written commitments may be modified only through the Zoning Map Amendment process described by this section. Any written commitment shall be terminated if the Official Zoning Map applicable to the subject property is amended or if a zoning text amendment contradictory to the written commitment is adopted.

060 *Improvement Location Permit*

A. General Requirements

No structure shall be erected, moved, or added to, without an Improvement Location Permit issued by the Plan Director. No Improvement Location Permit shall be issued unless the project is in conformity with the provisions of this Ordinance, the Subdivision Control Ordinance and other applicable regulations of Marshall County. When applicable, consistent with *Article 7, Site Development Plans* of this Ordinance, Site Development Plan review and approval shall be completed prior to the receipt of an Improvement Location Permit.

B. Permit Required

Marshall County requires that an Improvement Location Permit be obtained for the following:

1. any structure, for any use that exceeds one hundred twenty (120) square feet in area and/or has a permanent foundation (including structures other than buildings such as towers, antennas, and satellite dishes),
2. any temporary use of land or temporary structure,
3. signs (as specified by *Article 6-200, Sign Standards* of this Ordinance) ,
4. swimming pools (in ground or above ground),
5. additions to all structures,
6. adding or subtracting dwelling units or leased space in multifamily or commercial structures,
7. placement or replacement of manufactured or mobile homes,
8. parking lot construction or alteration,
9. mineral extraction,
10. telecommunication towers, buildings, and antenna, and
11. any exterior construction that adds to or alters the height of the existing structure.

C. Exemptions

No ILP shall be required for the following types of improvements. However, any such improvement shall comply with any applicable requirements of this Ordinance, the Subdivision Control Ordinance, and any other applicable adopted standards of Marshall County.

1. fences, walls, and hedges placed outside of the public right-of-way,
2. cosmetic (non-structural) changes to any structure including the replacement of windows in existing openings, re-roofing, the installation of siding material, and

(cont.)

060 *Improvement Location Permit (cont.)*

repainting.

D. Application Requirements

All applications for improvement location permits shall be accompanied by:

1. Site Location Map
   a site location map showing the subject property and the general features of the property within five hundred (500) feet of the subject property;

2. Site Plan (if applicable)
   a detailed site plan, drawn to scale with the dimensions indicated showing the following:

   a. the entire property and the features of the property including all rights-of-way, easements, property lines, required buffer yards, and setbacks;

   b. all existing and proposed structures or other site improvements with the dimensions of such improvements;

   c. the distances from all existing and proposed improvements to the property lines;

   d. the location of any existing or proposed septic field;

   e. the location of any existing or proposed driveway and/or parking areas;

   f. elevations of all existing and proposed structures or alterations;

   g. natural, physical or hazardous conditions existing on the lot;

   h. the location of any required landscaping, labeled according to size and species,

   i. the location, type, and dimensions of any storm water structures, conduits, or detention/retention ponds, and

   j. finished floor elevations.

3. Waste Disposal Verification
   Either a septic permit from the Marshall County Health Department *certifying the approval of one (1) on-site septic system and approval of one (1) alternate on-site septic system location on the same property* or a sewer access (tap-on) permit from the appropriate public sewer provider (if applicable);

4. Driveway Approval (if applicable)
   A driveway permit from the County or State Highway Department (if applicable);

5. Use Description
   A detailed description of the existing or proposed uses of the property and any structures;

6. Dwelling Units/Tenant Spaces (if applicable)
   An indication of the number of dwelling units, or tenant spaces the building is designed to accommodate;

7. Building Permit (if applicable)
   a Building Permit consistent with the requirements of the Marshall County Building Code and the procedures of the Building Official; and

8. Flood Hazard Area Information
   (if applicable) any other information necessary to meet the requirements of *Article 6-070, Flood Hazard Area Standards* of this Ordinance.

9. Notice of Agricultural Activity
   When agricultural activities are a permitted use in a zoning district in which a new residence is to be constructed, a "Notice of Agricultural Activity", identifying common effects of agricultural activity in those areas of the county, signed by the owner of the real property.

E. Copies

A copy of all submitted plans and application materials shall be retained by the Plan Director for the permanent records of Marshall County Plan Commission.

F. Expiration of Permits

Improvement location permits shall expire consistent with the following provisions

1. Initiation of Work
   If the work described in any improvement location permit has not begun within six (6) months from the date of issuance, said permit shall expire; no written notice shall be given to the persons affected.

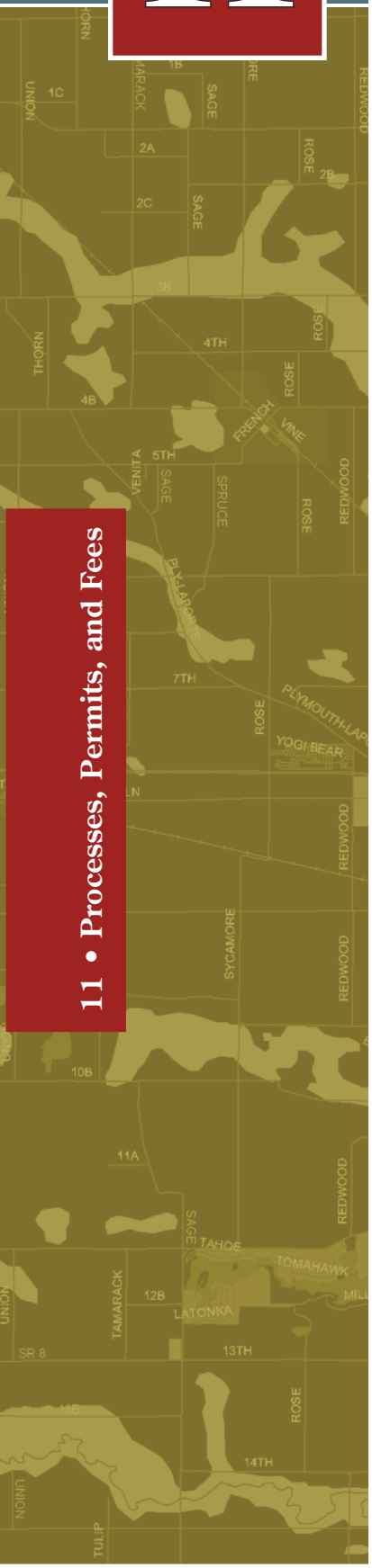
2. Completion of Work
   If the work described in any improvement location permit has not been completed within two (2) years of the date of its issuance, the permit shall expire; no written notice shall be given to the persons affected.

   a. The Plan Director may grant two (2) extensions for up to one (1) year each for work completion. Requests for extensions must be received within one (1) month of the expiration.

   b. No extension shall be granted unless all appropriate extension fees, as defined by the adopted fee schedule, are paid to the Plan Director and the project continues to conform with all applicable requirements of Marshall County.

G. Construction According to Permits and Permit Application

Improvement location permits issued on the basis of plans and applications only authorize the use, arrangement, and construction set forth in such approved plans and applications. Any other use, arrangement, or construction not authorized shall be deemed a violation of this Ordinance and subject to the provisions of *Article 12, Enforcement and Penalties* of this Ordinance.



070 *Certificate of Occupancy*

The following procedure applies to Certificates of Occupancy

A. Certificate Requirements

It shall be unlawful and in violation of the provisions of this Ordinance for any builder or property owner to allow any new or significantly remodeled structure to become occupied or utilized prior to:

1. legally obtaining an Improvement Location Permit,
2. passing all required inspections, including the final inspection; and
3. receiving a Certificate of Occupancy.

B. Inspection

Upon the completion of the work approved through an improvement location permit, the permit holder shall contact the Plan Director and schedule an inspection to verify the installation of improvements consistent with the requirements of this Ordinance. The County Building Inspector, any other municipal official, and any other person requested by the Plan Director may also take part in the inspection.

C. Certificate Issuance

The Plan Director shall issue the Certificate of Occupancy if the improvements comply with all applicable requirements of Marshall County, including this Ordinance, the Subdivision Control Ordinance, and all applicable Building Codes as verified by the Building Official.

080

Sign Permits

The following procedure applies to Improvement Location Permits for Signs (Sign Permits):

A. Sign Permit Review for Permanent Signs

The following procedure applies to Permanent Sign Permit Review

1. Application
   Application for a permit shall be filed with the Plan Director and shall be accompanied by any information the Plan Director determines is necessary to assure compliance with this Ordinance, including but not limited to:

   a. Clear and legible drawings with descriptions showing the location of the sign which is the subject of the permit. All signs on the same parcel or owned by the same business must be noted.

   b. A dimensioned drawing showing the size of the sign face area and the height of the sign.

2. Effect of Sign Permit Issuance
   A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.

3. Expiration
   A sign permit shall become null and void if work has not been started within thirty (30) days of the date the permit is issued or completed within six (6) months of the date the permit is issued.

B. Sign Permit Review for Temporary Signs

The following procedure applies to Sign Permit Review for Temporary Signs.

1. Application
   Application for a permit shall be filed with the Plan Director and shall be accompanied by any information the Plan Director determines is necessary to assure compliance with this Ordinance, including but not limited to:

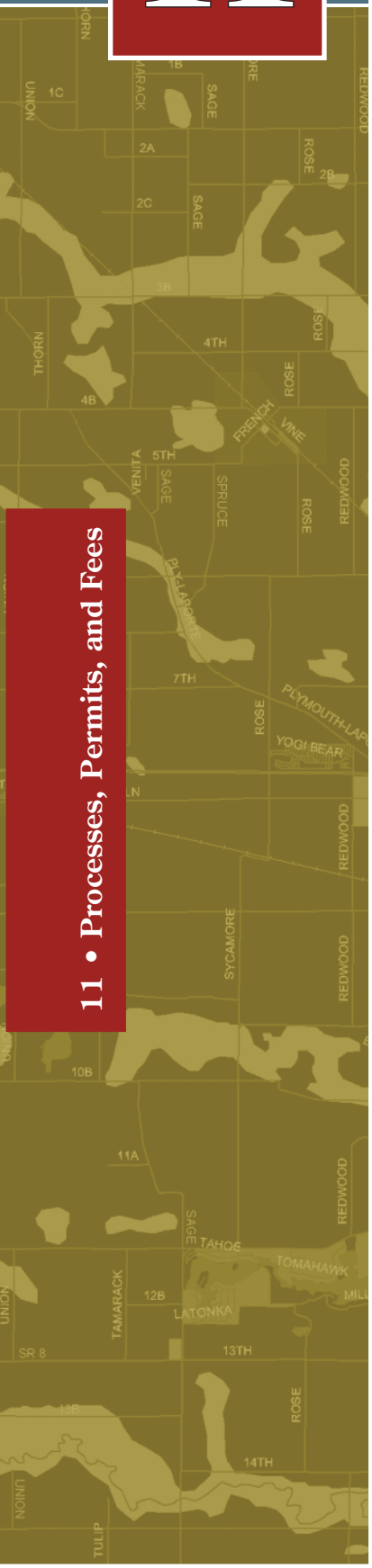
   a. the type of temporary sign to be used.

   b. the period of time the temporary sign is to be used.

   c. the location at which the temporary sign is to be used, and the location on the property where the sign is to be placed.

2. Effect of Sign Permit Issuance
   A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.

3. Nullification
   A temporary sign permit shall become null and void if the sign has not been placed within thirty (30) days of the date the permit is issued.


1C
UNION
MARACK
1B
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REDWOOD
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2C
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FRENCH
VINE
5TH
VENITA
SAGE
SPRUCE
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REDWOOD
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PLYMOUTH-LAP
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YOGI BEAR
REDWOOD
SYCAMORE
REDWOOD
10B
11A
REDWOOD
SAGE
TAHOE
TOMAHAWK
12B
LATONKA
TAMARACK
SR 8
13TH
ROSE
14TH
UNION
TULIP

Notes

Notes

Suggestions for Future Changes

12

Enforcement and Penalties

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Enforcement and Penalties

010 General Provisions

A. Authority

The Plan Commission, Board of Zoning Appeals, Board of County Commissioners, Building Inspector, and/or Plan Director (and their designees) are designated to enforce the provisions, regulations, and intent of this Ordinance. All remedies and enforcement shall comply with the powers set forth in IC 36-7-4-1000 et. al. and all other applicable state laws.

B. Violations

Complaints made pertaining to compliance with provisions of this Ordinance shall be investigated by the Plan Director. The Plan Director may include other officials, such as the County Surveyor, Building Inspector, or County Sheriff in the investigation. Action may or may not be taken depending on the findings of the investigation. The degree of action will be to the discretion of the Plan Director, and should reflect both what is warranted by the violation as well as a consistent approach to the enforcement of this Ordinance.

C. Inspections

Investigations of property may be done by the Plan Director either from a right-of-way, or adjacent property (with permission of that property owner), or from the property suspected of a violation once he/she has presented sufficient evidence of authorization and described the purpose of the inspection to the owner, tenant, or occupant at the time of the inspection.

D. Court Ordered Entry

In the event that the Plan Director is denied entry to the subject property, he/she may apply to a court of jurisdiction to invoke legal, applicable, or special remedy for the enforcement of this Ordinance or any other applicable ordinances adopted under state code.

1. Information Required
   The application shall include the purpose, violation(s) suspected, property address, owner's name if available, and all relevant facts. Additional information may be necessary as requested by the court.

2. Entry Permitted
   Pursuant to applicable regulations and the orders of the court of jurisdiction the owner, tenant, or occupant shall permit entry by the Plan Director.

E. Responsibility for Violations

The property owner shall be held responsible for all violations.

F. Types of Violations

The following items shall be deemed civil violations, enforceable by the Plan Director (penalties may be imposed based on the provisions set forth in this Article):

1. Illegal Structures
   The placement, erection, and/or maintenance of a primary structure, sign, accessory structures or any other element determined by the Plan Director to not conform to the provisions or explicit intent of the Zoning Ordinance;

2. Illegal Use
   Conducting a use or uses that do not comply with the provisions or explicit intent this Ordinance;

3. Failure to Obtain a Permit
   Failure to obtain an Improvement Location Permit when required by this Ordinance;

4. Violation of Stop-Work-Order
   Proceeding with work under a Stop-Work-Order or in violation of a Memorandum of Agreement;

5. Failure to Comply with Development Standards
   Any failure to comply with the development standards and/or any regulations of the Zoning Ordinance; or

6. Failure to Comply with Commitments
   Any failure to comply with commitments or conditions made in connection with a rezoning, special exception, variance, or other similar and documentable commitment.

020 *Construction Process Violations*

A. Stop-Work-Orders

The Plan Director may place a Stop-Work-Order on any land/property improvement process.

1. Procedure
   Stop-Work-Orders shall be issued by written letter which shall state the violation and that work or other illegal activity must stop immediately until the matter is resolved. This letter shall be posted in a conspicuous place or be delivered/mailed to the owner, developer, property manager, tenant, or occupant.

2. Reasons
   Reasons for a Stop-Work-Order include, but are not limited to:

   a. not complying with development standards and/or any regulations of the Zoning or Subdivision Control Ordinance;

   b. not obtaining an Improvement Location Permit prior to the start of construction of any improvement for which such a permit is required by this Ordinance;

   c. not completing structures or other improvements consistent with any approved Improvement Location Permit, variance, special exception, or other approval;

   d. not meeting the conditions or commitments of a special exception, variance, or rezoning petition;

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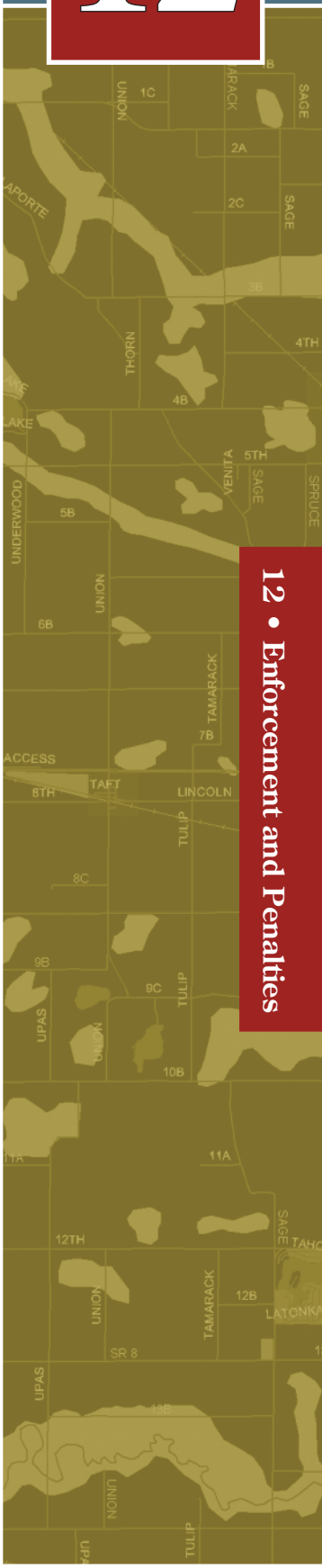


020 *Construction Process Violations (cont.)*

e. not meeting the conditions of a Site Development Plan, Planned Unit Development Plan, written commitment, or covenant which is enforceable by the Plan Commission; and

f. illegal use or expansion of use of structures, or structures and land in combination.

B. Memorandum of Agreement

The Plan Director must meet with the person(s) served the Stop-Work-Order notice within seven (7) days of any such meeting being requested by the person(s). A Memorandum of Agreement shall be drafted stating the conditions by which construction or action may be resumed. This Memorandum of Agreement must be signed by the owner, developer, property manager, tenant, or occupant that has caused or is responsible for the violation and the Plan Director.

030 *Immediate Public Risk Violations*

Any violation of this Ordinance which presents an immediate risk to the health, safety, or welfare of the public or to property within the community may be corrected by the Plan Director, or a person, firm, or organization selected by the Plan Director, without prior notice to the property owner or other person responsible for the violation.

A. Immediate Public Risk Violation Defined

Immediate Public Risk violations shall include:

1. Obstructions
   Signs, structures, landscaping or other materials placed in a pubic right-of-way, easement, or sight visibility triangle in violation of this Ordinance;

2. Distractions
   Any sign, structure, landscaping, or other material located on private property which serves to distract or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public; and

3. Other Threats
   Any other immediate threat to public welfare as determined by the Board of County Commissioners, Plan Commission, Board of Zoning Appeals, Plan Director, County Sheriff, or other public official.

B. Seizure of Materials

Any sign, structure, landscaping or other material which constitutes an immediate public risk violation may be seized by the Plan Director in a manner that results in minimal damage to the material and the property upon which it is located.

C. Notice of Violation

The Plan Director shall provide notice to the owner of the property upon which the violation was located, or any discernible appropriate owner of materials placed within the right-of-way in violation of this Ordinance, by either placing a notice in a conspicuous place on the property or by letter.

1. Notice Time Requirements
   The letter shall be sent to the property owner via certified mail within 24 hours of the seizure. A notice that is posted on the property shall be posted at the time the material is seized.

2. Notice Contents
   The letter or posted notice shall include the following:

   a. a description of the materials seized,

   b. a citation of the sections of the Ordinance which were violated and the characteristics of the violation which posed an immediate threat to public welfare,

   c. the address and phone number of the Plan Director and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized item(s); and

   d. instructions describing how, where, and when the seized items may be claimed.

D. Storage and Retrieval of Seized Materials
The Plan Director shall store any sign, structure, landscape materials or other items seized in a secure location for a period of no less than thirty (30) days from the date notice was provided to the property owner. The property owner may claim the seized property at any time following its seizure upon the payment of a $50 fine and the establishment of a Memorandum of Agreement between the property owner and Plan Director regarding the future use of the item in a manner consistent with this Ordinance.

E. Liability
Neither the Plan Director, Marshall County, or any other official or entity involved in the seizure shall be liable for any damage to the seized materials or the property from which they were taken.

040 *Violation Procedure*

A. General Procedure
There shall be a minimum of a three step procedure for the enforcement of violations. Intermediate steps, including additional notices of violation and extensions of time limits for compliance may be used by the Plan Director at his/her discretion. However, the general procedure for all violations shall be consistent. These minimum steps are as follows:

1. Notice of Violation
   The Plan Director shall issue a Notice of Violation to the person(s) who has committed, in whole or in part, a violation. The Notice of Violation is a warning to the violator(s) that a violation has been determined and that a plan to correct the violation must be submitted to the Plan Director within fifteen (15) days of the mailing or posting date of the notice.

(cont.)

040 *Violation Procedure (cont.)*

2. Notice of Fines for Violation
   The Plan Director shall issue a Notice of Fines for Violation to the person(s) who have committed, in whole or in part, a violation. The Notice of Fines for Violations is a citation that states the fines for the violation. The Notice of Fines for Violation shall be mailed via Certified Mail, Return Receipt Request by the Plan Director. The person(s) in violation will have a minimum of fifteen (15) days from the date of mailing to pay all applicable fines, and must correct the violation within the time period specified by the Plan Director or face additional fines.

3. Legal Action
   If the person(s) in violation refuses to pay the fines and/ or correct the violation within the time frame specified by the Notice of Fines for Violation, the Plan Director may refer the violation to the Plan Commission attorney in order to pursue court action through the court of jurisdiction. Additional fines and liens against the property may also be pursued until the matter is resolved.

B. Monetary Fines
   Monetary fines may be imposed at the discretion of the Plan Director with the Notice of Fines for Violations.

1. Multiple Violations
   Each violation shall constitute a separate offense.

2. Fine Amount
   Each separate offense shall be subject to a fine of $200 per day from the date of compliance requested by the Plan Director in the Notice of Violation.

   a. In addition to any fine imposed, any person who initiates any activity which requires an Improvement Location Permit without first obtaining a permit may be required to pay three (3) times the normal amount of the permit consistent with the adopted fee schedule.

3. Payment
   The payment of any violation shall be by cash or cashiers check and shall be delivered to the Plan Director who shall forward the funds to the County Auditor for deposit in the General Fund. The Plan Director shall issue a receipt to the person making the payment.

   a. In no instance shall a fine payment be accepted by the Plan Director for a violation or violations on a property on which other violations remain unresolved.

   b. The Plan Director may, at his/her discretion, waive the assessed fine for the otherwise timely correction of the violation.

C. Appeals

Any person receiving a Notice of Violation and/or Fines for Violation may appeal the violation and/or fine to the Board of Zoning Appeals or to a court of jurisdiction. A written statement from the person in violation, either filing an Administrative Appeal consistent with this Ordinance or giving notice of the filing of an action with a court, shall be submitted to the Plan Director via Certified Mail at least three (3) days prior to the date any fine and/or compliance is due.

1. Fines

   Fines due will be postponed until the BZA or court of jurisdiction has made a ruling as to the violation and/or fine. The person(s) in violation shall have a maximum of six (6) months to complete the hearing process with the BZA. Failure to meet this deadline will reinstate all fines due by the person(s) in violation, including those which would have accumulated during the appeal process.

2. Additional Notices

   No additional notices will be issued by the Plan Director if the person(s) in violation has (have) submitted an appeal or notice of court review.

D. Enforcement of Ordinance Requirements and Commitments

The Plan Director via the Plan Commission Attorney may bring an action in the Circuit or Superior Court of Marshall County to evoke any legal, equitable, or special remedy, for the enforcement of any ordinance or regulation created under IC 36-7-4, and its subsequent amendments.

1. Enforcement

   This includes but its not limited the following:

   a. The Zoning Ordinance, Subdivision Control Ordinance, and any other requirements adopted separately by the Board of County Commissioners or adopted by their reference in the Zoning or Subdivision Control Ordinance.

   b. All agreements with the Plan Commission or its designees which have been recorded as covenants or written commitments in connection with a subdivision plat, a Site Development Plan, or a Planned Unit Development;

   c. All commitments made in accordance with IC 36-7-4 et al; and

   d. All conditions imposed in accordance with IC 36-7-4 et al.

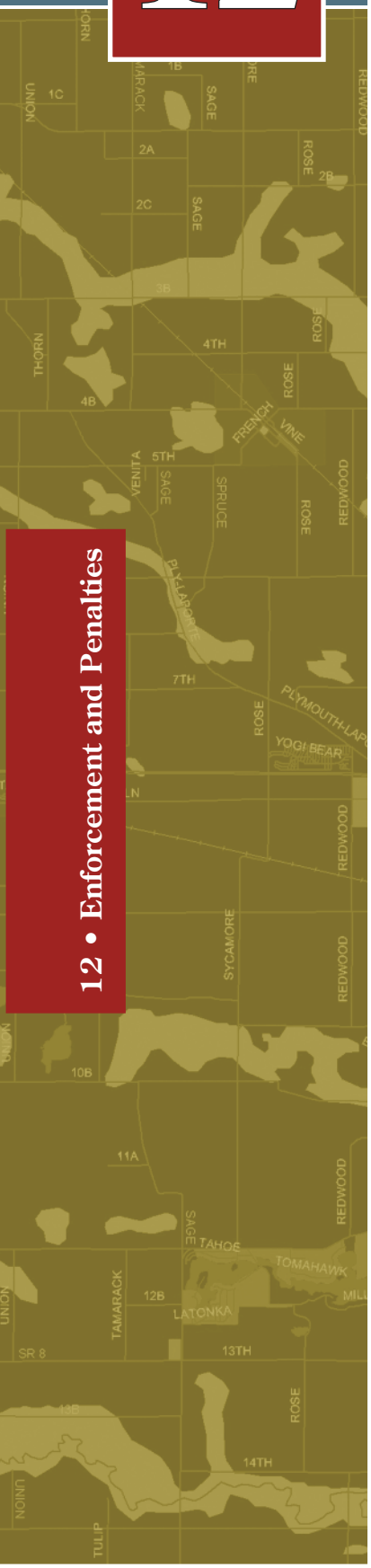
2. Restraint

   The Plan Director may bring action in the Circuit or Superior Court of the County to restrain a person violating IC 36-7-4 et al. or any ordinance adopted under IC 36-7-4 et al.

3. Removal of Structures

   The Plan Director may also bring an action in the Circuit or Superior Court of the County for a mandatory injunction, directing to remove a structure erected in violation of this Ordinance or applicable state code.

(cont.)



040 *Violation Procedure (cont.)*

4. Responsibility for Costs
   If the Plan Director is successful in his/her action, the respondent shall bear all costs of his/her action, including the costs of any required remedy, any fines, and the costs of enforcement (including any attorneys fees, hours worked, photocopying charges, mileage, and other costs incurred directly or indirectly by the County).

   a. Documentation
      Only those costs of enforcement which are clearly documented by the Plan Director, and which clearly bear relationship to the enforcement action shall be paid by the respondent.

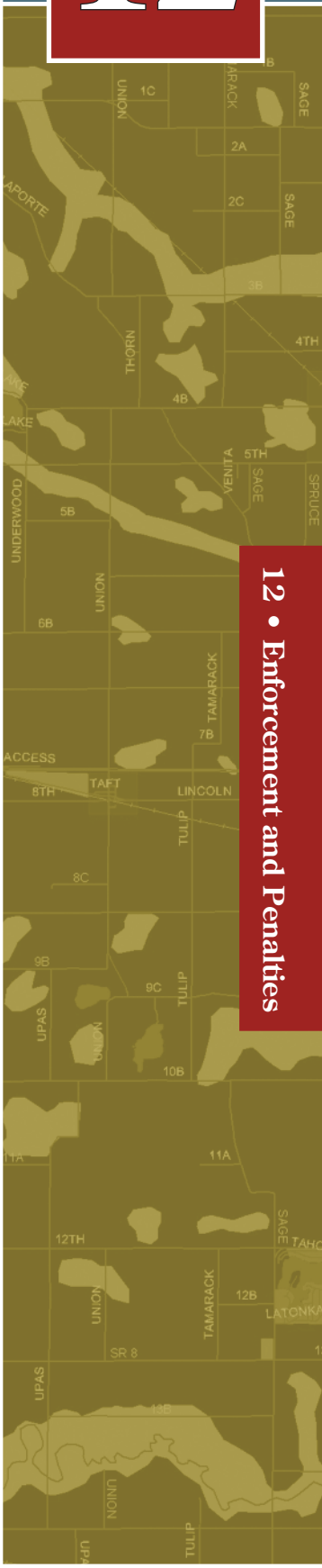
   b. Determination
      In all instances the dollar amount to be paid by the respondent shall be determined by the court of jurisdiction.

5. Others Parties Eligible to Seek Enforcement
   An action to enforce a written commitment made in accordance with IC 36-7-4 et al. may be brought in the Circuit or Superior Court of the County by:

   a. Rules and Procedures Provisions
      Any person who is entitled to enforce a commitment made in accordance with IC 36-7-4 et al. under the Rules and Procedures of the Plan Commission or the Board of Zoning Appeals in force at the time the commitment was made; or

   b. Specified Parties
      Any other specially affected person who was designated in the written commitment..

12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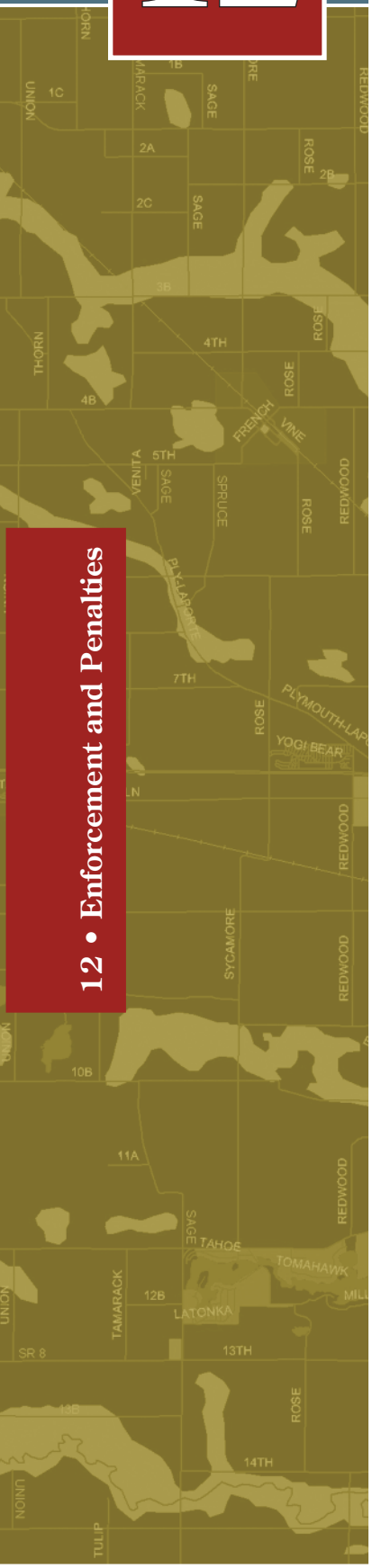
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ROSE
REDWOOD
THORN
FRENCH
VINE
VENITA
SPRUCE
PLYMOUTH-LAP
YOGI BEAR
SYCAMORE
TAHOE
TOMAHAWK
LATONKA
TAMARACK
TULIP

Notes

Notes

Suggestions for Future Changes

(cont.)

13

Definitions

010 *Definitions*

A

A Zone

Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A and Zone AE.

A-1. Agricultural District

The Agricultural designation denotes land that is meant to remain largely rural, with uses focusing on farming operations. The Agricultural land use category is intended to allow for some residential development. Agricultural land use areas are found in locations that are viable for farming but may also be feeling growth pressures from nearby urban communities.

A-2, Agricultural Conservation

The Agricultural Conservation land use category is a voluntary district intended to preserve the rural nature of the county and allow large-scale farm operations. Designating land specifically for agricultural uses will help to slow the turnover of land to non-farm uses, such as residential subdivisions. It is not desirable, and in many cases, not physically or economically feasible to provide the infrastructure required to support such development. Land in the Agricultural Conservation designation should remain in farm use, although very limited rural residential uses may be allowed as well.

A-3. Agricultural Residential

The Agricultural Residential designation provides the opportunity for limited housing development in certain areas of the county. This land use is appropriate in areas where septic systems can function efficiently or in areas where natural features or towns are stimulating development. It is also appropriate in areas where soil conditions or topography limit the viability of agricultural uses. One style of rural residential development that should be encouraged is cluster subdivisions, where smaller lots are grouped together to preserve large areas of natural amenities or farmland.

Abandonment

The relinquishment of property or a cessation of the use of the property for a continuous period of one (1) year by the owner with neither transferring rights to the property to another owner nor of resuming the use of the property.

Accessory Structure

A use, building, or structure, the use of which is customarily incidental and subordinate to the use of the primary building or primary use of the land on which the accessory use, building, or structure is located. By way of example only, some typical accessory uses, buildings, and structures include: garages, carports, porches, decks, awnings, canopies, mini-barns, storage sheds, outdoor fireplaces, outdoor furnaces, children's playhouses, swings, game courts, fences, swimming pools, hot tubs, grain bins, grain dryers, and storage buildings. Some uses that shall not be considered accessory uses, buildings, or structures include mobile homes, manufactured homes, construction trailers, recreational vehicles, and semi-trailers.

Addition (to an existing structure)

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.

Administrator

The individual or group responsible for the implementation and enforcement of the ordinances. The Planning Director shall be the administrator for the Zoning and Subdivision Control Ordinances.

Advisory Plan Commission

A plan commission serving a single local government jurisdiction established as defined under the Indiana Code, 36-7-1-2 (1983) as amended. The Marshall County Plan Commission is an advisory plan commission.

Agriculture

The use of land for agriculture purposes, including farming, dairying, pasturage, apiculture, agriculture, horticulture, floriculture, viticulture, forestry and animal and poultry husbandry, and the necessary accessory uses, all of which are directly related to the production of food. The operation of any accessory uses shall be secondary to that of the normal agricultural activities. Agriculture shall not include stock yards, or the commercial feeding of garbage or offal to swine or other animals.

Agriculture Zoning District

The A-1. Agricultural, A-2, Agricultural Conservation, and A-3, Agricultural Residential zoning districts.

Alley

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

Alternative Tower Structure

Man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also Stealth Facility).

Amend or Amendment

Any repeal, modification, or addition to a regulation; or any new regulation.

Animal Production
The production of livestock for profit

Animal Production (limited)
Livestock raised for 4-H, personal enjoyment, or hobby.

Antenna
A structure or device that is used for the purpose of receiving and or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional or omni-directional antennas, panels, and microwave or satellite dishes.

Antenna Height
The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna Support Structure
Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

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

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

Applicant
The owner, owners, or legal representative of real estate who makes application to Marshall County for action affecting the real estate owned thereby.

Arterial Road
See Road, Arterial

Attached Building
A building that is structurally connected to another building by a foundation, wall, or roof line. Carports, garages, porch awnings and the like shall be considered attached buildings.

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

B

Base Flood Elevation (BFE)

The elevation of the one-percent annual chance flood.

Basement

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

Bed and Breakfast Establishment

An accessory use to a residential dwelling carried out for gain by the residents of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes. Up to five (5) rooms may be rented to guests, whether in the residence or some other appropriate structure on the property. A Bed and Breakfast Establishment is not a rooming house or multi-family dwelling. Guests occupying rented rooms shall stay at the Bed and Breakfast Establishment for no more than fourteen (14) consecutive days. A Bed and Breakfast Establishment is not a restaurant. Food service is limited to breakfast; and breakfast shall only be provided to guests occupying rented rooms.

Berm

A man-made, formed, earth mound of definite height and width used for landscaping and obscuring purposes, the intent of which is to provide a transition between uses of differing intensity.

Billboard

See Sign, Off-Premise.

Board

Board of County Commissioners

Bond

See Surety

Buffer Landscaping

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

Building

A structure having a roof, supported by columns or walls, for the shelter, support, or enclosure of persons, property, or animals; and when separated by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.

Building Area

The horizontal area of the buildings on a lot, measured from the outside exterior walls, excluding open areas or terraces, unenclosed porches or decks, and architectural features that project less than two feet.

Building Code
The Indiana Building Code establishing and controlling the standards for constructing mechanical equipment, and all forms of permanent structures and related matters within Marshall County. Also referred to herein as the Marshall County Building Code.

Building Envelope
The area on a lot, established by the setback lines, in which building can occur.

Building Height
See Structure Height

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

Business District
Refers to the C-1, General Commercial and C-2, Highway Commercial Districts.

BZA
See Board of Zoning Appeals

C

C-1, General Commercial District
The C-1, General Commercial district is intended to accommodate a broad range of retail sales and service uses. These uses would include either small lot business activities of a general nature or downtown businesses designed to serve as the core for the primary retail center of a community with personal service establishments and government offices.

C-2, Highway Commercial District
In certain locations, it is appropriate to provide for the development of a collection of commercial uses serving both county residents as well as those traveling through the area. These locations are most frequently at the intersections of major transportation corridors, and shall contain uses such as gasoline stations, convenience stores, restaurants, hotels and other highway-oriented uses. However, major commercial development should be left to occur within established communities rather than at these locations throughout the county.

C-AFO - Concentrated Animal Feeding Operations

IDEM administers the National Pollutant Discharge Elimination System (NPDES) permit program required by the USEPA Clean Water Act (CWA). Part of that nationally administered program addresses activities that cause or can cause discharges of contaminants to waters of the state. In December 2003, EPA released a final regulation for CAFOs. These farms are defined as point sources by the CWA and are required to obtain permit coverage. IDEM has developed a general permit CAFO regulation (327 IAC 15-15) which went into effect on Feb 26, 2004. The CAFO NPDES permit process and operational requirements are slightly different than for CFOs.

The following list depicts the animal species and their threshold numbers for needing an NPDES permit. Farms with fewer animals can be designated a CFO and required to get a permit if they have, or it is determined they will pose a significant threat to have, a discharge of pollutants from the production areas or waste storage facilities.

CAFO Animal Threshold Numbers

700 mature dairy cows
1,000 veal calves
1,000 cattle other than mature dairy cows
2,500 swine above 55 pounds
10,000 swine less than 55 pounds
500 horses
10,000 sheep or lambs
55,000 turkeys
30,000 laying hens or broilers with a liquid manure handling system
125,000 broilers with a solid manure handling system
82,000 laying hens with a solid manure handling system
30,000 ducks

Campground

See Recreational Vehicle Park/Campground

Cemetery

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

Certificate of Occupancy

A certificate stating that the occupancy and use of a structure complies with the provisions of the Marshall County Building Code and all other applicable regulations of Marshall County.

Child Day Care Services

13 Definitions

Child Day Care Services (in home)

As defined by IC 12-7-2-28.6 and for the purposes of the Zoning Ordinance, an establishment providing non-overnight care, supervision, and protection of children in private residences which is ancillary to the primary use as residential. A residential structure in which at least six (6) and no more than sixteen (16) children (not including the children for whom the provider is parent, stepparent, guardian, custodian, or other relative; or those which are at least age 7) at any time receive child care from a provider:

1. while unattended by a parent, legal guardian or custodian;
2. for regular compensation; and
3. for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

The term includes class I child care home and class II child care home as defined in IC 12-7-2-33.7 and IC 12-7-2-33.8

Civil Airport Imaginary Surfaces

The imaginary airspace (primary, approach, transitional, horizontal and conical surfaces) designated by the Federal Aviation Administration and as defined by FAR, Part 77.

Clinic

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

Co-location

Locating wireless communications equipment from more than one provider on a single site.

Collector Road

See Road, Collector

Commission

See Advisory Plan Commission

Communication Tower

A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

Communications Facility

A land use facility supporting antennas and microwave dishes that sends and/or receives radio frequency signals. Communications facilities include structures or towers and accessory buildings.

Comprehensive Plan

Refers to the Marshall County Comprehensive Plan. The plan includes goals, objectives and strategies for land use, growth management, transportation/thoroughfares, community facilities and services, environment concerns, infrastructure, aesthetics and identity, economic development, and parks and recreation. The plan was developed and adopted by the County pursuant to the I.C. 36-7-4-500 series and includes any part and/or policies separately adopted and any amendment to such plan and/or policies, or parts thereof.

Condition of Approval

Stipulations or provisions set forth as a prerequisite for approval of a petition.

Condominium

Real estate lawfully subject to I.C. 32-25, (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

1. Any livestock operation with more than the following numbers of livestock:

    a. Three hundred (300) cattle; or

    b. Six Hundred (600) swine; or

    c. Six Hundred (600) sheep; or

    d. Thirty thousand (30,000) fowl; or

    e. Three hundred (300) horses; or

2. Any livestock operation with any combination of mixed livestock listed herein equaling 100% of the total permitted number of animals, i.e. 225 cattle (75% of permitted number of cattle) and 150 swine (25% of permitted number of swine) equals 100%; or

3. Any livestock operation where the operator elects to or is required to obtain any State or Federal (i.e. Indiana Department of Environmental Management) confined feeding approval.

Construction Plan(s)

The maps or drawings showing the specific location and design of improvements to be installed in accordance with the applicable requirements of Marshall County.

County

Marshall County, Indiana.

Covenants

Private and legal restrictions of various kinds on the usage of lots, typically within a subdivision and applied by the subdivider, that are recorded with the plat and deed. Covenants are not enforceable by the Plan Commission or its designees. However, they are enforceable in civil court by interested or affected parties.

Definitions

Critical facility

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

Crop and Horticulture Production

The commercial planting, cultivation, and harvesting of cash crops and animal feed. Examples would included but not limited to cash grains, forages, small and large fruit production, floriculture, and vegetable crops.

Cul-De-Sac

A street having one (1) end open to traffic and being permanently terminated by a vehicular turnaround.

D

Dangerous and Exotic Animals

Any mammal, amphibian, or reptile which is of a species which is wild by nature, and of a species which, due to size, vicious nature, or other characteristics, is dangerous to human beings. Such animals shall include, but not be limited to, all wild cats to include lions, tigers, leopards, panthers, cougars, bobcats, and lynx, as well as wolves, bears, alligators, crocodiles, primates, and all forms of poisonous and constrictive reptiles. The term “dangerous and exotic animals” shall not include potbellied pigs, ostriches (including members of the ratite family), buffaloes, or any domesticated canines registered by the American Kennel Association.

Day Care Center

see Child Day Care Services

Dedication

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

Developer

An individual, partnership, corporation (or agent thereof), or other entity that undertakes the responsibility for land development, particularly the designing of a subdivision plat or site development plan showing the layout of the land and the public improvements involved therein. In as much as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term “developer” is intended to include the term “subdivider”, even though the personnel involved in successive stages of the project may differ.

Development

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 recreational vehicle on a site for more than one hundred eighty (180) days;

3. installing utilities, erection of walls and fences, construction of roads, or similar projects;

4 construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

5. mining, dredging, filling, grading, excavation, or drilling operations;

6. construction and/or reconstruction of bridges or culverts;

7. storage of materials; or

8. any other activity that might change the direction, height, or velocity of flood or surface waters. "Development" does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; or gardening, plowing, and similar agricultural practices.

District

A section of Marshall County for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings, are established by the Zoning Ordinance.

Domestic Pets

Animals commonly used as household pets, protection, companions, and for the assistance of disabled persons. Domestic pets shall include animals that are cared for and treated in a manner acceptable for pet dogs, cats, and birds. Domestic pets shall include, but not be limited to, dogs, cats, parakeets, parrots, finches, spiders, guinea pigs, hamsters, gerbils, rats, mice, rabbits, aquarium fish, pot belly pigs, ferrets, and snakes if cared for in the manner described above.

Drives, Private

See Road, Private

Duplex

See Dwelling, Two-Family

Dwelling

A building or structure or portion thereof, conforming to all requirements applicable to the residential use districts of the Zoning Ordinance and Indiana Building Code used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multi-family dwelling units, but excluding hotels, boarding houses, and lodging houses.

Definitions

Dwelling Site
A site within a manufactured home park and/or mobile home park with required improvements and utilities that is leased for the long term placement of manufactured homes and/or mobile homes.

Dwelling Unit
Any structure or portion thereof designed for or used for residential purposes as a self sufficient or individual unit by one (1) family or other social association of persons and having permanently installed sleeping, cooking, and sanitary facilities.

Dwelling, Manufactured Home Type A
A dwelling unit built in a factory bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards (42 U.S.C.A. 5401 et seq.) which has at least nine-hundred fifty (950) square feet of occupied space, and placed on a support system, enclosed with foundation skirting/siding and anchored to the ground in accordance with the One and Two Family Dwelling Code.

Dwelling, Manufactured Home Type B
A dwelling unit built in a factory bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards (42 U.S.C.A. 5401 et seq.) which is at least twenty-three (23) feet in width for its entire length, has at least nine-hundred fifty (950) square feet of occupied space, and is installed and anchored on a permanent foundation and perimeter wall, according to the Indiana One and Two Family Dwelling Code, as amended, and its pitched roof and siding are of materials customarily used for site constructed dwellings.

Dwelling, Multi-Family
A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family
A detached residential building unit designed for and occupied by one (1) family; and located on its own individual parcel.

Dwelling, Two-Family
A resdiential building containing two (2) dwelling units designed for occupancy by not more than two (2) families; and located on its own individual parcel.

E

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

Elevated Structure
A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

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

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

Encroachment
The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Manufactured Home Park or Subdivision
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 Zoning Ordinance.

Expansion to an Existing Manufactured Home Park or Subdivision
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).

F

FAA
Federal Aviation Administration.

Family
An individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than four (4) persons, not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

Farm
An area used for agricultural operations, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry as well as those properties classified by the Internal Revenue Service as a farm.

Farm Animals
Animals commonly used for transportation, food, skins, and other by-products. Farm animals include, but are not limited to, horses, cattle, pigs, sheep, goats, mules, donkeys, miniature horses, miniature donkeys, camels, emu, ostrich, llamas, alpacas, rabbits, mink, fox, buffalo, chickens, turkeys, quail, pheasants, and other animals or fowl of similar characteristics.

FBFM
Flood Boundary and Floodway Map.

FCC
Federal Communications Commission.

FEMA
Federal Emergency Management Agency.

FHBM
Flood Hazard Boundary Map.

Financial Commitment
That sources of private or public funds or combinations thereof have been identified which will be sufficient to finance public facilities necessary to support development and that there is reasonable assurance that such funds will be timely put to that end.

Finished Floor Area
See Floor Area, Finished

FIRM
Flood Insurance Rate Map.

Five-hundred year flood (500-year flood)
The flood that has a 0.2 percent chance of being equaled or exceeded in any year.

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

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

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

Floodplain
The relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The flood plain includes the channel, floodway, and floodway fringe.

Floodplain Boundaries
Determined by using the Floodway-Flood Boundary Maps of the Federal Insurance Administration/Federal Emergency Management Administration.

Floodplain Management

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.

Floodproofing (dry floodproofing)

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

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

Floodway

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

Floodway Fringe

Those portions of the floodplain lying outside the floodway.

Floor Area

The sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or to the centerline(s) of party walls separating such buildings or portions thereof. Floor area of a building shall exclude exterior open balconies and open porches.

Floor Area, Finished

That portion of floor area constructed, completed, and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, working, entertainment, common space linking rooms, areas for personal hygiene, or combination thereof. Floor area or portion thereof used only for storage purposes and not equipped for the facilities mentioned above shall not be considered Finished Floor Area.

Floor Area, Ground

That portion of Finished Floor Area located on the first (or nearest ground level) floor of the dwelling unit. The Main Floor Area of a primary structure does not include a garage, carport, deck, unfinished storage, patio, or open porch.

Foundation

The supporting member of a wall or structure.

(cont.)

Definitions

Freeboard
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.

Frequency
The number of cycles completed each second by a sound wave; measured in hertz (Hz).

Fringe
Those portions of the floodplain lying outside the floodway.

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

Front Lot Line
For an interior or through lot, the line marking the boundary between the lot and the abutting street right-of-way or a lake or watercourse; and For a corner lot, the line marking the boundary between the lot and each of the abutting streets. For the purpose of determining the required front yard, the proposed right-of-way shall be used where it is greater than the existing right-of-way.

Front Yard
The horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the front lot line.

Frontage
See Lot Frontage

G

Garage
An attached or detached structure whose principal use is to house motor vehicles or personal property for the accommodation of related dwelling units or related business establishments.

Garage Sales
A public or private sale, conducted by the owner or occupier of a premises either inside or outside of a residence, garage, or other accessory building. An auction conducted by a State licensed auctioneer shall not be considered a garage sale.

Gasoline Station
Any building or premises used for the dispensing, sale, or offering for sale at retail to the public, automobile fuels stored only in underground tanks and located wholly within the lot lines; lubricating oil or grease for the operation of automobiles; and the sale and installation of tires, batteries, other minor accessories, and minor auto repair, but not including a bulk plant, conducting of major auto repairs, automobile wrecking, automobile sales.

Grade
The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the structure and the property line or, when the property line is more than five (5) feet from the structure, between the structure and a line five (5) feet from the structure.

Government Projects
Any building, structure, or alteration thereof paid for and used by the local, state or federal government entities.

Ground Floor Area
See Floor Area,

Guyed Tower
A communication tower that is supported, in whole or part, by guy wires and ground anchors.

H

Hardship
A difficulty with regard to one's ability to improve land stemming from the application of the development standards of the Zoning 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 the Zoning Ordinance; any result of land division requiring variance from the development standards of this Ordinance in order to render that site buildable.

Height
See Structure Height

Highest Adjacent Grade
The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structure
Any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.

Home Based Business
A Home Based Business is an accessory use to a residential property carried out for gain by one or more residents of the property, which is clearly incidental and secondary to the use of the property for residential purposes.

Home Based Business is intended to provide for a base of operations for service oriented businesses that engage in work elsewhere other than the residential property where based. Such businesses might include but are not limited to landscaping, construction, excavating, septic service, etc.

Home Occupation

A Home Occupation is an accessory use to a residential dwelling carried out for gain by one or more residents of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes.

Home Occupation uses may include but are not limited to hair dressers, barbers, tax preparers, accountants, attorneys.

Home Workshop

A Home Workshop is an accessory use to a residential property carried out for gain by one or more residents of the property, which is clearly incidental and secondary to the use of the property for residential purposes.

Home Workshop uses may include light fabricating, light manufacturing or processing activities, or related storage facilities.

Hospital

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

Hotel

A building in which lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public. Compensation is usually assessed on a day-to-day basis.

I

I-1, Industrial District

The Industrial category is intended to provide areas for industrial activity, contracting, warehousing, and wholesaling that are low in impact because they are operated entirely indoors and have little or no negative effects, such as noise, dust, or vibration, on surrounding properties.

I-2, Heavy Industrial District

The Heavy Industrial category is intended to provide areas for industrial activity, contracting, warehousing, and wholesaling that are heavy in impact because they are operated outdoors and/or have moderate or heavy negative effects, such as noise, dust, or vibration, on surrounding properties.

Impervious Surface
Any material that prevents absorption of stormwater into the ground.

Improvement Location Permit
A permit allowing a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure or before starting any construction, excavation, or work within a subdivision within its jurisdiction, or the pursuit of changes to the condition of the land.

Incidental
A minor occurrence or condition which is customarily associated with a permitted use and is likely to ensue from normal operations.

Industrial District
Refers to the I-1, Industrial and I-2, Heavy Industrial Zoning Districts.

Institutional Facility for the Developmentally Disabled/Mentally Ill
A residential facility that provides care, supervision and protection and operates under a license issued under IC 12-16.4; provides for delivery of mental health services that are appropriate to the needs of the individual; and, complies with the rules adopted under IC 4-22-2 by the Division of Family and Children (For reference see Indiana Code 12-7-2)

Interested Party
Interested parties shall include, but are not limited to, those persons, groups, property owners or other entities which are considered or consider themselves to be affected by a change in land use or the intended results of a petition.

Interior Lot
See Lot, Interior

Interstate
See Limited Access Highway

J

Junk
Scrap material, including but not limited to the following:

1. automotive or machinery equipment or parts, including used automotive tires;
2. cloth and clothing;
3. manufactured clay and porcelain products;
4. manufactured plastic products;
5. manufactured rubber products;
6. paper and paper products;

7. recylable products of all kinds;

8. scrap metal, including copper, brass, iron, steel, ferrious and nonferrous material;

9. wood and wood products;

10. wrecked and/or dismantled vehicles;

11. inoperable and exposed appliances;

12. building debris;

13. unused fill;

14. old cable or cordage.

Junk Yard

A place, usually outdoors, where waste or discarded property, other than organic matter, including but not limited to automobiles and farm implements and trucks, is accumulated and is or may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard. The storage, dealing in or the permitting of the accumulation of significant quantities of combustible, organic or nonmetal scrap materials such as, but not limited to, wood, paper, rags, garbage, tires, 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.

Jurisdiction

All land within the limits of Marshall County, Indiana but not the planning jurisdictions of incorporated cities and towns or property owned by the State of Indiana or Federal government.

K

Kennel

An establishment wherein any person engages in the business of boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling three (3) or more dogs, cats, or other small domesticated pets; or

Any premises on which five (5) or more dogs, cats, and/or other small domesticated pets over four (4) months of age are kept.

L

L-1. Lake Residential District

Areas designated Lake Residential contain significant, high density residential development focused around a lake. This includes areas immediately adjacent to the lakes, and potentially other areas with a relationship to the lakes.

Landscaping

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

Large Wind System

A WECS that has a nameplate capacity (manufacturer's rating) of more than 50 kilowatts per wind tower, or a total height of more than 140', or a swept area of more than 40'. Any WECS meeting one or more of these criteria shall be considered a large wind system.

Lattice Tower

A guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.

Legal Nonconforming Lot of Record

Any legally established and recorded lot prior to the date specified in the Subdivision Control Ordinance, or its subsequent amendments, that no longer meet the lot specific development standards.

Legal Nonconforming Sign

Any sign lawfully existing on the effective date of the Zoning Ordinance, or amendment thereto, that does not conform to all the standards and regulations of the Zoning Ordinance.

Legal Nonconforming Use

Any continuous, lawful use of structures, land, or structures and land in combination established prior to the effective date of the Zoning Ordinance or its subsequent amendments that is no longer a permitted use in the district where it is located.

Letter of Map Amendment (LOMA)

An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR)

An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of Map Revision Based on Fill (LOMR-F)

An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

License

The rights and obligations extended by the Plan Commission to an operator to own, construct, maintain, and operate its system within the jurisdiction of the Plan Commission for the sole purpose of providing services to persons or areas outside the jurisdiction.

Limited Access Highway
Any roadway that operates at a high service level, consists of limited access, is divided, carries region-wide traffic and is generally classified as part of the interstate system.

Local Road
A road designed primarily to provide access to abutting properties and discourage through traffic.

Local Street
See Local Road

Lodging House
See Boarding House.

Lot
A contiguous area of land separated from other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. It may be a single parcel separately described or a combination of such parcels when adjacent to one another and used as one (1) lot.

Lot Coverage
The area of a zoning lot occupied by the principal building and any accessory structures.

Lot Depth
The horizontal distance between the front and rear lot lines.

Lot Frontage
All property of a lot fronting on a street right-of-way or common, private drive, as measured between side lot lines.

Lot of Record
A lot which is a part of a subdivision recorded in the office of the County Recorder, or a parcel or lot described by metes and bounds, and a description of what has been so recorded.

Lot Width
The distance as measured between the side lot lines at the front set back line.

Lot, Buildable
Any lot upon which a building or structure is allowed to be constructed and occupied by the regulations of Marshall County. Generally, the lot shall have frontage on and access to an improved street, meet minimal setbacks, and have all necessary utilities available. The lot to be buildable shall have been created in accordance with the provisions of the ordinance in effect at the time the lot was recorded.

Lot, Corner
A lot situated at the intersection of two (2) streets or which fronts a street on two (2) or more sides forming an interior angle of less than one-hundred and thirty-five (135) degrees.

Lot, Developed
A lot with buildings or structures.

Lot, Improved
See Lot, Buildable

Lot, Interior
A lot other than a corner lot or a through lot.

Lot, Through
A lot fronting on two (2) parallel or approximately parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot. Also includes lots fronting on both a street and a watercourse or Lake.

Lowest Floor
The lowest of the following:

1. the top of the basement floor;
2. the top of the garage floor, if the garage is the lowest level of the building;
3. the top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
4. the top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; or such enclosed space shall be usable for the parking of vehicles and building access.

Lowest floor
The lowest of the following:

1. the top of the lowest level of the structure;
2. the top of the basement floor;
3. the top of the garage floor, if the garage is the lowest level of the structure;
4. the top of the first floor of a structure elevated on pilings or pillars;
5. the top of the first floor of a structure constructed with a crawl space, provided that the lowest point of the interior grade is at or above the BFE and construction meets requirements of 6. a.; or
6. the top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to

the flow of flood waters unless:

a. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total net area of one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; and,

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

M

Maneuvering Space

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

Manufactured Home Park

A parcel of land containing two (2) or more dwelling sites, with required improvements and utilities, that are leased for long term placement of Mobile Home Dwellings and/or Manufactured Home Dwellings, and shall include any street used or intended for use as part of the facilities of such Mobile Home Park. A Manufactured Home Park does not involve sales of Mobile Home Dwellings or Manufactured Home Dwellings in which unoccupied units are parked for inspection or sale.

Manufactured Home

See Dwelling, Manufactured Home.

Map Amendment

A change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

Map panel number

The four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA, the letter “B” is the first revision.)

Market value

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

Master Plan

See Comprehensive Plan.

MH, Manufactured Home District

Areas designated as Manufactured Home are able to support the heavy infrastructure and transportation needs of these typically high residential density neighborhoods. These area shall be adequately served by municipal sewer and water service and be in close proximity to emergency services.

Micro Wind System.

A building-mounted wind system that has a nameplate capacity (manufacturer's rating) of 10 kilowatts or less, and projects no more than 15' above the highest point of the roof; such building-mounted wind systems shall not be considered a wind energy conversion system. Micro wind systems are subject to regulations in all zoning districts

Mitigation

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

Mobile Home

See Dwelling, Mobile Home.

Mobile Home Park

See Manufactured Home Park.

Monopole Tower

A communication tower consisting of a single pole constructed without guy wires and ground anchors.

Motel

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

Motor Home

See Recreational Vehicle.

Motor Vehicle

Any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

Mural

A painting on the side of a building, wall, or structure; or a painting on the ground or the ceiling of a building or structure. A mural that does not function as a sign is not regulated by this Ordinance. Murals that function as a sign are regulated in this Ordinance as a Wall Sign.

N

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

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

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

New Manufactured Home Park or Subdivision
Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the Zoning Ordinance.

Nonconforming Building
A building, structure, 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.

Nonconforming Lot of Record
A lot which was created such that it does not conform to the regulations of the zoning district in which it is located.

Nonconforming Sign
A 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.

Nonconforming Use
A use which does not conform with the use regulations of the zoning district in which it is located.

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

O

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.

Official Zoning Map

A map of Marshall County, Indiana, that legally denotes the boundaries of zoning districts as they apply to the properties within the planning jurisdiction.

Official Zoning Map Copies

A map of Marshall County, Indiana, that legally denotes the boundaries of zoning districts as they apply to the properties within the planning jurisdiction. These maps may be out of date.

One-hundred year flood (100-year flood)

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

One-percent annual chance flood

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

Open Space

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

Outdoor Storage

See Storage, Outdoor.

Owner

Any person, group, of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land, or their legal representative.

P

Parcel

See Lot.

Parking Space, Automobile

Space within a public or private parking area for the storage of one (1) passenger automobile or commercial vehicle under a one and one-half (1-1/2) ton capacity.

Paved

A durable surface for parking, driving, riding or similar activities that utilizes asphalt, concrete, brick, paving blocks or similar material. Crushed gravel, stone, rock, or dirt, sand or grass are not permitted as a paved surface.

Performance Surety

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

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 Open Space

Permanent open space shall be defined as parks, playgrounds, landscaped green space, and natural areas, not including schools, community centers or other similar areas in public ownership.

Person

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

Petitioner

Any person or group of persons, developer or developers, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land, or their legal representative.

Physical Map Revision (PMR)

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.

Plan

See Comprehensive Plan.

Plan Commission

See Advisory Plan Commission.

Planned Unit Development

A Planned Unit Development is an area under single ownership or control to be developed in conformance with an approved Secondary Plan, consisting of a map showing the development area and all improvements to the development area, a text which sets forth the uses and the development standards to be met, and exhibits setting forth any aspects of the plan not fully described in the map and text. The uses and standards expressed in the Secondary Plan constitute the use and development regulations for the Planned Unit Development site in lieu of the regulations for the underlying district.

Planning Department

A department within the county government that performs the administrative function for the Planning Commission and other functions as directed by the Planning Commission and/or Board of County Commissioners.

Planning Director

The person appointed by and/or delegated the responsibility for the administration of the Zoning and Subdivision Control Ordinance regulations by the Advisory Plan Commission, or his designees.

Planning Jurisdiction

The area that a municipality has planning authority as drawn by each community in compliance with IC 36-7-4 et al. For the planning jurisdiction of Marshall County see Jurisdiction Area.

Porch

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

Practical Difficulty

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

Preexisting Towers and Antennas

Any tower or antenna for which a permit has been issued prior to the effective date of these regulations are exempt from the requirements of these regulations so long as the tower or antennas are not modified or changed.

Primary Building/Structure

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

Primary Use

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

Private Professional Office

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

Property Owner of Record

The person(s) identified as the property owner on the most recent list prepared and maintained by the Marshall County Assessor's Office.

Public Improvements

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

Public Property

Any real property, easement, air space, or other interest in real estate, including a street, owned and/or controlled by any governmental unit.

Public Sewerage System

A community sewer system including collection and treatment facilities owned and maintained by a municipality of sewer utility.

Public Road

All property dedicated or intended for public highway, freeway, or roadway purpose and subject to public easements therefore.

Public Utility

Any person, firm, or corporation duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, fiber optics, transportation, water, or sewerage systems.

Public Water System

A community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities owned and maintained by a municipality of utility.

Public Works Agreement

A contract, between the developer and the County to complete the necessary improvements in accordance with the approved plans and specifications by a given date.

Public/Private Parking Area

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

Q

R

Racetrack

Any venue for the sport of racing or competing where participants drive, ride, or control motorized vehicles. A racetrack may or may not have areas for spectators. Racetrack includes, but is not limited to oval track racing, drag racing, motorcross, tractor pulling, go-carts racing, remote control airplane flying, and similar uses.

Rear Lot Line

The lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly-shaped lot, 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 a building to a rear lot line and that 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.

Recreational Vehicle Park/Campground

Any site, lot, field, or tract of land designed with facilities for short term occupancy by recreational vehicles and/or other camping equipment but not including mobile or manufactured homes.

Recreational Vehicle

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

Registered Land Surveyor

A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Professional Engineer

An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Regulatory Flood

The flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The “Regulatory Flood” is also known by the term “Base Flood.”

Regulatory Floodway

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

Repetitive loss

The flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

Residential District

Refers to the T-1, Town Residential, L-1, Lake Residential, and MH, Manufactured Home Districts.

Residential Facility for the Developmentally Disabled/Mentally Ill

A residential facility which provides residential services for mentally ill individuals as described in I.C. 12-28-4 (7-10). No two Residential Facilities for the Mentally Ill shall be within three thousand (3,000) feet of one another in the Marshall County planning jurisdiction as stated in Indiana Code.

Right-of-Way

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

Road, Arterial

A road with access control, restricted parking, and that collects and distributes traffic to and from collectors. Shown as Major Arterial and Minor Arterial Roads in the Marshall County Comprehensive Plan, Thoroughfare Plan.

Road, Collector

A road designed to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways to reach arterial streets. Shown as Major Collector and Minor Collector Roads in the Marshall County Comprehensive Plan, Thoroughfare Plan.

Road, Local

All county roads not designated as Arterial Roads or Collector Roads. These are low capacity roads whose function is to provide direct access to homes and property.

Road, Private

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

Road, Public

All property dedicated or intended for public highway, freeway, or roadway purpose or subject to public easements therefore.

Road

Any vehicular route that

1. is an existing state, county, or municipal roadway;

2. is shown upon a plat approved pursuant to law;

3. is approved by other official action; or

4. is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board to review plats; includes the land between the street lines, whether improved or unimproved.

Roof and/or Building Mount Facility

A low power mobile radio service telecommunications facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.

ROW

See Right-of Way.

S

Satellite Dish/Antenna

An apparatus capable of receiving communications from a transmitter relay located in a planetary orbit, or broadcasted signals from transmitting towers.

Sawmill (portable)

The placement of a portable sawmill on a property to be used thirty (30) days or less per calendar year.

Scenic View

A scenic view is a view that may be framed, wide angle, or panoramic and may include natural and/or man-made structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or of a nearby object.

School

A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Indiana School Laws, including pre-kindergarten, kindergarten, elementary school, and junior and senior high schools, but excluding trade, business, or commercial schools.

Definitions

Scrap Metal Yard

A general industrial use established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, 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 storage, sale or shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operations; such an establishment shall not include junk yards, dumps, or automobile graveyards.

Self-Support Tower

A communication tower that is constructed without guy wires and ground anchors.

Setback

The minimum horizontal distance between the building line and a lot line or right-of-way.

SFHA or Special Flood Hazard Area

Those lands within the jurisdiction of the County that are subject to inundation by the regulatory flood. The SFHAs of the County are generally identified as such on the Flood Insurance Rate Map of the County prepared by the Federal Emergency Management Agency and dated February 1, 1994.

Sexually Oriented Business

A use defined by Marshall County's Sexually Oriented Business Ordinance.

Shared Housing

Any dwelling unit which the owner allows to be occupied by unrelated persons living as a single housekeeping unit, provided that the number of occupants does not exceed twice the number of bedrooms, and that the total number of unrelated occupants does not exceed four (4) regardless of the number of bedrooms.

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

Sign

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

Sign, Ground

A sign in which the bottom edge of the sign is permanently affixed to the ground. A monument sign is another name for a Ground Sign.

Sign, Mural

A sign painted onto the side of a building, wall, ground, or structure. A mural sign is regulated as a wall sign in the Zoning Ordinances. Mural's not meeting the definition of a sign are not regulated by the Zoning Ordinance.

Sign, Off-Premise

A sign which directs attention to a business, commodity, service, organization, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. This includes billboard and outdoor advertising signs.

Sign, Portable

Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business.

Sign, Temporary

An on-premise advertising or identification device not fixed to a permanent foundation, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

Site Development Plan (Site Plan)

The plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, vegetative cover, landscaping and screening within a site proposed for development which is to be submitted to the plan commission and/or staff for approval prior to the release of improvement location permits on the site.

Small Wind System.

A WECS that has a nameplate capacity (manufacturer's rating) less than or equal to 50 kilowatts per wind tower, and a total height of 140' or less, and a swept area of 40' or less.

Solid Fill

Any substantial operation, which adds earth, concrete, or other inert material primarily to raise the grade of a parcel of ground. This in no way permits the use of sanitary landfill material, hazardous waste material or any other substance regulated by the State of Indiana. the intent of this Special Use is to regulate the filling of land by earthen material to change the contour of the ground.

Special Exception

A use that is designated by the Zoning Ordinance as being permitted in the district concerned if it meets special conditions, is found to be appropriate and upon application, is specifically authorized by the Board of Zoning Appeals. Also know as a special exception.

Special Flood Hazard Area (SFHA)

Those lands within the jurisdiction of Marshall County subject to inundation by the regulatory flood.

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 the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation for 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 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.

Stealth Facility

Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof- mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also Alternative Tower Structure).

Storage, Outdoor

The outdoor accumulation of goods, junk, cars, busses, tractor trailers, railroad cars, equipment, products, or similar materials for permanent or temporary holding.

Story

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof.

Structural Alterations

Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams or girders, or any substantial change in the footprint or increasing size of living space. Also, substantial roofing and siding work when repairs are made to the structure beneath.

Structure

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

Structure Height

The vertical distance measured from the lot ground level to the highest point of the roof.

Subdivision

The division of a lot, tract or parcel of land into two (2) or more lots, parcels, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or for building development. It includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or territory subdivided.

Substantial Damage

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

Substantial Improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds forty (40) 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 or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

Surety

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

Swept area.

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

Swimming Pool

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

T

T-1, Town Residential

The Town Residential areas are intended to provide a variety of community-oriented neighborhood commercial services and to allow for mixed residential and commercial activities. Focusing new growth around these rural communities will reduce residential sprawl in the county, maximize public infrastructure expenditures, and protect farms and the environment from residential encroachment.

Telecommunications

The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Temporary Use/Structure

A land use or structure established for a limited and fixed period of time with the intent to discontinue such use or structure upon the expiration of the time period.

Temporary Wireless Communication Facility

Any tower, pole, antenna, etc. designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

Theater

A facility for audio and visual productions and performing arts, excluding adult motion picture theaters and adult entertainment businesses.

Thoroughfare Plan

The official plan adopted as part of the Marshall County Comprehensive Plan or as subsequently amended,, which includes a street plan, sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, and other thoroughfares.

All proposed right-of-way widths shall be treated as front property lines for the purpose of determining front yards and front setbacks except where the existing right-of-way is greater than the proposed right-of-way in which case the existing right-of-way shall be used. In no case shall there be any structures or signs located in the proposed right-of-way.

Total height.

Regarding WECS, the distance measured from the ground level at the base of the tower to the highest extension of the blade or rotor.

Tower

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes, but is not limited to radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and alternative tower structures.

Transportation Facilities

Capital facilities related to air, water, or land transportation.

U

Use

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

V

Variance, Development Standards

A specific approval granted by a Board of Zoning Appeals in the manner prescribed by the Zoning Ordinance, to deviate from the development standards (such as height, bulk, area) that the Ordinance otherwise prescribes.

Variance, Use

The approval of a use other than that prescribed by the Zoning Ordinance.

Variety Store

A retail establishment that sells a multitude of consumer goods.

Vehicle

A device used as a mode of transportation of persons and/or goods including but not limited to automobiles, semi-tractor trailers, all types of trailers, snowmobiles, recreational vehicles, motorcycles and like devices.

Vehicle, Inoperable

A vehicle which due to mechanical defect or failure or incorrect or unapparent licensing is not physically or legally able to be operated.

View Corridor

A view corridor is a three-dimensional area extending out from a viewpoint. The width of the view corridor depends in the focus of the view. The focus of the view may be a single object which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360 degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Violation

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

W

Watercourse

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

Water surface elevation

The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Definitions

Wind Energy Conversion System (WECS).
The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, wind tower, transformer, turbine, vane, wind farm collection system, wire, or other component used in the system.

Wind Farm.
Two or more large wind systems on a single property or aggregated properties.

Wind Farm Collection System.
All the low-voltage wiring and cabling connecting any wind turbine with another wind turbine or to a place where voltage is stepped up, commonly known as a substation or switching station.

Wind Tower.
The monopole, freestanding, or guyed structure that supports the energy capture, conversion, storage and transfer components of a WECS. These wind towers are not attached to any building.

Wireless Communication Facility
An all-encompassing definition; any towers, poles, antennas, or other structures intended for use in connection with transmission or receipt of radio or televisionsignals, or any other spectrum-based transmissions/receptions.

Wireless Telecommunications Services
Licensed public commercial telecommunications services, including but not limited to cellular, digital, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging, and other similar services that are marketed to the general public.

X

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

Y

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

Z

Zone

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

Zone A (see definition for A zone)

Zone A

Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.

Zone AE

Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply.

Zone B, C, and X

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

Zoning District

See District Zoning Map; See Official Zoning Map

1C
1B
MARACK
SAGE
REDWOOD
UNION
2A
ROSE
2B
2C
SAGE
3B
4TH
ROSE
THORN
4B
ROSE
FRENCH
VINE
5TH
VENITA
SAGE
SPRUCE
ROSE
REDWOOD
UNION
PLYLARGRE
7TH
PLYMOUTH-LAP
ROSE
YOGI BEAR
REDWOOD
SYCAMORE
REDWOOD
9C
TULIP
10B
11A
REDWOOD
SAGE
TAHOE
TOMAHAWK
12B
LATONKA
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ROSE
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2C
SAGE
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THORN
4TH
ROSE
4B
ROSE
FRENCH
VINE
VENITA
5TH
SAGE
SPRUCE
ROSE
REDWOOD
UNION
PLYLARGRE
7TH
ROSE
PLYMOUTH-LAP
YOGI BEAR
REDWOOD
SYCAMORE
REDWOOD
9C
TULIP
10B
11A
REDWOOD
SAGE
TAHOE
TOMAHAWK
12B
LATONKA
TAMARACK
SR 8
13TH
ROSE
14TH
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Suggestions for Future Changes

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