

# DEARBORN COUNTY



## ZONING ORDINANCE



# **Dearborn County Zoning Ordinance**

**Adopted by:**

**Dearborn County Plan Commission ..... April 24, 2000**

**Dearborn County Commissioners ..... July 3, 2000**



**DEARBORN COUNTY ZONING ORDINANCE**  
**JULY 3<sup>RD</sup>, 2000 - PRESENT**

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*\*County Commissioner Representatives*

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**BOARD OF COMMISSIONERS  
OF  
DEARBORN COUNTY**

**ORDINANCE \_\_\_\_\_**

WHEREAS the Plan Commission of Dearborn County held a public hearing pursuant to Section 36-7-4-607 of the Indiana Code and certified the proposed amendments to the Dearborn County Zoning Ordinance pursuant to Section 36-7-4-607 of the Indiana Code; and

WHEREAS the Board of Commissioners of Dearborn County held a public hearing on February 22, 2000 to hear public comment regarding the proposed amendments to the Dearborn County Zoning Ordinance and said Board of Commissioners amended the amendments to the Dearborn County Zoning Ordinance on March 23, 2000 and said Board of Commissioners submitted a statement of the reasons for the amendments pursuant to Section 36-7-4-607 of the Indiana Code; and

WHEREAS the Plan Commission of Dearborn County approved the amendments as amended to the Dearborn County Zoning Ordinance on April 24, 2000 and submitted a report to the Board of Commissioners on April 25, 2000 pursuant to Section 36-7-4-607 of the Indiana Code.

NOW THEREFORE the Board of Commissioners confirms the amended Dearborn County Zoning Ordinance, which Dearborn County Zoning Ordinance is attached

hereto, stands as passed as of April 25, 2000, which is the date of the Plan Commission's report to the Board of Commissioners, and the Board of Commissioners confirms that the amended Dearborn County Zoning Ordinance attached hereto shall take effect on upon the approval and adoption of the proposed Dearborn County Subdivision Control Ordinance after publication as required by law.

Adopted this \_\_\_\_\_ day of July, 2000.

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Vera Benning, President

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John Kyle, Commissioner

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Mark Dole, Commissioner

Attested:

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Karen Shell, Auditor



# Amendments

In accordance with Article 5 of the Dearborn County Zoning Ordinance, text amendments can be made by the Legislative Unit. The following tables are provided to indicate the specific amendments that have been approved after their adoption.

<i><b>Date Approved by County Commissioners</b></i>	<i><b>Article # and Section #</b></i>	<i><b>Description of Amendment</b></i>
December 17, 2001	Article 25 Sec. 2554	Item #7 was added regarding the minimum distance from a pond to a property line.
	Article 2 Sec. 200	Items 1c and 1e were updated to reflect changes in state law regarding Plan Commission membership.
	Article 13 Sec. 1326	Item #2 was added to allow Junkyards, Salvage Yards and Wrecking Yards as a Conditional Use in an M-2 District.
	Article 13 Sec. 1342	Item #4 was added to allow Junkyards, Salvage Yards and Wrecking Yards as a Permitted Use in an M-3 District.
	Article 27 Sec. 2700	A definition of "Pond" was added.
September 16, 2002	Article 15	Wireless Telecommunication Facilities was redefined for the entire article.
November 18, 2002	Article 25 Sec. 2554	Acreage requirements and new setbacks were established for ponds.
May 19, 2003	Article 6 Sec. 600	Amended to reference Site Plan and Plot Plan review procedure.
	Article 6 Sec. 605	Amended to reference Site Plan and Plot Plan review procedure.
	Article 6 Sec. 610	Section repealed
	Article 6 Sec. 615	Section repealed
	Article 17	Plot Plan Review created requiring plot plans for single-family residential uses, additions, accessory uses, and any other structure that requires a Location Improvement Permit.
	Article 24 Sec. 2410	Minimum Sight Distance requirement was redefined
	Article 24 Table 24.2	Minimum Sight Distance calculation formula was redefined
August 28, 2003	Article 27 Sec. 2700	Definition of Pond was expanded to specify a minimum depth and to include man-made supporting structures. Surface area was reduced to 500 square feet.
July 26, 2004	Article 24 Sec. 2404	Functional roadway classification descriptions were revised
May 3, 2005	Article 8	Floodplain Regulations revised per current FEMA model

<b><i>Date Approved by County Commissioners</i></b>	<b><i>Article # and Section #</i></b>	<b><i>Description of Amendment</i></b>
September 6, 2005	Article 25 Sec. 2546	Amended to conform with State and Local Pool Construction Codes.
August 1, 2006	Article 25 Sec. 2512	Clarification of Front Yard Setback off of U.S. 50—an Arterial Road.
August 1, 2006	Article 23 Sec. 2310	Amended thresholds to distinguish Minor from Major Site Review Plans.
August 1, 2006	Article 20 Sec. 2015	Amendment to include non-commercial signage.
September 19, 2006	Article 5 Sec. 530	Amendment to the Public Hearing Procedures for Zone Map Amendment Applications regarding withdrawals.
June 5, 2007	Article 25 Sec. 2576	Amendment to the Water and Sewage Disposal Ordinance to indicate the circumstances in which the Health Department should inspect a property for new improvements.
August 7, 2007	Article 3, Sec. 315	Amendment to identify the process required to obtain a multi-family Conditional Use.
August 7, 2007	Article 5 Sec. 520	Amendment to clarify the contents that are necessary to submit a Concept Development Plan; removal of Conditional Use text.
September 18, 2007	Article 16, Sec. 1640	Amendment to distinguish minor from major changes to Planned Unit Development concepts and conditions of approval; amendments to the administrative procedures to review all types of proposed changes.
January 15, 2008	Article 23, Sec. 2335	The process in which Site Plans may be modified and the manner in which deviations to approved plans may be addressed by the County was changed.
February 19, 2008	Article 22, Sec. 2275	Amendments to fencing requirements as they pertain to Agricultural Uses and all Zoning Districts.
February 19, 2008	Article 25, Section 2516	Amendment to require permits for fences in front yards.
February 19, 2008	Article 24, Section 2404	Amendments to include a Collector Roadway table or listing; re-configured functional roadway classification tables to match the Subdivision Control Ordinance.
April 15, 2008	Article 24, Section 2408	Amendments of driveway spacing requirements for Collector and Arterial Roads to conform with AASHTO standards.
September 2, 2008	Article 24, Section 2428	Amendments to include minimum construction access standards.
November 18, 2008	Article 20, Section 2015	Certain types of sign replacements and improvements were added to the list of signage not requiring a permit.
November 18, 2008	Article 20, Section 2060	Building mounted signage standards were added to Manufacturing Districts.
November 18, 2008	Article 20, Section 2080	Electronically changeable message board regulations were adjusted so that they may be permitted in all zoning districts, with a Conditional Use Permit.
December 15, 2009	Article 18	Establishment of a series of ordinances regarding the regulation of wind energy conversion systems.
November 15, 2011	Article 22, Section 2245	The landscaping requirements associated with interior parking areas were eliminated / removed from the ordinance.
February 7, 2012	Article 2, Section 200	Citizen members of the Plan Commission may be appointed from cities and towns, in accordance with changes to Indiana law.

<b><i>Date Approved by County Commissioners</i></b>	<b><i>Article # and Section #</i></b>	<b><i>Description of Amendment</i></b>
February 7, 2012	Article 3, Section 300	Citizen members of the Board of Zoning Appeals may be appointed from cities and towns, in accordance with changes to Indiana law. Disqualification and conflicts of interest were also redefined.
February 7, 2012	Article 3, Section 325	Changed to acknowledge written commitments, as outlined in the recently-updated Indiana Administrative Code.
February 7, 2012	Article 3, Section 330	Defines zoning decisions, as articulated in the Indiana Code.
February 7, 2012	Article 3, Section 355	Establishes the procedures for written commitments, as outlined in the Indiana Administrative Code.
February 7, 2012	Article 25, Section 2570	The local ordinance requirements for cemeteries were changed to be consistent with the Indiana Administrative Code.
July 17, 2012	Article 3, Section 320	Broadly redefined the terminology associated with variances.
July 17, 2012	Article 27	The definition of Variance was changed to be more inclusive.
July 17, 2012	Article 21, Section 2125	Parking requirements for disabled or handicapped persons were adjusted to match federal ADA requirements.
July 17, 2012	Article 25, Section 2546	Requirements for private or residential swimming pools were changed to meet the State's updated codes for pool covers and enclosures.
September 18, 2012	Article 17, Section 1720	The requirements for plot plans were streamlined / reduced to exclude repetitive and / or unnecessary information.
September 18, 2012	Article 25, Section 2516	Locational factors associated with accessory structures were more defined and changed to address setbacks for existing structures involving land divisions.
September 18, 2012	Article 21	The requirements for parking areas were updated to reflect industry standards and identified local land use needs.
April 2, 2013	Article 5, Section 520	Changed to recognize that the Dearborn County Regional Sewer District must receive and issue an acknowledgement of a project within its jurisdiction / territory.
April 2, 2013	Article 23, Section 2320	Changed to recognize that the Dearborn County Regional Sewer District must issue a written statement acknowledging that a project within its jurisdiction / territory has secured approved sewer service.
February 4, 2014	Article 8	Floodplain Regulations revised per current FEMA model
May 7, 2014	Article 26	Addressing and road name standards and the process for making changes were updated and added.
September 16, 2014	Article 27	The Definitions for Domesticated, Household Pets, Undomesticated, Non-Household Animals, and the Keeping of Animals were added / amended
September 16, 2014	Article 10, Section 1010	The keeping and allowance of animals in Residential Zoning Districts were redefined and referenced in conjunction with the Animal Control Ordinance
April 7, 2015	Article 17	Plot Plan requirements were streamlined and simplified and information requirements were changed to acknowledge staff procedures related to the Health Dept., the Dept. of Transportation & Engineering, floodplain administration, etc.

<b><i>Date Approved by County Commissioners</i></b>	<b><i>Article # and Section #</i></b>	<b><i>Description of Amendment</i></b>
April 7, 2015	Article 22	The requirements for landscaping and bufferyard areas were updated to establish regulations tied to industry standards for landscaping design and installation. Plan views, sections, and details for all bufferyard options were added. Additionally, a list of unacceptable plants was created for landscaping areas adjacent to road right-of-ways, required parking areas, utility easements, etc.
January 20, 2016	Article 15	The local zoning ordinance requirements for wireless telecommunications facilities were changed to be substantially consistent with new State and laws, as well as updated federal codes.
August 2, 2016	Article 24, Sec. 2410	Minimum sight distances associated with proposed street intersections (of existing streets) were added to Table 24.5 and acknowledged in the corresponding text.
August 2, 2016	Article 24, Section 2448	A scrivener's error in reference to Table 24.4 in this Section was corrected to be properly identified as 'Table 24.6'
June 6, 2017	Article 24, Section 2430	Conflicting language for driveway design requirements was addressed and a variance process involving the Technical Review Committee was included.
August 15, 2017	Article 20	The local requirements were changed to be compliant with recent Supreme Court decisions and opinions, regarding content neutrality. Additional changes were made to off-premise signage and electronic changeable message signage requirements, general standards, exemptions, etc.
August 15, 2017	Article 2, Section 200	The acknowledgement and allowance of alternate members to the Plan Commission was added to this Section.
August 15, 2017	Article 3, Section 300	The acknowledgement and allowance of alternate members to the Board of Zoning Appeals was added to this Section.
September 19, 2017	Article 11	The Business Districts were renamed to Local Business Districts (B-1) and Community Business Districts (B-2).
September 19, 2017	Article 12	This Article, regarding Highway Interchange (H-1) Zoning Districts, was repealed and these districts were incorporated in Community Business (B-2) Zoning Districts.
September 19, 2017	Article 13	The Manufacturing Districts were renamed to Light Industrial Districts (I-2), Moderate Industrial Districts (I-2), and Heavy Industrial Districts (I-3). Additionally, some permitted commercial-type of uses were added.
September 19, 2017	Article 25, Table 25.1	The dimensional standards for Business and Industrial Districts were updated and the Highway Interchange standards were repealed.
April 3, 2018	Article 3	Sections 300, 315, and 320 were updated to better reflect Indiana Code criteria and standards. Section 22, regarding Use Variances, was also added to the Ordinance (with criteria for evaluation).
April 3, 2018	Article 24	Sections 2416, 2442, 2444, and 2446 were updated to change the processes involved with accessing Arterial and Collector roads, allowing for smaller requests to be processed administratively and providing better technical guidance and criteria.
June 5, 2018	Article 24	Sections 2406 and 2408 were updated to allow certain members of the Technical Review Committee to waive the driveway spacing and corner clearances for (improved) sight distance considerations.
March 5, 2019	Article 5 Sec. 520	Amendment to clarify the items / contents that are necessary to submit for applications to rezone property—with or without a Concept Development Plan.

<b><i>Date Approved by County Commissioners</i></b>	<b><i>Article # and Section #</i></b>	<b><i>Description of Amendment</i></b>
June 18, 2019	Article 25, Table 25.1	Maximum building heights were established for accessory uses and structures and front setbacks were clarified for Residential Zones.
June 18, 2019	Article 25, Section 2516	Setbacks for uses and structures that are typically accessory in nature were redefined, based primarily on the location and height of the proposed structures and uses.
June 18, 2019	Article 25, Section 2556	The space allotment for home occupations was clarified. Signage, previously not permitted for home occupations, is now allowed on a limited basis—based on the subject property's frontage.
October 15, 2019	Article 24, Section 2444	Section 2444 was updated to clarify the processes involved with accessing Arterial and Collector roads
October 15, 2019	Article 23, Section 2310	Amended thresholds to distinguish Minor from Major Site Review Plans and clarified the process for: accessory structures that are intended to be used for storage purposes only, and for projects that contain or are adjacent to wetland areas.
October 15, 2019	Article 23, Section 2320	Amended Item number 19 for Major Site Plan requirements to acknowledge guidelines and / or requirements for development proposed on steep slopes.
December 17, 2019	Article 9, Section 910	Clarified setbacks for buildings housing animals, including those for kennels and eliminated restrictions regarding the establishment of storage buildings prior to a primary / principle structure.
December 17, 2019	Article 10, Sections 1010 and 1030	Clarified setbacks for buildings housing animals, including those for kennels and eliminated restrictions regarding the establishment of storage buildings prior to a primary / principle structure.
December 17, 2019	Article 24, Section 2416	Changed the conditions in which a property can have a second driveway on a Local Road (without necessitating a Variance).
December 17, 2019	Article 27 Definitions	Updated the definitions of Kennels and Manufactured and Mobile Homes to match local (for the former) and federal codes (the latter).
February 18, 2020	Article 25, Table 25.1	The minimum size of single-family homes / types as well as duplex units were more clearly delineated.
February 18, 2020	Article 25, Section 2564	The minimum standards regarding manufactured and mobile homes were changed to more closely align with federal and state laws.
March 17, 2020	Article 23, Sections 2305, 2310, and 2315	The Site Plan Review rules, procedures, and application and approval process were clarified and amended to: require pre-application meetings for Major Site Plans as well as plans involving waivers; place limitations related to the number of submittals and the amount of time applications can be tabled and / or approved with conditions.



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## **Article 27      Definitions**



# **ARTICLE 1**

## **PURPOSE AND AUTHORITY**

### **SECTION 100 - Title**

This ordinance, and supplemental or amendatory thereto, shall be known, and may be cited hereafter, as the Dearborn County Zoning Ordinance.

### **SECTION 110 – Purpose**

This ordinance, and supplemental or amendatory thereto, establishes a Zoning Ordinance for Dearborn County, Indiana and provides for the administration, enforcement, and amendment thereof in accordance with the provisions of I.C. 36-7-4-et seq.; and for the repeal of all ordinance in conflict herewith.

### **SECTION 120 – Provisions of Order Declared to be Minimum Requirements**

The regulations established by this ordinance are the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience, and general public welfare. Whenever the requirements of this ordinance are at variance with any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

### **SECTION 130 - Severability Clause**

If for any reason any article, division, section, subsection, sentence, clause, phrase, or word of this ordinance should be declared unconstitutional or invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect; therefore, the provisions of this ordinance are hereby declared severable.

### **SECTION 140 - Repeal of Conflicting Ordinances and Effective Date**

All ordinances or parts of ordinances in conflict with this ordinance, or inconsistent with the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect. This ordinance shall become effective from and after the date of its approval and adoption as provided by law provided that the effective date of this ordinance shall be delayed until the approval and adoption of the proposed Subdivision Control Ordinance.. After the effective date of this ordinance, existing legal land uses not in agreement with this zoning order become pre-existing non-conforming. Applications submitted after the effective date of this ordinance shall be reviewed under the rules and procedures contained herein.

### **SECTION 150 – Jurisdiction**

This Ordinance shall apply to all unincorporated land within Dearborn County and include the Town of West Harrison.



## ARTICLE 2

### ADVISORY PLAN COMMISSION

#### **SECTION 200 – Advisory Plan Commission**

In accordance with the provisions of Indiana Code Sections 36-7-4-200 et seq., the Dearborn County Plan Commission shall consist of nine (9) members who shall be appointed and serve in accordance with the above statutory authority. All citizen members shall serve four (4) year terms and all required members shall be appointed for one-year terms.

(1) Members shall be appointed as follows:

- a. One (1) member selected by the Board of County Commissioners from its membership;
- b. One (1) member selected by the County Council from its membership;
- c. The County Surveyor or the County Surveyor's designee;
- d. The County Agricultural Extension Educator;
- e. Five (5) members appointed in accordance with one (1) of the following:
  - i. Five (5) citizen members appointed by the Board of Commissioners, of whom not more than three (3) may be of the same political party. Each of the five (5) members must be:
    1. A resident of an unincorporated area of the county; or
    2. A resident of the county who is also an owner of real property in whole or part in an unincorporated area of the county. In this scenario, at least a majority of the total number of citizen members appointed to the plan commission must be residents of the unincorporated area of the county.

A citizen member of the Plan Commission may not hold:

1. An elected office (as defined in IC 3-5-2-17); or
2. Any other appointed office in municipal, county, or state government; except for membership on the Board of Zoning Appeals as required by IC 36-7-4-902.

- f. In accordance with IC 36-7-4-220, if a vacancy occurs among the plan commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority may also appoint an alternate member to participate with the commission in a hearing or decision if the regular member appointed by the appointing authority has a disqualification under IC 36-7-4-223(c) or is otherwise unavailable to participate in the hearing or decision. An alternate member has all the powers and duties of a regular member while participating in the hearing or decision.

(2) **Duties of Plan Commission** - The Plan Commission shall establish the procedures and responsibilities for the administration and enforcement of this Ordinance in accordance with this paragraph's provisions and State legislation. For the purposes of this ordinance the Plan Commission shall have the following duties:

- a. Make recommendation to the County Commissioners concerning the adoption of or initiate amendments to the Comprehensive Plan, Zoning and Subdivision Ordinance, and Official Zoning Map.
- b. Review and make findings on development plans for subdivisions, commercial structures, industrial structures, planned unit developments, and other similar plans for all proposed developments within the Commission's jurisdiction.
- c. Administer the Subdivision Regulations as outlined in the Subdivision Ordinance.
- d. Establish a schedule of fees, charges and expenses, and approve annual department budget proposal to County Council.
- e. Review recommendation of Planning Director for new uses or uses not specifically identified in this Ordinance to determine which existing zoning district the use is permitted in based on similar uses permitted within the district and the intent of the zoning district. The determination of the Plan Commission shall not constitute a text amendment as described in Article 5 of this Ordinance.
- f. Delegate any tasks as specified in this order relative to its administration and the operation of the Planning Department including hiring, termination of employment, supervision, performance review, and establishing compensation of the Planning Director.
- g. Perform any task and follow any procedure, including those pertaining to committees of the Plan Commission, that is specified in or provided for through the Commission's adopted Rules of Procedure.

- (3) **Rules of Procedure** - The Plan Commission shall adopt rules for the administration of
- (4) **Disqualifications and Conflicts of Interest** - A member of the plan commission is disqualified and may not participate in a hearing of the board concerning a zoning decision, as described in IC 36-7-4-1016, if:
- a. The member is biased or prejudiced or otherwise unable to be impartial; or
  - b. The member has a direct or indirect financial interest in the outcome of the zoning decision.

In the event of a disqualification, the appointing authority may select or designate an alternate member to participate with the board in a hearing or decision. An alternate member has the same powers and duties of a regular member while participating in a zoning decision or hearing.

The plan commission shall enter in its records:

- a. The fact that a regular member has a disqualification that qualifies under IC 36-7-4-223; and
- b. The name of the alternate member, if any, who participates in the hearing in place of the regular plan commission member.

A member of the plan commission or legislative body may not directly or personally represent another person in a hearing before that commission or body concerning a zoning decision or a legislative act.

A member of the plan commission may not receive any mileage or compensation for attendance at a meeting if the member is disqualified under this section from participating in the entire meeting.

- (5) **Findings and Decisions** - All decisions of the Board on all matters within their jurisdiction and authority shall be in writing, supported by specific findings of fact on each material element pertaining to the matter under consideration.
- (6) **Quorum** - A majority of members of the Plan Commission shall constitute a quorum, which shall mean a minimum of five (5) members. The action of the Plan Commission is not official unless it is authorized by a majority of the entire membership, which shall mean a minimum of five (5) votes from the members present at the properly called meeting.

## **SECTION 210 – Duties of Planning Director**

The provision of this ordinance shall be administered and enforced by the Planning Director. The Director may designate other Staff within the Department to assist. The Director shall have authority on all matters of administration and enforcement subject to the guidance of the Plan Commission and Board of Zoning Appeals (BZA). An appeal of the decisions of the Director or designated staff can be made to the BZA. For the purpose of this order, the Director shall have the following duties:

1. Perform the administrative duties of the department, including hiring, termination of employment, and supervision of all department staff and contractual employees, reviewing performance, establishing compensation, and preparing and administering the department budget;
2. Upon finding that any of the provisions of this order are being violated, the Planning Director shall notify, in writing, the person responsible for such violation(s), ordering the action(s) necessary to correct such violation;
3. Determine the classification of a use of land, buildings or structures as a permitted, accessory, or conditional use in a specific zoning district, as well as determine the applicability and substance of development performance standards, based on interpretation of the stated and implied requirements of the zoning regulations. Make recommendations to the Plan Commission for new uses, or uses not specifically identified in this Ordinance, to determine in which existing zoning district the use is permitted based on similar uses permitted within the district and the intent of the zoning district;
4. Take any other action authorized by this order or ordinance to ensure compliance with or to prevent violation(s) of these regulations;
5. Provide an interpretation of the Zoning Ordinance and Zoning Maps, Comprehensive Plan, Subdivision Ordinance or any other properly enacted ordinance or plan;
6. Review all development applications per Ordinance and all applications for public hearings for the Board of Zoning Appeals and Plan Commission per Ordinance;
7. Delegate any portion or portions of his duties to Staff of the Planning and Zoning Department. Duties may include, but are not limited to: site inspections regarding complaints of violations of this order; site inspections of developments for compliance with plans approved under this order; issuance of “Notice of Violations” citations; review of development plans for compliance with the rules, regulations and standards of this order.

## ARTICLE 3

### ADVISORY BOARD OF ZONING APPEALS

#### **SECTION 300 - Board of Zoning Appeals**

The Dearborn County Advisory Board of Zoning Appeals shall consist of five (5) members who shall be appointed and serve in accordance with Indiana Code Sections 36-7-4-900 et seq.

- (1) All members shall serve four (4) year terms and shall be appointed as follows:
- a. Three citizen members appointed by the Board of County Commissioners, of whom one (1) must be a member of the Plan Commission and two (2) must not be members of the plan commission;
  - b. One (1) citizen member appointed by County Council, who must not be a member of the plan commission;
  - c. One (1) member appointed by the Plan Commission from the Plan Commission's membership, who must be a county agricultural agent or a citizen member of the Plan Commission other than the member appointed under subsection (a) above.
    - i. Each of the five (5) Board members must be:
      1. A resident of an unincorporated area of the county; or
      2. A resident of the county who is also an owner of real property in whole or part in an unincorporated area of the county. In this scenario, at least a majority of the total number of citizen members appointed to the board of zoning appeals must be residents of the unincorporated area of the county.

A citizen member of the Board of Zoning Appeals may not hold:

1. An elected office (as defined in IC 3-5-2-17); or
  2. Any other appointed office in municipal, county, or state government; except for membership on the Plan Commission as permitted or required in IC 36-7-4-902.
- d. In accordance with IC 36-7-4-907, if a vacancy occurs among the members of the board of zoning appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the board in any hearing or decision if the regular member it has appointed has a disqualification under IC 36-7-4-909 or is otherwise unavailable to participate in the hearing or decision. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision.

- (2) **Powers and Duties** - For the purpose of this order the Dearborn County Board of Zoning Appeals shall have the following duties:
- a. To hear and to determine appeals from and review any decision or determination made by the Planning Director or staff designated by the Director;
  - b. To hear and to determine conditional uses to the terms of this ordinance;
  - c. To authorize developmental standard variances and use variances from the zoning ordinance.
- (3) **Rules of Procedure** - The Board of Zoning Appeals shall adopt rules for the administration of the affairs of the Board and for the conducting of public hearings recording of minutes and the retaining and administration of public records. The following include minimum procedures:
- a. At the first meeting of each year the Board shall elect a Chairman and a Vice-Chairman from its members.
  - b. Appoint a Secretary, who is not required to be a member of the board, and establish the Secretary's duties.
  - c. All meetings shall be open to the public.
  - d. The Board shall keep minutes of its proceedings showing the vote of each member for each question, or if absent, or if failing to vote, indicating such.
  - e. The board shall keep records of its examinations and other official actions, all of which shall be of public record and be immediately filed in the office of the Planning Commission.
- (4) **Disqualifications and Conflicts of Interest** - A member of the board of zoning appeals is disqualified and may not participate in a hearing of the board concerning a zoning decision, as described in IC 36-7-4-1016, if:
- a. The member is biased or prejudiced or otherwise unable to be impartial; or
  - b. The member has a direct or indirect financial interest in the outcome of the zoning decision.

In the event of a disqualification, the appointing authority may select or designate an alternate member to participate with the board in a hearing or decision. An alternate member has the same powers and duties of a regular member while participating in a zoning decision or hearing.

The board of zoning appeals shall enter in its records:

- a. The fact that a regular member has a disqualification that qualifies under IC 36-7-4-223; and
- b. The name of the alternate member, if any, who participates in the hearing in place of the regular board member.



A member of the board of zoning appeals may not directly or personally represent another person in a hearing before that board concerning a zoning decision or a legislative act.

A member of the board of zoning appeals may not receive any mileage or compensation for attendance at a meeting if the member is disqualified under this section from participating in the entire meeting.

- (5) **Findings and Decisions** - All decisions of the Board on all matters within their jurisdiction and authority shall be in writing and be supported by specific findings of fact on each material element pertaining to the matter under consideration.
- (6) **Quorum** - A majority of members of the Board shall constitute a quorum, which shall mean a minimum of three (3) members. The action of the Board of Zoning Appeals is not official, unless it is authorized by a majority of the entire membership, which shall mean a minimum of three (3) votes from the members present at the properly called meeting.

### **SECTION 305 – Appeals**

Appeal to the Board of Zoning Appeals may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Planning Director or designated staff. Such appeal shall be made within thirty (30) days of written receipt of the decision by filing with the Plan Commission office an application for a notice of appeal specifying the grounds upon which the appeal is being sought. Public notice of such appeal shall be given to any and all parties of record at least ten (10) days prior to the public hearing. The Planning Director shall transmit to the Board of Zoning Appeals all the papers constituting the record from which the action appealed from was taken.

### **SECTION 310 – Stay of Proceedings**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Planning Director or designated staff, from whom the appeal is taken, certifies to the Board of Zoning Appeals that by reason of facts stated in the application, a stay would, in the staff's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order from the proper court of record.

## **SECTION 315 – Conditional Use Requirements**

Within each zoning district in this Ordinance, certain uses are identified as Conditional Uses. These uses require approval from the Board of Zoning Appeals. A Conditional Use Permit runs with the land and is transferable to any future owner of the land, but is not transferable to a different property.

Prior to the initiation of a public hearing by the Board of Zoning Appeals, all Conditional Use applications involving multi-family dwelling unit development proposals shall be presented to the Plan Commission for its review. In these cases, Applicants are strongly encouraged to submit all relevant and applicable portions of a Concept Development Plan, as referenced in Article 5, Section 520 of this order. Multi-family Conditional Use applications that are not submitted with these materials and supporting data shall be reviewed from the perspective of the “maximum allowable use.” Once a submittal in this scenario has been determined to be complete, the Plan Commission shall review the contents of the application to evaluate its impacts relative to the following: the County Comprehensive Plan, the criteria and terms of this Section (315), and the criteria and terms of Article 10. All Plan Commission recommendations and findings shall be forwarded to the Board of Zoning Appeals for its consideration and final action.

1. The Board shall have the power to authorize conditional uses so long as the conditional use:
  - a. Will not endanger the public health, safety, morals, comfort, or general welfare.
  - b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area.
  - c. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
  - d. Will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - e. Will not generate traffic on the existing street network that will cause congestion or unsafe ingress and egress within the neighborhood as a result of the development, unless evidence is provided that improvements can be made to minimize or relieve the impacts.
  - f. Will preserve the purpose of this Ordinance, and shall not interfere substantially with the Comprehensive Plan.

## **SECTION 320 – Developmental Standard Variance Requirements**

The Board of Zoning Appeals shall have the power to approve or deny variances from the developmental standards of the zoning ordinance. Developmental standards include setbacks, lot dimensions, lot coverage, minimum/maximum sizes and heights of structures; where buildings, yards, parking lots, driveways, signs, and lighting may be placed on properties; and other zoning ordinance requirements. A variance runs with the land and is transferable to any future owner of the land, but is not transferable by an owner or applicant to a different site.

A variance may be appropriate by reason of exceptional narrowness, shallowness or unusual shape of a site on the effective date of these regulations or amendment thereof or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site. In addition, a variance may be appropriate if the literal enforcement of the terms of the zoning regulations would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone.

1. An appeal to the Board requesting a developmental standard variance shall demonstrate:
  - a. That the approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, morals, and general welfare of the community;
  - b. That the approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner;
  - c. That the approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which is defined as a significant development limitation that:
    - i. Arises from conditions on the property that do not generally exist in the area (i.e., the property conditions create a relatively unique development problem);
    - ii. Precludes the development or use of the property in a manner, or to an extent, enjoyed by other conforming properties in the area;
    - iii. Cannot be reasonably addressed through the redesign or relocation of the development/building/structure (existing or proposed); and
    - iv. May not be reasonably overcome because of a uniquely excessive cost of complying with the standard.

## **SECTION 322 – Use Variance Requirements**

The Board of Zoning Appeals shall have the power to approve or deny variances of use from the terms of the zoning ordinance. A use variance allows a land use that is not specifically identified as a permitted use or conditional use in the zoning district where a particular property is located. A use variance runs with the land and is transferable to any future owner of the land, but is not transferable by an owner or applicant to a different site.

The Board may impose reasonable conditions or written commitments as part of its approval. In addition, a use variance may be appropriate if the literal enforcement of the terms of the zoning regulations would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone.

1. An appeal to the Board requesting a use variance shall demonstrate:
  - a. That the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
  - b. That the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
  - c. That the need for the variance arises from some condition peculiar to the property involved;
  - d. That the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

That the approval does not interfere substantially with the Comprehensive Plan.

## **SECTION 325 - Conditions and Safeguards**

In granting an Applicant's request, the Board may require written commitments or prescribe any reasonable conditions—including the establishment of time limitations. Failure to comply with any commitment or condition established by the Board shall be considered a violation and shall be governed by Article 6 of this Ordinance.

### **SECTION 330 - Action by Board of Zoning Appeals**

The Board of Zoning Appeals shall hear and decide upon any appeal or application within sixty (60) days of filing. The Board of Zoning Appeals, shall approve, approve with conditions or commitments, or disapprove the request. Further, the Board shall make a finding that the reasons set forth in an application justify the granting of the request that will make possible a reasonable use of the land, building, or structure. If the request is disapproved, the board shall state the reasons for disapproval in writing. The minutes of the meeting shall serve as the required written notification of the decision of the Board. Appeals from Board decisions shall be to the appropriate court of jurisdiction as provided by law.

Final action of the Board of Zoning Appeals in accordance with:

- a. The 900 series of IC 36-7-4; or
- b. IC 36-7-4-1015

is considered a zoning decision and is subject to judicial review in accordance with the 1600 series of IC 36-7-4.

### **SECTION 335 - Contents of Application**

An application shall be filed with the Planning Department by at least one owner or owner by contract (option) or lessee with written permission of the owner of property for which such application is proposed. If, after the initial public hearing, additional information is needed beyond the minimum information required by the application, the Board can require the applicant to submit a Site Plan as detailed in Article 23 of this Ordinance or any other needed information as necessary.

### **SECTION 340 - Specific Standards Applicable to Conditional Uses**

The Board shall consider the criteria for conditional uses as set forth in each zoning district.

### **SECTION 345 - Procedure for Hearing Notice**

Upon receipt of an application, the Board shall establish a time and place for a hearing, and publish notice of the hearing in a newspaper of general circulation in the County at least 10 days before the date set for the hearing. In addition, all adjoining property owners shall be notified by certified mail that is postmarked and mailed at least ten (10) days in advance of the hearing. The applicant shall be responsible for supplying the names and addresses of all adjoining property owners and shall pay all the costs of notification. Records maintained by the County Assessor's Office shall be used as the official record to determine the identity and address of property owners.

### **SECTION 350 - Expiration of Permit**

Conditional uses and variances shall be authorized only for the specific request and are not transferable to another property or use without approval from the Board through a subsequent public hearing. In addition, all permits granted by the Board shall expire within one (1) year of approval by the Board unless the Board otherwise states a time period. The action or use requested and approved by the Board must be substantially underway (See Article 27) within the time period specified or the permit will expire and a subsequent hearing will be needed or an extension requested to the Planning Director.

### **SECTION 355 – Official Record and Written Commitments**

The Board of Zoning Appeals shall keep the minutes of its proceedings and records regarding the vote on its actions. All minutes (including findings of fact), voting accounts, and other documentation pertaining to a case item or cause number shall be filed in the Dearborn County Department of Planning & Zoning and are considered public records. (Please refer to IC 36-7-4-915)

The Board of Zoning Appeals may allow, or require, the owner of a parcel of real property to make a commitment concerning the use and development of that parcel. Commitments associated with a Board of Zoning Appeals decision shall be subject to the requirements set forth in IC 36-7-4-1015, including:

- a. A commitment must be in writing;
- b. A commitment shall be recorded in the Dearborn County Recorder's Office. After a commitment is recorded, it is binding on a subsequent owner or any other person who acquires an interest in the parcel;
- c. Unless a written commitment is modified or terminated in the manner prescribed by the Indiana Code, the commitment is binding upon the owner of the parcel (see IC 36-7-4-1015);
- d. A commitment may contain terms providing for its own expiration.

The allowance or requirement of a commitment does not obligate the Board of Zoning Appeals to approve an application to which the commitment relates.

## ARTICLE 4

### PRE-EXISTING NONCONFORMING USES

#### **SECTION 400 – Pre-existing Nonconforming Lots, Uses and Structures**

Within the districts established by this order or amendments to districts that may later be adopted, lots, uses of land, and structures may exist which were lawful before this order was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or further amendments. It is the intent of this order to permit these nonconforming lots, uses and structures to continue.

Uses or structures legally established before this order was passed or amended shall not be considered a violation of this ordinance and shall not be subject to penalties as outlined in Article 6 of this Ordinance.

1. The following provisions shall apply in determining the nonconforming status and whether the use, structure or lot may be altered or developed.
  - a. A nonconforming use or structure shall not be enlarged, moved, changed or extended beyond the scope and area of its operation at the time it became a legal nonconforming use. Nor shall other uses or structures, which are prohibited elsewhere in the same district, be permitted on lots of nonconforming uses or structures.
  - b. If any legal pre-existing nonconforming use of land, structure, or combination, is changed to a permitted use, then the legal nonconforming use status is removed and cannot be resumed.
  - c. When a legal, pre-existing nonconforming use of land, structure, or combination is discontinued or abandoned for twelve (12) consecutive months, the nonconforming use status is removed and cannot be resumed.
  - d. Normal maintenance and repair of a nonconforming structure may be performed provided there is no significant physical change to the structure and such maintenance and repair does not extend, enlarge or intensify the nonconforming structure or the use of the nonconforming structure, unless otherwise authorized by this Article.
  - e. A pre-existing nonconforming residential structure used solely for a residential purpose may be enlarged provided the number of dwelling units is not increased. The floor area of the dwelling unit may not be increased more than twenty-five percent (25%), and compliance with all development standards of this ordinance must be followed.
  - f. Any nonconforming structure damaged by fire, flood (as permitted in Article 8), explosion or other casualty may be reconstructed and used as before. However,

every effort shall be made to make the structure comply with this Ordinance. Reconstruction must be undertaken within twelve months of such casualty and completed within one year. In addition, the restored structure cannot have greater lot coverage or square footage (except as permitted by subsection E above) than before such casualty.

#### **SECTION 410 - Nonconforming Parcels or Subdivisions**

If any lot of record does not meet the minimum lot size and frontage requirements as established within this Ordinance and that lot existed at the effective date of adoption or amendment of this order, the owner may develop that lot in conformance with the dimensional standards previously in effect. The previous standards can be used only if the current development standard can not be applied to the lot. However, the lot must be developed in conformance with all other requirements of this order. If the lot cannot be developed under the existing standards or if the previous standards cannot be determined, a variance will be required from the Board of Zoning Appeals as identified in Section 320 of this Ordinance.

#### **SECTION 420 - Nonconforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this order that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful. The following provisions shall apply:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;
2. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved;
3. When an addition is proposed for a pre-existing structure that does not meet the current setback requirements, the addition may be located along the nonconforming building line established by the existing structure. However, it may not encroach any further into such nonconforming setback unless the Board of Zoning Appeals grants a variance.

#### **SECTION 430 - Change of Nonconforming Use**

The Board of Zoning Appeals shall have the power to hear and decide on applications to permit a change from one nonconforming use to another. The Board shall not permit such a change unless the new nonconforming use is equally or more compatible with permitted uses in the district in which it is located as the existing nonconforming use. The intent of this section is to allow a non-conforming use to adapt to changing economic considerations and prevent the use from becoming a blight. An application for a change of nonconforming use shall conform to the procedures for other Board applications.



The Board shall not allow any changed nonconforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original nonconforming use. In permitting such change in nonconforming use, the Board can require appropriate conditions and safeguards in accord with other provisions of this order, such as the provision of landscaping and buffering, the improvement of parking areas, and restrictions on the hours of operation.

#### **SECTION 440 - Burden of Establishing Status**

The burden of establishing legal, pre-existing nonconforming use status shall rest on the person asserting such status. Such persons shall provide sufficient proof to the Director or designated staff that such a pre-existing nonconforming status exists.

#### **SECTION 450 - Avoidance of Undue Hardship**

To avoid undue hardship, nothing in this order shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this order. If actual building construction has been carried on diligently and such construction is not found to have been or to be a purposely-planned evasion of the intent of this order, development may continue. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastening them in a permanent manner. Where demolition or removal of an existing building has begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently, but subject to the same clarifications of planned intent. Neither shall this order be deemed to require a revision in the preliminary plans of subdivisions which had been approved prior to the adoption of these regulations provided that schedules for submission of improvement plans and final plans are met.

#### **SECTION 460 – Agricultural Exceptions**

Any agricultural use existing prior to the adoption of this Ordinance which is located in a zoning classification where agricultural uses are not Principally Permitted shall still be considered a non-conforming use by this Ordinance. However, these uses shall not be prevented from enlarging or continuing to operate as permitted before the adoption of this Ordinance.



## ARTICLE 5

### ZONING MAP AND TEXT AMENDMENTS

#### **SECTION 500 – General**

This Zoning Ordinance and the Zoning Map may be amended from time to time by ordinance duly enacted by the Board of County Commissioners in accordance with the procedures set forth in Indiana Code Chapter 36-7-4-600. Comprehensive updates of the Zoning Ordinance, Map and the Comprehensive Plan shall be conducted every five (5) years to ensure that these public documents accurately represent the changing needs of the community. The updates shall follow the laws and requirements as outlined in Indiana Code.

#### **SECTION 510 - Initiation of Zoning Text Amendments and Map Amendments**

Amendments to this zoning ordinance's text and map may be initiated in the following manner:

1. Zoning Text: The Plan Commission can initiate a text amendment by holding a public hearing and making a recommendation to the legislative unit. (See Article 27) The legislative unit can initiate a text amendment but must refer the amendment to the Plan Commission for a public hearing and recommendation before the legislative unit can act on the text amendment. Text amendments are to be adopted by a resolution and/or ordinance by the legislative unit.
2. Zoning Map: The Plan Commission can initiate a zoning map amendment by holding a public hearing and making a recommendation to the legislative unit. The legislative unit can initiate a zoning map amendment, but must refer the amendment to the Plan Commission for a public hearing and recommendation before the legislative unit can act on the zoning map amendment. Zoning map amendments can also be initiated by filing an application by at least one (1) majority owner, owner by contract (option) or lessee with permission of the owner/s of property within the area proposed to be changed or affected by said map amendment. Zoning map amendments are to be adopted by a resolution and/or ordinance by the legislative unit.

#### **SECTION 520 - Contents of an Application for a Zoning Map Amendment**

Applications for amendments to the zoning map, adopted as part of this Ordinance by Section 500, shall be completed in full, signed, supplemented with any additional information found appropriate by the Plan Commission, and accompanied by a fee established according to the fee schedule. All petitions not initiated by the Plan Commission must be initiated by a petition or application signed by property owners who own at least fifty percent (50%) of the land involved.

A Development Plan (hereafter referred to as a Concept Development Plan) is strongly encouraged to be submitted for any zoning map amendment. Rezoning applications submitted without a Concept Development Plan shall be reviewed from the perspective of the “maximum allowable use” based upon the requirements, principally permitted uses, and conditional uses of the zoning being requested. The Concept Development Plan, when submitted and agreed upon, shall be followed and be binding as a requirement of the zone map amendment. Any rezoning that is approved with a Concept Development Plan shall be designated on the Official Dearborn County Zoning Map as DP for Development Plan. (For example, Residential (R-DP))

The property owners and any other appropriate persons, such as the applicant(s) or one or more option holder(s) in the property, shall be required to furnish the information necessary to make any written commitments of record and shall sign such written commitments obligating them to comply with the terms of the zoning change and Concept Development Plan, if applicable. This written commitment and the ordinance of the legislative unit for the zone map amendment shall be filed in the office of the Dearborn County Recorder within 30 days of final action, as further specified in Sections 550-570.

All Applicants needing a Variance or Conditional Use Permit must file an application for Board of Zoning Appeals review and must follow the public hearing procedures set forth in Article 3, Sections 315, 320, and 322 of this order.

*Whether a Concept Development Plan is submitted or not, the property owner and any other appropriate person, such as the applicant or an option holder in the property, must supply the Plan Commission all of the information set forth in items 1-9 of the subsection titled ‘Minimum Elements for a Zone Map Amendment Application’ for all proposals involving a rezone, prior to the adopted meeting schedule and deadlines.*

A Concept Development Plan, once submitted, shall include the following minimum, additional elements—as applicable—as well as any other supporting information that the Applicant believes addresses the specific findings used in reviewing a Zoning Map Amendment.

**Minimum Elements for a Zone Map Amendment Application:**

1. General Existing Site Characteristics – ownership; topography with a maximum contour interval of ten (10) feet—two (2) foot intervals preferred; soils maps (and legends); applicable floodplain or floodway areas, streams, and other relevant drainage information; vegetation; the location of any cemetery or burial ground onsite and / or within 100 feet of the affected site; and other physical characteristics;
2. Transportation Patterns - public and private roads and internal and external circulation patterns, rights-of-ways, easements and parking;

3. Utilities and Infrastructure: The general location(s) of existing sewer, water, electric, and gas utilities, if applicable, that will serve the proposed development must be shown or referenced on the concept plan. This information shall also be accompanied by written statements from the service providers that address capacity issues as well as affirm the capability of the applicant to have these services extended to the proposed development. A project within the territory of the Dearborn County Regional Sewer District requires written acknowledgement—in addition to acknowledgements of other service providers (where inter-local agreements may exist or be required), where applicable. \*All written statement(s) shall be considered current—if less than 1 year old;
4. Services: General description of the availability of community facilities such as schools, fire protection services, emergency services, and other types of facilities that would serve the development, if any, and how these facilities are affected by this proposal. This information shall also be accompanied by written statements from the applicable service providers (with jurisdiction) that addresses capacity issues as well as affirms the capability of the applicant to have these services extended to the proposed development;
5. Relationship of Proposed Zone Change with Comprehensive Plan - how specifically the proposed zone change would conflict, conform, complement or otherwise affect the Comprehensive Plan as well as any special studies that are designed to further detail the Comprehensive Plan in a specific area;
6. An 8.5" by 11" or 11" by 17" reduction of the plan that can be copied on a standard photocopier;
7. A list of all property owners within 500 feet of the area proposed to be rezoned—or within 660 feet (1/8 mile), or as otherwise prescribed in IC 36-7-4-604, if the affected area proposed to be rezoned abuts or includes a county line (or a county line street or road or county line body of water)—for the purposes of identifying and notifying interested parties for the plan commission's hearing(s) on any matter related to a zone map amendment, including changes to written commitments;
8. A boundary map and legal description of the area proposed to be rezoned, sufficient that the property can be easily identified by the Dearborn County Surveyor's Office and Plan Commission staff;
9. Prepare detailed, preliminary statements regarding Findings of Fact Necessary for a Zone Map Amendment as set forth Section 540 of this Article.

**Additional Elements, if Applicable, for Zone Map Amendments involving a Concept Development Plan**

The following information must be submitted in conjunction with a Concept Development Plan—where applicable to a specific project or site:

10. Land Use Characteristics – Maps illustrating the location, description and size (acreage) of all proposed land uses—as well as maps and accompanying documentation illustrating the following amenities, where applicable: open spaces, neighborhood and / or community amenities, impervious surfaces including streets, parking areas, structures and buildings (general description of size area, intensities/densities). Proposed land use maps should accurately depict average lot sizes and densities on the plan at a scale no larger than 1" = 200' and should be oriented with north, to the extent feasible, located near the top portion of the plan;
11. Approximate location and number of (both) anticipated residential and non-residential units along with approximate square footage, density and height;
12. If the site has unusual or unique natural features demonstrate how the proposed development preserves and utilizes its natural topography, geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural draining patterns. If appropriate, geotechnical studies should be submitted to indicate soil types, depth of bedrock and slope stability. \*All geotechnical studies should reflect current land conditions;
13. Submit conceptual landscape plan that indicates the locations and sizes of landscape and buffering features. A statement that acknowledges that all landscaping and bufferyard requirements set forth in Article 22 of the Dearborn County Zoning Ordinance will be adhered to by the owners may be submitted in lieu of a conceptual landscaping plan, if the plan commission finds it acceptable. For applications involving PUD overlay (See Article 16), design guidelines that include landscaping standards shall be submitted for multi-phased projects;
14. Calculation of approximate amount of open space both before and after construction. Indicate areas of expected open space and new landscaping. Include maintenance plans for these areas;
15. Approximate location and size of storm water detention and/or retention areas;
16. Information describing proposed signage (types, sizes, materials, and locations on site). For applications involving the PUD overlay, design guidelines that include signage standards shall be submitted for multi-phased projects;
17. Indicate the construction schedule of the project. For multi-phased projects, submit a phasing plan that describes the anticipated timing and geographical extent of each phase;
18. Submit a current, detailed traffic study if the proposed development exceeds 1000 vehicle trips per day on average or if the project would significantly alter existing traffic patterns or volume (See Article 24, Section 2448) \*All traffic studies shall be considered current—i.e. less than 1 year old;

19. Submit a sketch or drawing of the proposed buildings to demonstrate the visual appearance or a type of architecture. For applications involving the PUD overlay, design guidelines that include architectural standards shall be submitted for multi-phased projects;
20. For applications involving the PUD, a table of proposed dimensional standards for the proposed land uses or phases including lot sizes and frontages, building heights and intensities, and setbacks and a description of any requested exceptions to the requirements of the underlying zone;
21. For applications involving the PUD a written narrative shall be submitted that describes how the applicable planned development requirements and standards in Article 16 have been satisfied.

### **SECTION 530 - Public Hearing Procedure**

If the proposal is not initiated by the Plan Commission it must be referred to the Plan Commission for consideration and recommendation before any final action is taken by the legislative unit. Upon receiving or initiating the proposal, the Plan Commission shall, within sixty (60) days, hold a public hearing.

1. The following notice shall be given:
  - a. Notice of the hearing shall be given by the Plan Commission Staff (postmarked and mailed) at least **ten (10) days** in advance of the hearing by certified mail, to the applicant and the owners of all property adjoining the property to be changed. The applicant proposing the amendment shall be required to furnish the names and addresses of the owners of all adjoining property. The Dearborn County Assessor's Office may be relied upon to determine the identity for all adjoining property owners. In the cases where the property requested to be changed abuts or includes a county line, notice shall be given to properties at least 660 feet from the county line or property line into the neighboring county. The notice shall state, at a minimum, the time, place and purpose of the hearing. An application for a Zone Map Amendment may be withdrawn prior to the public notification process set forth herein, at minimum cost to the Owner / Applicant. An application that is withdrawn after the initiation of the public notification process may be withdrawn at full cost to the Owners / Applicants. Applications may be resubmitted under either of these circumstances for Plan Commission review at any subsequent public hearing date.
  - b. Notice of the hearing shall be published in a newspaper of general circulation at least **ten (10) days** prior to the hearing. Said published notice shall state, at a minimum, the time, place and purpose of the hearing.
  - c. Within **ten (10) business days** after the Plan Commission determines its recommendation (if any), the Plan Commission shall **certify** the proposal by providing in writing to the legislative unit the decision made by the Plan Commission with findings. An application that is withdrawn after the Plan Commission determines its recommendation may not be resubmitted or

reconsidered in any form for the same or substantially similar set of properties for a minimum of ninety (90) days, as quantified from the date that the Applicants / Owners formally submit a written withdrawal to the Plan Commission and Board of Commissioners. Applications resubmitted under these circumstances will be required to initiate the Zone Map Amendment process as new requests.

- d. The legislative unit shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposal.
2. The following applies if the proposal receives a favorable recommendation from the Plan Commission.
    - a. At the first regular meeting of the legislative unit after the proposal is certified, or at any subsequent meeting within the ninety (90) day period, the legislative unit may adopt, amend or reject the proposal.
    - b. If the legislative unit adopts or amends (as certified) the proposal, it takes effect as other ordinances of the legislative unit.
    - c. If the legislative unit rejects the proposal, it is defeated.
    - d. If the legislative unit fails to act on the proposal within ninety (90) days after certification, the ordinance takes effect as if it had been adopted (as certified).
  3. The following applies if the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission:
    - a. At the first regular meeting of the legislative unit after the proposal is certified, or at any subsequent meeting within the ninety (90) day period, the legislative unit may adopt or reject the proposal.
    - b. If the legislative unit adopts (as certified) the proposal, it takes effect as other ordinances of the legislative unit.
    - c. If the legislative unit rejects the proposal, it is defeated.
    - d. If the legislative unit fails to act on the proposal within ninety (90) days after certification, it is defeated.

If a zoning map amendment application receives an unfavorable or no recommendation from the Plan Commission and this action is upheld by the legislative unit, the applicant will not be permitted to resubmit an application for this site for a period of ninety (90) days, as quantified from the date that the Board of Commissioners makes its determination.



## **SECTION 540 - Findings Necessary for Map Amendment**

In preparing and considering proposals for zoning text and map amendments, the Plan Commission and the legislative unit shall pay reasonable regard to the following:

1. The Comprehensive Plan;
2. Current conditions and the character of current structures and uses in each district;
3. The most desirable use for which the land in each district is adapted;
4. The conservation of property values throughout the jurisdiction;
5. Responsible development and growth.

The above criteria shall be the basis for findings of fact in a map amendment and shall be recorded in the minutes and records of the Plan Commission and the legislative unit.

## **SECTION 550 - Written Commitments**

The Plan Commission may require a written commitment executed by the applicant/owner in conjunction with a favorable recommendation of a Zoning Map Amendment. Failure to comply with any written commitment shall be considered a violation of this ordinance and shall be governed by Article 6. Any written commitment shall be recorded as described in Section 560 and shall be binding on the owner, subsequent owner, or person who acquires interest in the property.

The Plan Commission shall forward to the legislative unit, as part of the certification of the recommendation, the written commitment incorporated within its motion for approval. The written commitment shall be signed by the owner and any other appropriate person indicating agreement with the terms of the written commitment. The legislative unit may adopt or reject the application and written commitment pursuant to IC 36-7-4-608. Any written commitments made as part of the Ordinance/Resolution for approval of the rezoning by the legislative unit shall be prepared in writing and signed, as stated above, and recorded as identified in Section 560 by the Planning Department. The enforcement, interpretation and administration of the written commitments shall be the responsibility of the Plan Commission.

### **SECTION 560 – Official Record and Certificate of Land Use Restriction**

The Official Record of action taken by the Plan Commission, or legislative unit within Dearborn County and any adopted written commitments, shall be filed in the form of a Certificate of Land Use Restrictions with the County Recorder's office as permitted by IC 36-7-4-615.

Filing shall occur within 30 days of the date from which approval was granted. The certificates shall be completed by the Planning Department and filed with the Recorder as required. The County Recorder shall index the certificates by property owner and, if applicable, name of subdivision or development. The Dearborn County Plan Commission office shall maintain the files of written commitments, which require certificates. When all written commitments have been complied, the Planning Department shall release the certificate in the same manner as releases of encumbrances upon real estate. Certificates of Land Use Restrictions shall be filed in the Dearborn County Recorder's Office for the following reviews: Zoning Map Amendments, Concept Development Plans, Planned Unit Developments and other items requiring recording of restrictions.

### **SECTION 570 – Effect of Approval of Amendment**

When an amendment to the Zoning Map is adopted by resolution/ordinance of the legislative unit the resolution/ordinance is the official map amendment. The incorporation of this amendment onto the official zoning map shall be an administrative act performed in a timely manner by the Plan Commission Staff. When an amendment to the Zoning Text is approved, the change shall be incorporated into this Ordinance and maintained by the Planning Department.

### **SECTION 580 – Amendment to the Comprehensive Land Use Plan**

When the legislative unit approves a Zoning Map Amendment, the Future Land Use Plan of the Comprehensive Plan is thereby amended.

## **ARTICLE 6**

### **PERMITTING, ENFORCEMENT AND FEES**

#### **SECTION 600 – Zoning Permits Required**

No building or other structure may be erected, moved, added to, or structurally altered, nor shall any building, structure, or land be established or changed in use or character without a permit. The Location Improvement Permit hereafter called a Zoning Permit—shall be issued by the Planning Director or designee pursuant to Plot Plan Review (Article 17) or Site Plan Review (Article 23). All Zoning Permits issued under Plot Plan Review or Site Plan Review shall be issued only in conformity with the provisions of this ordinance unless the Planning Director receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use, or variance.

#### **SECTION 605 – Requirements of Zoning Permit Applications**

The owner, or applicant, seeking a permit shall obtain and complete an application for a zoning permit on a form prescribed by the Plan Commission and follow the criteria set forth under Plot Plan Review and Site Plan Review, as applicable.

#### **SECTION 620 - Failure to Obtain Zoning Permits and Certificates of Occupancy**

Failure to obtain a Zoning Permit and a Certificate of Occupancy shall be a violation of this ordinance and will be punishable under the provisions of this Article.

#### **SECTION 625 – Construction and Use to be as Provided in Approved Zoning Permit**

Zoning Permits are issued by the Planning Department, on the basis of the application and plans that have been submitted, and approved, and authorize only the use, arrangement, and construction that has been set forth in the approved application and plans. Any other use, arrangement, or construction, contrary to that authorization shall require a revised permit that complies with all requirements or it will be considered a violation of this ordinance and be punishable under the provisions of this Article.

#### **SECTION 630 – Complaints Regarding Violations**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall fully, and accurately, state the causes and basis of the alleged violation, and be filed with the Planning Director or designee. The Planning Director or designee shall investigate the complaint in a timely manner and, if warranted, take action thereon as provided by this ordinance. Any person filing a written complaint shall be notified in writing by the Planning Director or designee of the action taken and/or status of the alleged violation.

### **SECTION 635 – Inspection of Property; Right of Entry**

The Planning Director and/or designee are authorized to make inspections of all land that is located within Dearborn County in order to enforce the zoning ordinance and land use regulations of Dearborn County, Indiana. The Planning Director and/or designee shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out the duties in the enforcement of this ordinance, unless the owner or occupant of the premises refuses to permit entry for these purposes. In the event of said refusal, the Planning Director or designee shall seek the appropriate legal remedy to allow access to the property.

### **SECTION 640 – Procedures and Violations**

If the Planning Director or designee determines that a violation exists, a written notice shall be given to the person(s) responsible for the alleged violation, by certified mail. The notice shall describe the details of the alleged violation and the reasons believed that the violation exists. The notice shall also require an explanation, or correction, of the alleged violation to the satisfaction of the Planning Director, within a specified time limit, which is to be determined by the Planning Director. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the Planning Director within the specified time limit constitutes admission of the violation of the terms of this ordinance.

### **SECTION 645 – Pending Violations**

If a violation is pending, the alleged violator cannot obtain any other benefits of this ordinance on the property where the violation is still pending. No permits will be issued to the alleged violator until the resolution of the pending violation.

### **SECTION 650 – Penalties for Violations**

Any person who violates any provisions of this ordinance shall upon conviction be fined not less than \$10.00 and not more than \$300.00 for each offense. Each day that the violation exists shall constitute a separate offense. Violations of this ordinance that occur because a permit was not applied for or issued shall result in a doubling of the permit fee.

### **SECTION 655 – Compliance with Regulations**

The regulations for each district set forth by this ordinance, shall be the minimum regulations and shall apply uniformly to each class or kind of structure or land, except as otherwise provided in this ordinance. Further the following provisions apply:

- 1 No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered

except in conformity with all of the regulations herein specified for the district in which it is located.

- 2 No building or other structure shall be erected or altered to:
  - a. Provide for greater height or area or,
  - b. Accommodate or house a greater number of families or,
  - c. Have narrower or smaller, rear yards, front yards, side yards, or other open spaces than is required, or in any other manner be contrary to the provisions of this ordinance.
- 3 No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements set forth herein.

It shall be the duty of the Plan Commission's Attorney to prosecute such violations of this ordinance as may be brought to his attention and which violation shall be considered worthy of prosecution in the opinion of such Prosecutor.

The Plan Commission, Board of Zoning Appeals, Planning Director, or any concerned person of Dearborn County, Indiana, may institute a suit for injunction in any court having jurisdiction to restrain an individual or a governmental unit from violating the provisions of this ordinance. The Plan Commission, Board of Zoning Appeals, Planning Director, or any concerned person of Dearborn County, Indiana, may also institute a suit for a mandatory injunction in any court having jurisdiction directing any person, persons or governmental unit to remove a structure erected in violation of the provisions of this ordinance.

The Plan Commission, Board of Zoning Appeals, Planning Director, or any concerned person of Dearborn County, Indiana, notwithstanding the above provisions, shall be permitted to otherwise enforce this ordinance by invoking any legal, equitable, or special remedy provided by law.

#### **SECTION 660 - Schedule of Fees, Charges and Expenses**

This Plan Commission shall establish a schedule of fees, charges, and expenses that are required and shall be posted in the Planning Department. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.



## **ARTICLE 7**

### **PROVISIONS FOR THE OFFICIAL ZONING MAP**

#### **SECTION 700 – Zoning Map**

A Zoning Map of each township in Dearborn County is hereby adopted as a part of this Article and is incorporated by reference herein.

#### **SECTION 710 – Identification of the Official Zoning Map**

The Dearborn County Zoning Map shall not be the official map until it has been signed and dated by the Dearborn Board of County Commissioners and other effected legislative units. Map amendments adopted by resolution of the County Commissioners or other legislative unit shall be administratively revised by the Plan Commission Staff and stamped with the revised date.

#### **SECTION 720 - Designation of Zoning Districts**

For the purposes of this Ordinance, the County is divided into districts in the Article as shown by the district boundaries on the Zoning Maps. The districts are as follows:

- A     Agricultural District
- R     Residential District
- H-1   Highway Interchange District
- B-1   Local Business District
- B-2   Community Business District
- I-1   Light Industrial District
- I-2   Moderate Industrial District
- I-3   Heavy Industrial District

Additional designation that can appear on the Zoning Maps include:

- PUD   Planned Unit Development
- DP   Development Plan

#### **SECTION 730 – Interpretation of District Boundaries**

Where uncertainty exists with respect to the boundaries of any of the zoning districts of the Official Zoning Map the following rules shall apply. The Planning Director or designee shall use the rules listed below to determine the zoning of a specific property and can use additional information such as previous zoning maps, topography maps or aerial photography to determine the zoning of a particular parcel. In cases where a mapping error was made the Planning

Director shall determine the correct zoning designation using the method describe above. The decision of the Planning Director can be appealed to the Board of Zoning Appeals.

1. Where district boundaries are shown within the center lines of thoroughfares or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries;
2. Where district boundaries are so indicated that they approximately follow the lot lines or property lines, such lot lines or property lines shall be construed to be said boundaries;
3. Where district boundaries are so indicated that they are approximately parallel to the center lines or edge of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Map. In situations where the distance given conflicts greatly with the map scale the Plan Director or designee shall determine the boundary;
4. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line;
5. Where the boundary of a district follows a stream or the shore of a body of water, that stream or shore line is the boundary of the district;
6. Where the boundary of a district follows or appears to follow the county line, section line (including half-section or quarter section), or township line such line shall be deemed to be boundary of the district;
7. Where the boundaries of a district are based on a legal description or property survey that was submitted in conjunction with a zoning map amendment application, the boundaries provided in said instrument(s) shall be construed as the district boundaries for the property in question;

#### **SECTION 740 - Zoning District Declared Invalid**

Should any zoning district be declared by a court of competent jurisdiction to be unconstitutional or invalid, by either the construct of its text within this order or by its application or amendment to the Dearborn County Zoning Map, the zoning district that applied to the affected properties prior to the unconstitutional or invalid zoning district shall be in force.



## Article 8

### FLOODPLAIN REGULATIONS

#### **Section 800 - Statutory Authorization, Findings of Fact, Purpose, and Objectives.**

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

#### **Section 800.05 - Findings of Fact**

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

#### **Section 800.10 - Statement of Purpose**

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

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and,

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

### **Section 800.15 - Objectives**

The objectives of this article are:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
7. To ensure that potential homebuyers are notified that property is in a flood area.

### **Section 810 - General Provisions**

#### **Section 810.05 - Lands to Which This Article Applies**

This article shall apply to all SFHAs within the jurisdiction of Dearborn County.

#### **Section 810.10 - Basis for Establishing Regulatory Flood Data**

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

1. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Dearborn County and the Town of West Harrison shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Dearborn County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated April 16, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
2. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Dearborn County and the Town of West Harrison, delineated as an "A Zone" on the Dearborn County, Indiana and Incorporated Areas Flood Insurance Rate Map dated April 16, 2014 as well as any future updates,

amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review, subsequently approved.

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

#### **Section 810.15 - Establishment of Floodplain Development Permit**

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

#### **Section 810.20 - Compliance**

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

#### **Section 810.25 - Abrogation and Greater Restrictions**

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

### **Section 810.30 - Discrepancy between Mapped Floodplain and Actual Ground Elevations**

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

### **Section 810.35 - Interpretation**

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

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

### **Section 810.40 - Warning and Disclaimer of Liability**

The degree of flood protection required by this Article 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 Article does not create any liability on the part of the Town of West Harrison, Dearborn County, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this article or any administrative decision made lawfully thereunder.

### **Section 810.45 Penalties for Violation**

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a 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 Article 6 of the Zoning Ordinance.

1. A separate offense shall be deemed to occur for each day the violation continues to exist.
2. The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

3. Nothing herein shall prevent Dearborn County or the Town of West Harrison from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

## **Section 820 - Administration**

### **Section 820.05 - Designation of Administrator**

The Dearborn County Director of Planning and Zoning or his / her designee shall administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

### **Section 820.10 - Permit Procedures**

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

1. Application stage.
  - a. A description of the proposed development;
  - b. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
  - c. A legal description of the property site;
  - d. A site development plan showing existing and proposed development locations and existing and proposed land grades;
  - e. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
  - f. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
  - g. Description of the extent to which any watercourse will be altered or related as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Article 8, Section 820.15(6) for additional information.)

2. Construction stage.

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

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

**Section 820.15 - Duties and Responsibilities of the Floodplain Administrator**

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

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

1. Review all floodplain development permits to assure that the permit requirements of this article have been satisfied;
2. Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;
3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Sections 830.20 and 830.30 of this Article, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment.)
4. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;

5. Maintain and track permit records involving additions and improvements to residences located in the floodway.
6. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
7. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.
8. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of Dearborn County and the Town of West Harrison.
9. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
10. Review certified plans and specifications for compliance;
11. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 820.10;
12. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Section 820.10;
13. Inspect sites for compliance. For all new and/or substantially improved buildings constructed in the SFHA, inspect before, during and after construction. Authorized County and Town officials shall have the right to enter and inspect properties located in the SFHA.
14. Stop Work Orders
  - a. Upon notice from the Administrator, work on any building, structure or premises that is being done contrary to the provisions of this article shall immediately cease.
  - b. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

## 15. Revocation of Permits

- a. The Administrator may revoke a permit or approval, issued under the provisions of the article, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- b. The Administrator may revoke a permit upon determination by the 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.

## **Section 830 - Provisions for Flood Hazard Reduction**

### **Section 830.05 - General Standards**

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

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the Flood Protection Grade (**FPG**);
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;



9. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this article shall meet the requirements of “new construction” as contained in this article; and,

### **Section 830.10 - Specific Standards**

In all SFHAs, the following provisions are required:

1. In addition to the requirements of Section 830.05, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
  - a. Construction or placement of any new structure having a floor area greater than 400 square feet;
  - b. Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
  - c. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
  - d. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
  - e. Installing a manufactured home on a new site or a new manufactured home on an existing site. This article 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
  - f. Reconstruction or repairs made to a repetitive loss structure;
  - g. Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
2. **Residential 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 Section 830.10 (4.)

3. **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 feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 830.10 (4.) Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:
- a. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in 820.15 (12)
  - b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
4. **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

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

- a. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
- b. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
- c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- d. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- e. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

- f. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- 5. **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
  - a. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method, which shall be retained in permit file.
  - b. The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.
  - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
  - d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - e. The top of the lowest floor including basements shall be at or above the FPG.
- 6. **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
  - a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood:
    - (i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
    - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

(iii)Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

(i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

(iii)Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

c) Recreational vehicles placed on a site shall either:

(i) be on site for less than 180 days; or,

(ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(iii)meet the requirements for “manufactured homes” as stated earlier in this section.

7. **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

a) Shall not be used for human habitation.

b) Shall be constructed of flood resistant materials.

- c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
  - d) Shall be firmly anchored to prevent flotation.
  - e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
  - f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
8. **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall

#### **Section 830.15 - Standards for Subdivision Proposals**

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

#### **Section 830.18 – Critical Facility**

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

### **Section 830.20 - Standards for Identified Floodways**

Located within SFHAs, established in Section 810.10, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit 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 from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 830 of this Article have been met. The Floodplain Development Permit cannot be less restrictive than the permit issued by the Indiana Department of Natural Resources. However, the County's more restrictive regulations (if any) shall take precedence.

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

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

### **Section 830.25 - Standards for Identified Fringe**

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 830 of this article have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

### **Section 830.30 - Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes**

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

- a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- b) No action shall be taken by the Floodplain Administrator until either a permit for construction in the floodway (including letters of authorization) 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.
- c) Once the Floodplain Administrator has received the proper permit for construction in a floodway permit (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 830 of this Article have been met.

Drainage area upstream of the site is less than one square mile:

- a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, fringe and 100 year flood elevation for the site.
- b) Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 830 of this Article have been met.

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

### **Section 830.35 Standards for Flood Prone Areas**

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 830.

## **Section 840 - Variance Procedures**

### **Section 840.05 - Designation of Variance and Appeals Board**

The Board of Zoning Appeals as established by Board of Commissioners of Dearborn County shall hear and decide appeals and requests for variances from requirements of this Article.

### **Section 840.10 - Duties of Variance and Appeals Board**

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

### **Section 840.15 - Variance Procedures**

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

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



## **Section 840.20 - Conditions for Variances**

1. Variances shall only be issued when there is:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship; and,
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
2. No variance or exception for a residential use within a floodway subject to Sections 830.20 and 830.30 of this article may be granted.
3. Any variance or exception granted in a floodway subject to Sections 830.20 and 830.30 of this article will require a permit from the Indiana Department of Natural Resources.
4. Variances or exceptions to the Provisions for Flood Hazard Reduction of Section 820.10, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
7. Any application to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section 840.25).
8. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section 840.25).

### **Section 840.25 - Variance Notification**

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

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

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

### **Section 840.30 - Historic Structure**

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

### **Section 840.35 - Special Conditions**

Upon the consideration of the factors listed in Section 840, and the purposes of this Article, 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.

### **Section 850 - Severability**

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

## **Section 860 - Definitions**

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

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

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

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

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

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are 1-3 feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

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

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

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

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

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

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

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

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

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

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

**Boundary River Floodway** means the floodway of a boundary river.

**Building** see "Structure."

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

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

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

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

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

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

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

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

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

**Encroachment** means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Existing Construction** means any structure for which the “start of construction” commenced before effective date of the County’s first floodplain article.

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

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

**FEMA** means the Federal Emergency Management Agency.

**Five-hundred year flood (500-year flood)** means the flood that has a 0.2 percent chance of being equaled or exceeded in any year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Historic structure** means any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Sites and Structures

**Increased Cost of Compliance (ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

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

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

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

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

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

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

**Lowest floor** means the lowest of the following:

- (1) the top of the lowest level of the structure;
- (2) the top of the basement floor;
- (3) the top of the garage floor, if the garage is the lowest level of the structure;
- (4) the top of the first floor of a structure elevated on pilings or pillars;



- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
- a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
  - b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
  - c) such enclosed space shall be usable solely for the parking of vehicles and building access.

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

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

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

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

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

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

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

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

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

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

**One-hundred year flood (100-year flood)** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

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

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

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

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

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

**Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in **Section 810.10** of this Article. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

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

**Special Flood Hazard Area (SFHA)** means those lands within the jurisdictions of the County subject to inundation by the regulatory flood. The SFHAs of Dearborn County and the Town of West Harrison are generally identified as such on the Dearborn County, Indiana and Incorporated Areas Flood Insurance Rate Map dated April 16, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

**Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means 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.

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

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

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

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

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

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

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

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

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

**Zone A** (see definition for A zone)

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

## **ARTICLE 9**

### **AGRICULTURAL (A)**

#### **SECTION 900– Agricultural (A) District Intent**

The purpose of the Agriculture district is to preserve and protect the supply of productive agricultural lands and other space, primarily for non-urban uses. This district includes the portions of the county most conducive to agricultural operations and is intended to protect and encourage agricultural uses of the land. Low density residential is appropriate within this district providing a rural environment that supports agricultural uses of the land.

#### **SECTION 910– Principally Permitted Uses**

The following uses are permitted by right on land zoned Agriculture within Dearborn County.

1. Single family dwelling units;
2. Farms of field crops, fruits, tree nuts, vegetables, or other agricultural growth products;
3. Farms with no predominant crops, including range and grassland pastures, horticultural specialties, bee hives and insect/worm farms and other agriculture and related activities;
4. Farms and ranches of dairy production, raising of livestock including cattle, hogs, sheep, goats, horses, poultry or other fowls and other animals raised for food or fur, skin or related uses;
5. Wildlife preserve sanctuaries, habitats, cultures and related activities; botanical gardens and arboretums, nature preserves, wildlife habitats and other natural exhibitions (Site Plan Review required);
6. Forestry activities including timber production, tree products production, commercial forestry production, forest nurseries and other forestry activities, Christmas tree farming and related services (Excludes sawmills, or processing of wood products other than activities necessary to ship timbers from the property);
7. Horticultural, floricultural, viticultural, and other agricultural related uses and services;
8. Animal husbandry, poultry hatching and other services, fish hatcheries, and other fish culture activities and related services;
9. Agriculture related activities including grist milling services, corn shelling, hay baling, threshing, contract sorting, grading and packaging services and other agricultural processing services;
10. Retail trade for the sale of hay, grain, feed and other farm and garden supplies and agriculture related equipment excluding vehicles (Site Plan Review required);
11. Seasonal roadside stands, farmers marts and similar sales uses of agricultural and related products including specialty crafts and foods (Site Plan Review required);

12. Garden plots and other similar forms of communal or organizational farming practices;
13. Bed and Breakfast Inns within existing structure with limited exterior structural alterations or additions (Site Plan Review required);
14. Veterinarian, animal hospital, grooming services or other animal related services. Boarding, riding stables, and commercial kennels on a minimum of five (5) acres. Any building involving kennels shall be located not less than two hundred and fifty (250) feet from any lot line;
15. Cemeteries, churches, chapels, temples, synagogues, convents, seminaries, monasteries and nunneries with accompanying uses including gymnasium, and fellowship halls (Site Plan Review Required) but excluding schools and/or child care;
16. Public parks, public playgrounds and public recreation areas;
17. Golf courses with club house and related facilities on a minimum 60 acres for each nine-hole course (Site Plan Review Required);
18. Barns, pole buildings, greenhouses or other structures commonly constructed for storage of equipment, materials, crops or animals for use in maintaining or operating an agricultural use or for maintaining personal property on which a residence has not been constructed. All proposed buildings of this type must be identified / shown as being located outside of soil test sites for primary and secondary septic systems, where applicable.
  - a. Any building in which household, domesticated pets are kept (see Definitions, Article 27) shall be located not less than ten (10) feet from any lot line. Any building in which 4 or more household, domesticated pets or any undomesticated, non-household animals are kept shall be located not less than fifty (50) feet from any lot line.
19. Family Child Care Home as defined in Article 27 and permitted by IC 36-7-4-1107 and 1108.

## **SECTION 920- Accessory Uses**

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses including:

1. Accessory uses for a dwelling unit including:
  - a. private garages and parking;
  - b. structures such as fences, satellite dishes, and walls;
  - c. buildings such as storage sheds, private greenhouses and gazebos;
  - d. storage of a recreational vehicle or unit;
  - e. private swimming pool, sauna, bathhouse and like accessories;
  - f. private recreational court, complex or similar recreational activity;
  - g. private stables or other keeping and use of pets and animals;

2. Temporary buildings incidental to construction;
3. Offices for farm management and administration of agricultural services offered on the farm premises;
4. Accessory dwelling units to include one apartment within a single-family dwelling or accessory structures or separate dwelling unit as long as the unit is used for family or employee/s of a principally permitted use listed above and under common ownership. The accessory dwelling unit must conform to all locational requirements of single-family units;
5. Home Occupations subject to the standards in Section 2556;
6. Recreation both passive and active.

### **SECTION 930 – Conditional Uses and Criteria**

The following uses and appropriate accessories subject to the approval and conditions of the Board of Zoning Appeals provided: a) the activity is an integral part of the agricultural use of the land, and the activity is not of scale, nature or other character which will detract or conflict with the principal purposes of the district; or b) the activity is necessary to provide the specified public service for the character of the activity and does not overpower, transcend or conflict with the principal purpose of the district; and c) the arrangement of use, building or structure is mutually compatible with the organization of permitted and accessory uses to be protected in the district.

1. Retail sales farm machinery or equipment, lawn and garden equipment, nursery and similar landscape sales or products delivered or produced on the premises and sold on a continuous basis (Site Plan Review required);
2. Commercial kennels on less than five (5) acres and 250 feet from property lines and boarding stables on less than five (5) acres;
3. Duplex dwelling units;
4. Commercial stockyards and feed lots (Site Plan Review required);
5. Production, processing and wholesale sales of fertilizer (Site Plan Review required).
6. Commercial swimming beaches and swimming pools (Site Plan Review required);
7. Dude ranches, health resorts, ski resorts, hunting grounds, fishing lakes and fishing lake access, indoor and outdoor target ranges and other resort outdoor sporting activities (Site Plan Review required);
8. Recreational vehicle and trailer camps provided such living arrangements are of transient or seasonal use (Site Plan Review required) and camping, picnicking, hiking areas, trails and other private recreational uses;
9. Group Child Care Centers Class I and II (Site Plan Review required) (See Article 27 for definitions);
10. Taxidermy;

11. Public or private airports or heliports;
12. Meeting halls for non-profit or philanthropic organizations (Site Plan Review Required);
13. Year round operation of roadside stands, farmers mart and similar sales uses of agricultural and related products including specialty crafts and foods (Site Plan Review required);
14. Schools, colleges, junior colleges, universities, including fraternity and sorority houses and dormitories, business colleges and trade schools, boarding nursery schools and preschools;
15. Golf courses with club house or related facilities on less than 60 acres per nine holes (Site Plan Review Required);
16. Mobile homes, manufactured home parks subject to performance standards in Section 2560 and 2562 (Site Plan Review Required);
17. Telecommunication towers, radio and television transmitting or relay stations; antennas or satellite dishes; See Article 15 (Site Plan Review Required)
18. Sawmills including only the cutting and storing of lumber or firewood or related activities but excludes any applications or wood processing (Site Plan Review Required);
19. Confined feeding operations;
20. Water towers, electrical substations, telephone switching stations, facilities dealing with boosting or receiving data or communications signals, wind energy conversion systems, and county garage facilities;
21. Commercial services or activities that provide a needed and useful service to rural life style described within the intent of this Article, provided the use does not disrupt or detract from the primary purpose of this Article.

#### **SECTION 940– Density**

The maximum density of use shall not be greater than one lot per one (1) acre of land.

#### **SECTION 950- Minimum District Size**

The minimum size and extent of an Agriculture (A) district shall not be less than thirty (30) acres.

#### **SECTION 960- Minimum Standards**

See Article 25, Table 25-1 for dimensional standards.



## **ARTICLE 10**

### **RESIDENTIAL (R)**

#### **SECTION 1000 – Residential District (R) Intent**

The intent of this article is to provide and promote: a) the maximum possible variety and choice of dwelling types, designs, sizes and affordability; b) for persons, households and families of all marital types, ages, incomes, and interests; c) within development forms which will create cohesive residential neighborhood and community forms and identities; and d) in patterns, organizations and densities which can be predicted and thereby provide effective, efficient and justifiable use of infrastructure facilities and services.

#### **SECTION 1010 - Principally Permitted Uses**

The following uses are permitted:

1. Detached single-family dwelling units;
2. On any contiguous property **containing two (2) or more acres**, one undomesticated, non-household animal per acre may be kept; the keeping of animals customarily considered domesticated, household pets is also permitted—provided that: a) such animals are not a public nuisance and are not vicious, as defined by the Dearborn County Animal Control Ordinance (Chapter 90, Sections 90.16, 90.18, and 90.19); b) the animals do not present unsanitary conditions, as determined by the Dearborn County Department of Health; c) the animals and their keeping, including restraint (Chapter 90, Section 90.1), are compliant with the Dearborn County Animal Ordinance; and d) if there are five (5) or more dogs or cats on the premises, a kennel license is obtained, as required, from Dearborn County Animal Control (Chapter 90, Sections 90.02 and 90.38). Any building in which household, domesticated pets are kept shall be located not less than ten (10) feet from any lot line. Any building in which 5 or more household, domesticated pets or any undomesticated, non-household animals are kept shall be located not less than fifty (50) feet from any lot line. Nothing in this section shall prohibit the temporary (less than four (4) months) keeping of newborn offspring of permitted animals, nor shall these regulations prohibit the private keeping of any number of fish in aquaria, provided that they are not associated with a commercial animal establishment (as defined in Chapter 90, Section 90.02 and 90.22 in the Dearborn County Animal Control Ordinance).

3. Property owners **containing less than 2 contiguous acres** may keep as many as four (4) animals customarily considered domesticated, household pets, provided that: a) such animals are not a public nuisance and are not vicious, as defined by the Dearborn County Animal Control Ordinance (Chapter 90, Sections 90.16, 90.18, and 90.19); b) the animals do not present unsanitary conditions, as determined by the Dearborn County Department of Health; and c) the animals and their keeping, including restraint (Chapter 90, Section 90.1), are compliant with the Dearborn County Animal Ordinance. Any building in which household, domesticated pets are kept shall be located not less than ten (10) feet from any lot line. **The keeping of any undomesticated, non-household animals shall not be permitted on these types of properties unless a Variance is obtained from the Board of Zoning Appeals.** Nothing in this section shall prohibit the temporary (less than four (4) months) keeping of newborn offspring of permitted animals, nor shall these regulations prohibit the private keeping of any number of fish in aquaria, provided that they are not associated with a commercial animal establishment (as defined in Chapter 90, Section 90.02 and 90.22 in the Dearborn County Animal Control Ordinance).
4. Duplex dwelling units;
5. Farms of field crops, fruits, tree nuts, vegetables, or other agricultural growth products;
6. Farms of no predominant crops, including range and grassland pastures, horticultural specialties;
7. Horticultural, floricultural, viticultural, and other agricultural related uses and services;
8. Forestry activities including timber production, tree products production, commercial forestry production, forest nurseries and other forestry activities, Christmas tree farming and related services (Excludes sawmills, or processing of wood products other than activities necessary to ship timbers from the property);
9. Garden plots and other similar forms of communal or organizational farming practices;
10. Public parks, public playgrounds and public recreation areas;
11. Family Child Care Home as defined in Article 27 and permitted by IC 36-7-4-1107 and 1108;
12. Barns, pole buildings, green houses or other structures commonly constructed for storage of equipment, materials, crops or animals (See Items 2-3 above) for use in maintaining or operating an agricultural use or for maintaining personal property on which a residence has been constructed or is intended to be constructed. All proposed buildings of this type must be identified / shown as being located outside of soil test sites for primary and secondary septic systems, where applicable.
  - a. Any building in which household, domesticated pets are kept (see Definitions, Article 27) shall be located not less than ten (10) feet from any lot line. Any building in which 5 or more household, domesticated pets or any undomesticated, non-household animals are kept shall be located not less than fifty (50) feet from any lot line.

## **SECTION 1020 - Accessory Uses**

Accessory Uses, buildings and structure customarily incidental and subordinate *to* any of the permitted uses including:

1. Accessory uses for a dwelling unit including:
  - a. private garages and parking;
  - b. structures such as fences, satellite dishes, and walls;
  - c. buildings such as storage sheds, private greenhouses and gazebos;
  - d. storage of a recreational vehicle or unit;
  - e. private swimming pool, sauna, bathhouse and like accessories;
  - f. private recreational court, complex or similar recreational activity;
  - g. private stables or other keeping and use of pets and animals;
2. Temporary buildings incidental to construction;
3. Offices for farm management and administration of agricultural services offered on the farm premises;
4. Accessory dwelling units to include one apartment within a single-family dwelling or accessory structures as long as the unit is used for family or employee/s of a principally permitted use listed above and under common ownership. The accessory dwelling unit must conform to all locational requirements of single-family units;
5. Home Occupations subject to the standards in Section 2556;
6. The keeping and use of pets;
7. Clubhouses, community centers and similar common assembly or shared facilities where the facility is an integral part of a residential development and the membership is limited to residents of a common development or neighborhood;

## **SECTION 1030 – Conditional Uses and Criteria**

The following uses and appropriate accessories subject to the approval and conditions of the Board of Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted use; or b) the activity will not contradict the residential character of the district; and c) the arrangement of uses, buildings, or structures will be compatible with the organization of permitted and accessory uses to be protected in the district.

1. Group Child Care Centers Class I and II (Site Plan Review required) (See Article 27 for definitions);
2. Private colleges, junior colleges, universities, including fraternity and sorority houses and dormitories, business colleges and trade schools, boarding nursery schools and preschools (Site Plan Review Required);

3. Assisted living, adult care, nursing and rest homes, and institutions for the care of the aged and for children, homeless shelters and other similar and related residential uses (Site Plan Review Required);
4. Golf courses with club house or related facilities (Site Plan Review Required);
5. Mobile homes; manufactured home parks subject to standards in Section 2560 and 2562 (Site Plan Review Required);
6. Telecommunication towers, radio and television transmitting or relay station; antennas or satellite dishes; See Article 15 (Site Plan Review Required);
7. Veterinarian, animal hospital or other animal related services including grooming and commercial kennels (Site Plan Review Required). Any building involving kennels shall be located not less than two hundred and fifty (250) feet from any lot line;
8. Churches, synagogues, temples and other places of religious assembly for worship (Site Plan Review required);
9. Schools, colleges, junior colleges, universities, including fraternity and sorority houses and dormitories, business colleges and trade schools, boarding nursery schools and preschools;
10. Cemeteries including mausoleums (Site Plan Review required);
11. Townhouse dwelling units, apartment dwelling units, condominium and landminium dwelling units (Site Plan Review required);
12. Farms and ranches of dairy production, raising of livestock including cattle, hogs, sheep, goats, horses, poultry or other fowls and other animals raised for food or fur, skin or related uses. Requires a minimum of 20 acres;
13. Police and fire stations or ambulance service (Site Plan Review required);
14. Water towers, electrical substations, telephone switching stations, facilities dealing with boosting or receiving data or communications signals, wind energy conversion systems, and county garage facilities;
15. Bed and Breakfast Inns (Site Plan Review required).

#### **SECTION 1040 - Density**

The maximum density in a Residential district shall not exceed four (4) dwelling units per acre for single family use. For maximum densities for multi-family see Section 2562.

#### **SECTION 1050 - Minimum District Size**

The minimum size and extent of a Residential district, including all the contiguous private property so designated shall not be less than five (5) acres.

#### **SECTION 1060 - Minimum Standards**

See Article 25, Table 25-1 for dimensional standards. Site Plan Review required for all multi-family uses. (See Article 23)

# ARTICLE 11

## BUSINESS DISTRICTS

### **SECTION 1100 – Business District Intent**

The intent of this article is to create and provide: a) the necessary selection of goods and services required by urban, suburban and rural neighborhoods, communities and regions; b) sites which are capable of centrally serving trade area populations; c) sites which are appropriately supported and served by necessary infrastructure; d) the implementation of an overall identifiable, cohesive urban, suburban and rural form which is compact and efficient in design and makes efficient use of parking, multi-modal forms of transportation, open space and other physical characteristics of the land and improvements.

### **SECTION 1110 – Local Business (B-1)**

The purpose of the Local Business district is to provide the convenience goods and professional and personal services required for daily living needs. Districts will be located on suitable lands central to the neighborhood trade area with direct access from neighborhood collector roads or arterials and will be compatible with residential districts. Activities conducted within the permitted uses within this district will be conducted inside enclosed structures with **little or no outside display or storage**. District facilities and plans will be organized to provide central and convenient collection of vehicles, pedestrians and multi-modal forms of transportation within the district's facilities.

### **SECTION 1115 – Principally Permitted Uses**

The following uses are permitted:

1. Eating and drinking establishments, including alcoholic beverages, and pizza delivery excluding drive-thru facilities;
2. Grocery stores and supermarkets, convenience stores, liquor beverage drug and proprietary stores;
3. Welfare and charitable services;
4. Music, video and game rental stores;
5. Household appliances, china, glassware and metal ware
6. Stores with retail sales of meat, fish, seafood, dairy and poultry products, fruit and vegetable stores; bakeries, candy nut and confectionery stores;

7. Banking and financial services savings and loan associations, credit unions and other credit services; business and personal credit services and title services, security brokers investment services and finance companies;
8. Office supplies and equipment, copy centers, and small print shops;
9. Insurance carriers and agents, accounting, auditing and bookkeeping services, travel agents and agencies, detective and protective services;
10. Real estate operators, agents, lessors and real estate sub-dividing and developing services, operative builders and related services, real estate agents brokers and management services;
11. Real estate management services and builders' offices (excluding any outside storage equipment and the like);
12. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities;
13. Physician and dental services including medical, dental laboratories and clinics;
14. Legal, engineering, architectural, education and scientific research services, charitable and social services administration offices;
15. Professional, social, fraternal, civic and business associations and organizations with all meetings and activities being conducted indoors;
16. Veterinary services and pet grooming services but not including the boarding of animals;
17. Beauty and barber services and tanning salons, and massage;
18. Group Child Care Centers Class I and II (Site Plan Review required) (See Article 27 for definitions);
19. Writing and publishing of newspapers, periodicals and books;
20. Bed and Breakfast Inns;
21. Laundering, dry cleaning and dyeing services including self-service, alteration and garment repair and custom tailoring, shoe repair, shoe shining and hat cleaning services;
22. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trades;
23. Photography studios, retail sales of cameras and accessories, photo finishing services and supplies, picture framing;
24. Sales and repair of computers, radios, television, VCR's, clocks, pianos, and jewelry sales and repairs;
25. Hardware and home improvement stores, paint, glass and wallpaper stores and related products;
26. Draperies, curtains, upholstery and floor coverings, carpet and rugs and related household products;

27. Furniture and bedding stores, antiques and used merchandise and other specialty stores, art, craft and hobby supplies and products, gifts and novelties, pawn shops;
28. Book, newspaper, magazine and card stores;
29. Colleges, junior colleges, universities, including fraternity and sorority houses and dormitories, business colleges and trade schools, boarding nursery schools, preschools, libraries, and museums;
30. Florists including greenhouses;
31. Auto parts and accessories stores, gasoline filling stations;
32. Sporting goods sales, fitness and recreation centers including gymnasiums, clubs and similar indoor athletic uses, including indoor shooting ranges;
33. Churches, synagogues, temples and other places or religious assembly for worship;
34. Funeral homes and crematoriums including cemeteries or mausoleums;
35. Art, music, dancing, karate or similar schools;
36. Assisted living, adult care, nursing and rest homes, hospitals, clinics and institutions for the care of the aged and for children, homeless shelters and other similar and related residential uses;
37. Police and fire stations or ambulance services;
38. Telephone exchange stations, radio broadcasting studios, television broadcasting studios and other communication centers and offices *excluding* any relay, transmitting or receiving towers or similar equipment;
39. Dwelling units, provided the living area is located within the structure of a business and the living area does not occupy more than 50 percent of the structure.

### **SECTION 1120 - Accessory Uses**

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses defined to be:

1. Uses or spaces of integral relation to the developed portions of the district;
2. Accessory uses for dwelling listed in Article 10;
3. Signage (See Article 20);
4. Parking (See Article 21);
5. Temporary buildings incidental to construction;
6. Storage, uncrating or unpacking areas provided such activities are an integral function of a permitted use and do not create enclosed or outside spaces which will tend to enlarge or overpower the activities of permitted uses;
7. Automatic teller machines;

8. Recycling collection points;
9. The rental of trucks and trailers (only permitted to be displayed in the side or rear of the property);
10. Recreation.

### **SECTION 1125 – Conditional Uses and Criteria**

The following uses and appropriate accessories subject to the approval and conditions of the Board of Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use, professional or personal service; or b) the activity will further add to and not detract from the creation of a compact, multi-purpose center; and, c) the arrangement of uses, buildings or organization of permitted and accessory uses to be protected in the district:

1. Automotive repair facility and wash services for vehicles;
2. Garden and landscape sales including florist greenhouses, lawn furniture, gazebos, sheds and the like;
3. Eating and drinking establishments, including alcoholic beverages, with drive-thru facilities;
4. Small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises;
5. Sale of farm implements, lawn and garden equipment;
6. Small scale sales or leasing of new and used recreational vehicles requiring the storage of no more than fifty (50) vehicles on the premises;
7. Mini-warehouses or storage facilities;
8. Printing of newspapers, books, and periodicals;
9. Telecommunication towers, radio and television transmitting or relay stations; antennas or satellite dishes, telephone exchange stations, radio broadcasting studios, television broadcasting studios and other communication centers and offices requiring relay, transmitting or receiving towers or similar equipment; (See Article 15)
10. Real estate management services and builders' offices etc. requiring outside storage equipment or supplies;
11. Golf courses, miniature golf, driving ranges, go-cart tracks and other specialized amusement facilities, drive-in theaters, and roller skating rinks, bowling alleys, swimming beaches, skiing and other similar activities;
12. Camping, recreation vehicle and trailer camps (transient or seasonal use only) and related activities, dude ranches, youth camps, retreat centers, health resorts, ski resorts, amusement and water parks, fairgrounds, and amphitheaters;
13. Yachting, boat rentals, boat access sites and marinas including the sale of fuels;



14. Water towers, electrical substations, telephone switching stations, facilities dealing with boosting or receiving data or communications signals, wind energy conversion systems, and county garage facilities;
15. Stadiums, arenas, field houses, race tracks (both vehicle and animal) and related activities and uses.

#### **SECTION 1130 - Density**

The density of use in a Local Business district of under two (2) acres shall not exceed 8,000 square feet of gross floor area per acre of land. The density of use in a Local Business district two (2) acres or larger shall not exceed 10,000 square feet of gross floor area per acre of land.

#### **SECTION 1135 - Minimum District Size**

There is no minimum size or extent required of a Local Business district.

#### **SECTION 1140 - Minimum Standards**

See Article 25, Table 25-1 for dimensional standards. Site Plan Review required for all permitted and conditional uses. (See Article 23)

## **SECTION 1150 –Community Business (B-2)**

The purpose of the Community Business district is to provide comparable shopping goods, personal and professional services, and some convenience goods for normal living needs as well as major purchase opportunities. This district would serve to accommodate the current and future service demands of an expanding local population that normally can't be met because of the limited type and scale of office, recreational or retail use in the immediate area. Districts will be located on suitable lands primarily central to trade areas and to some extent the community as a whole; such districts also have access from expressways or arterial roads. District facilities and plans will be organized to provide central and convenient collection of vehicles, pedestrians and multi-modal forms of transportation within the district's facilities and major shopping spaces. Uses within this district may require large outside display or storage of products and related items.

## **SECTION 1155 - Principally Permitted Uses**

The following uses are permitted:

1. All principally permitted uses of a Local Business (B-1) district, including drive-thrus;
2. Department stores, mail order houses, direct retail selling organizations of general merchandise;
3. Art and craft galleries and similar exhibit space;
4. Aquariums, botanical gardens and other natural exhibitions;
5. Arcades and other amusement centers;
6. Motion picture theaters (indoor);
7. Bowling alley, skating rinks, roller skating rinks, miniature golf courses golf driving ranges, and skateboard facilities;
8. Hotels and motels including convention facilities;
9. Gasoline filling station and automotive repair facility;
10. Garden and landscape sales including florist greenhouses, lawn furniture, gazebos, sheds and the like;
11. Sale of automobiles, boats and other water craft, motorcycles, farm implements, lawn and garden equipment, recreational vehicles campers, mobile homes, sheds, car ports and other pre-fabricated buildings;
12. Golf courses, miniature golf, driving ranges, go-cart tracks and other specialized amusement facilities, and roller skating, bowling, swimming beaches, skiing and other similar outdoor activities;
13. Camping, recreation vehicle and trailer camps (transient or seasonal use only) and related activities, dude ranches, youth camps, retreat centers, health resorts, ski resorts, amusement and water parks, fairgrounds, and amphitheaters;

14. Yachting, boat rentals, boat access sites and marinas including the sale of fuels;
15. Stadiums, arenas, field houses, race tracks both vehicle and animal and related activities and uses;
16. Sporting goods and accessories including the sales and service of new and used marine craft, recreational vehicles, camping trailers and motorcycles and other sporting equipment and sales;
17. Garden and landscape sales, lawn furniture and the like, farm and garden supply outlets including equipment and vehicles;
18. Sales of lumber, building materials, heating and plumbing equipment, electrical supplies, hardware and farm equipment (normally requires large outside storage and display areas);
19. Self storage facilities;
20. Equipment, tool, automobile, truck rental and leasing services;
21. Reupholstery and furniture repairing and refinishing services;
22. Telecommunication towers according to standards in Article 15;
23. Hospitals, mental facilities, facilities for the insane, substance abuse and related facilities;
24. Water towers, electrical substations, telephone switching stations, facilities dealing with boosting or receiving data or communications signals, wind energy conversion systems, and county garage facilities;
25. Jails, and detention centers or similar uses excluding prisons or correctional facilities;
26. Airports, bus terminals or other transportation facilities.

#### **SECTION 1160 - Accessory Uses**

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses including:

1. Uses or spaces of integral relation to the developed portions of the district;
1. Accessory uses for dwelling listed in Article 10;
2. Signage (See Article 20);
3. Parking (See Article 21);
4. Temporary buildings incidental to construction;
5. Storage, uncrating or unpacking areas provided such activities are an integral function of a permitted use and do not create enclosed or outside spaces which will tend to enlarge or overpower the activities of permitted uses;
6. Automatic teller machines;
7. Recycling collection points;
8. The rental of trucks and trailers (only permitted to be displayed in the side or rear of the property);
9. Recreation.

## **SECTION 1165 – Conditional Uses and Criteria**

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use, professional or personal service; or b) the activity will further add to, not detract from, the creation of a compact, multi-purpose and pedestrian oriented commerce center; and c) the arrangement of uses, buildings or structures will be mutually compatible with the organization of permitted and accessory uses to be protected in the district:

1. Drive-in restaurants, movie theater or similar use;
2. Truck stops, wash and repair facilities;
3. Flea markets and similar uses;
4. Real estate management services and builders offices etc. requiring outside storage equipment and the like;
5. The writing, publishing of newspapers, periodicals and books provided any printing operation is subservient to the writing and publishing activity and does not conflict with the purposes of permitted uses of the district;
6. Radio and television transmitting or relay stations; antennas or satellite dishes, telephone exchange stations, radio broadcasting studios, television broadcasting studios and other communication centers and offices requiring relay, transmitting or receiving towers or similar equipment.

## **SECTION 1170 – Density**

The density of use in a Community Business district of under four (4) acres shall not exceed 10,000 square feet of gross floor area per acre of land. In a Community Business district of four (4) acres or larger the intensity of use shall not exceed 15,000 square feet of gross floor area per acre of land.

## **SECTION 1175 - Minimum District Size**

The minimum size and extent of a Community Business shall not be less than two (2) acres and shall consist of contiguous private property.

## **SECTION 1180 - Minimum Standards**

See Article 25, Table 25-1 for dimensional standards. Site Plan Review required for all permitted and conditional uses. (See Article 23)

## **ARTICLE 13**

### **INDUSTRIAL DISTRICTS**

#### **SECTION 1300 – Industrial Districts Intent**

The intent of this article is to create districts, which provide for central, compact centers of industry, which are compatible in activities and scale. In addition, this article will provide for appropriate public facilities and/or services to the permitted uses identified in the district and adequate support infrastructure. Such districts are located in areas which provide employment opportunities for community and regional labor markets. Districts will be located on suitable lands accessible from expressways and/or arterials. This article allows for integrated office campus and/or industrial/warehouse developments with a business park setting, characterized by landscaped entrances, boulevard streets, large amount of green space and low building coverage ratio, multi-level buildings, constant architectural and signage theme, parking structures, and integrated pedestrian and recreation facilities.

Commercial and retail businesses permitted by this article are intended to serve the manufacturing and industrial uses permitted within this article and not serve as additional business districts.

#### **SECTION 1302 – Light Industrial (I-1)**

The purpose of the Light Industrial district is to allow different types of small to large-scale light manufacturing, warehouse, distribution and related service uses, which require direct accessibility to a regional transportation system. Manufacturing operations in this district will generally not utilize unrefined raw materials, whose processing may potentially create undesirable noise, odors, dust, smoke, hazardous materials or waste or be delivered in large bulk transportation forms.

#### **SECTION 1304 -Principally Permitted Uses**

Permitted are the wholesale distribution, storage, manufacturing and assembly of industrial products:

1. All principally permitted uses in the Agricultural (A) district excluding residential uses;
2. Gasoline filling station and automotive repair facility;
3. Sale of automobiles, boats and other water craft, motorcycles, farm implements, lawn and garden equipment, recreational vehicles campers, mobile homes, sheds, car ports and other pre-fabricated buildings;
4. Garden and landscape sales including florist greenhouses, lawn furniture, gazebos, sheds and the like, farm and garden supply outlets including equipment and vehicles;

5. Sales of lumber, building materials, heating and plumbing equipment, electrical supplies, hardware and farm equipment (normally requires large outside storage and display areas);
6. Self-storage facilities;
7. Equipment, tool, automobile, truck rental and leasing services;
8. Reupholstery and furniture repairing and refinishing services;
9. Food and similar products, including the manufacture or processing of grain, sugar, oil, fat, glues, grease, tallow, lard gelatin, vinegar, yeast, starch, dextrin, glucose and sauerkraut but *excluding* the primary manufacture of meat and fish, which includes the stocking and storing of live animals or garbage, offal or dead animal reduction or dumping of any tanning, curing or storage of rawhides or skins;
10. Textile mill products *except* primary manufacture of dyes, fibers, felt, rubber goods;
11. Apparel and other finished products made from fabrics, leather and similar materials *except* primary manufacture of rubber;
12. Fabricated furniture and fixtures, wood products including containers, building components, structural members, but *excluding* the primary manufacture of wood or wood products;
13. Fabrication of metal, plastic, wood or related materials for products, patterns, presses, molds or dies but not the primary manufacture of same, *except* large scale machinery, and transportation vehicles;
14. Paper products including envelopes, bags, boxes and containers, but *excluding* the primary manufacture of pulp, paper, paperboard or paper products;
15. Pharmaceutical preparations, perfumes, cosmetics and other toiletry preparations, soaps and other detergents;
16. Professional, scientific and controlling instruments, photographic and optical goods, watches and clocks, electric and electronic equipment;
17. Jewelry and precious metals, musical instruments and parts, toys, amusement, sporting and athletic goods, pens, pencils and other office and artists materials, brooms and brushes, lamp shades, signs and advertising displays, umbrellas, parasols and canes and other miscellaneous fabrication activities;
18. Technology and research centers including medical/hospital research establishments and scientific and biological research;
19. Educational and governmental institutions;
20. Wholesale trade of automobile accessories and parts;
21. Wholesale trade of drugs, drug proprietaries and sundries;
22. Wholesale trade of dry goods and apparel, groceries and related products in enclosed facilities, agricultural contract sorting, grading and packaging services of fruits and vegetables;
23. Wholesale trade of electrical and electronic parts;

24. Wholesale trade of hardware, lumber, plumbing, heating, equipment and supplies;
25. Wholesale trade of small machinery, equipment and supplies *except* transportation or farm vehicles;
26. Other wholesale trade except non-containerized or bulk raw metals and minerals, petroleum products, scrap and waste materials;
27. Laundering, dry cleaning and dyeing services including rugs, linen supply and industrial laundry services;
28. Refrigerated, household goods (mini-warehouses) and other general refrigerated warehousing and storage;
29. Research, development and testing services;
30. Electrical repair and armature rewinding services;
31. Scientific research services and laboratories;
32. Building construction, general contractor, plumbing, heating, air conditioning, painting, paper handling, decorating, electrical, masonry, stonework, tile setting, plastering, carpentry, wood flooring, roofing and sheet metal, water-well drilling, septic and other special construction trade offices, supply, storage and related activities, window cleaning, disinfecting, exterminating and other dwelling and building services;
33. Postal services and related storage, distribution and transfer activities;
34. Motor freight terminals, public warehousing including freight forwarding, packing and crating services, freight garaging and equipment maintenance;
35. Photo finishing and other photographic laboratories, printing industries, blueprinting and photocopying services, stenographic services and other duplicating, mailing and delivering services;
36. Wholesale trade of containerized paints, varnishes, chemicals and allied products;
37. Welding shops for the repair of industrial machinery and heavy equipment;
38. Truck stops and related services;
39. Recycling centers with products stored and processed indoors;
40. Fire stations or fire related or protective services including rescue services;
41. Hospitals, mental facilities, facilities for the insane, substance abuse and related facilities;
42. Jails, and detention centers or similar uses excluding prisons or correctional facilities;
43. Airports, bus terminals or other transportation facilities.
44. Railroad passenger stations; railroad rights-of-way;
45. Water towers, electrical substations, telephone switching stations, facilities dealing with boosting or receiving data or communications signals, wind energy conversion systems, and county garage facilities;

46. Radio and television transmitting or relay stations; antennas or satellite dishes, telephone exchange stations, radio broadcasting studios, television broadcasting studios and other communication centers and offices requiring relay, transmitting or receiving towers or similar equipment and telecommunication towers according to standards in Article 15;
47. Telephone exchanges, equipment buildings, utility service stations, water works, reservoirs, pumping stations and filtration plants.

### **SECTION 1306 - Accessory Uses**

Accessory uses, buildings and structures customarily incidental and subordinate to the purpose of the district including:

1. Recreational uses;
2. The administration management, research, and any related or integral office use or activity of the permitted use;
3. Railroad right-of-way including switching and marshaling tracks and freight terminals;
4. Marine freight terminals;
5. Employment services;
6. Signage (See Article 21);
7. Parking (See Article 22);
8. Outside storage of equipment and materials subject to appropriate screening as approved by the Planning Director;
9. Food service for office, manufacturing or distribution uses.

### **SECTION 1308 – Conditional Uses and Criteria**

The following uses and appropriate accessories subject to the approval and conditions of the Board of Zoning Appeals provided: a) the activity is provided primarily in support of and obtains its trade from the employees of the district; or b) the activity is of integral relation to the purpose of the district; and c) the use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses of the district; and d) the arrangement of uses, buildings or structures is mutually compatible with the organization of permitted and accessory uses to be protected in the district:

1. Uses in which the primary business activity involves the following:
  - a. the storage of explosives or fireworks, gas, or petroleum according to State law;
  - b. bag cleaning;
  - c. blast furnaces, cupolas, rolling mills, coke ovens, forging, foundering, refining or smelting;



- d. creosote treatment;
  - e. distillation of bones, coal or wood;
  - f. enameling, japanning or lacquering;
  - g. radium or radioactive elements;
  - h. crushing or other reduction or waterproofing;
  - i. the storage of chemicals;
- 2. Animal processing and packaging;
  - 3. Wholesale trade of non-containerized paints, varnishes, chemicals and allied products;
  - 4. Radio and television transmitting or relay stations; antennas or satellite dishes, telephone exchange stations, radio broadcasting studios, television broadcasting studios and other communication centers and offices requiring relay, transmitting or receiving towers or similar equipment;
  - 5. Convenience stores;
  - 6. Banking and financial services savings and loan associations, credit unions and other credit services; business and personal credit services and title services, security brokers investment services and finance companies;
  - 7. Sewage and waste water treatment plants.

#### **SECTION 1310 – Density**

The maximum intensity of all uses in a Light Industrial district shall not exceed 25,000 square feet of gross floor area per acre.

#### **SECTION 1312 - Minimum District Size**

The minimum size and extent of a Light Industrial district, shall not be less than five (5) acres and shall consist of contiguous private property.

#### **SECTION 1314 – Minimum Standards**

All permitted, accessory and conditional uses, buildings and structures in this district are subject to the Article 25, Table 25-1 for dimensional standards and Article 23 for Site Plan Review requirements.

## **SECTION 1320 – Moderate Industrial Intent (I-2)**

The purpose of the Moderate Industrial district is to provide for those types of moderate to heavy industrial uses, which have extensive outside storage requirements, require large movement of vehicles and goods and cannot be accommodated in a Light Industrial district. Uses in this district involve heavy equipment, machinery, or other products, which require sufficient infrastructure and results in a substantial economic impact. Uses in this district will generally utilize unrefined raw materials, whose processing may potentially create noise, odors, dust, smoke; involve hazardous materials or waste or be delivered in large bulk transportation forms. Such districts will be organized to provide employment opportunities for regional and extra regional labor markets. Districts will be located on lands with direct access to expressways and/or arterials, rail lines and navigable waterways.

## **SECTION 1322 - Principally Permitted Uses**

The following uses which involve the manufacture, assembly, processing, refining, treatment, or storage of the following, are permitted:

1. Any principally permitted use of a Light Industrial (I-1) district;
2. Acids, creosote, or petroleum products;
3. Bag cleaning, blast furnaces, cupolas, rolling mill, coke oven, forging, foundries, refining, and smelting;
4. Electroplating, enameling, japanning, or lacquering, corrosion of aluminum, copper, iron, tin, lead or zinc;
5. Distillation of alcohol, coal, or wood;
6. Grinding, sandblasting, cutting, washing, or other reduction or waterproofing;
7. Animal processing and packaging;
8. Sawmills and planing mills, hardwood products and flooring, millwork, veneer and plywood and prefabricated wooden buildings and other lumber and wood products;
9. Stone, clay, and glass products including cement, lime, gypsum, plaster of paris, abrasives, and cut stone excluding extraction;
10. Automobiles, trucks, heavy machinery and transportation or recreational vehicles and equipment, aircraft or any part or parts of;
11. Chemicals and allied products, petroleum and coal products, rubber and plastics products, leather and leather products;
12. Breweries, distilleries or related processes;
13. Wholesale trade of heavy machinery, equipment, and supplies, including transportation and farm equipment;
14. Wholesale trade of paints, varnishes, chemicals, and allied products;
15. Railroad and marine craft rights-of-way including switching and marshaling yards;

16. Electric generating plants, substations, water treatment, storage and distribution plants and sewage and waste water disposal plants;
17. Asphalt and concrete plants, and commercial stockyards;
18. Sexually Oriented Business (I-2 only; see Article 14).

#### **SECTION 1324 - Accessory Uses**

Accessory uses, buildings and structures customarily incidental and subordinate to the purposes of the district including:

1. Recreation uses;
2. The administration, management, research, sales and any related or integral office use or activity of the permitted use;
3. Public transit stations and terminals;
4. Signage (See Article 20);
5. Parking (See Article 21);

#### **SECTION 1326 – Conditional Uses and Criteria**

The following uses and appropriate accessories subject to the approval and conditions of the Board of Zoning Appeals provided: a) the activity is provided primarily in support of and obtains its trade from the employees of the district; or b) the activity is of integral relation to the purpose of the district; c) the use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses of the district; and d) provided the arrangement of uses, buildings or structures is mutually compatible with the organization of permitted and accessory uses to be protected in the district:

1. The manufacture, assembly, processing, treatment or storage of explosives or fireworks as permitted under State law;
2. Junkyards, Salvage Yards, Wrecking Yards;
3. Landfills, and incinerators;
4. Gas production plants or refineries, natural or manufacture gas and oil storage and distribution points, gas pressure control stations which serve a regional service or trade area;
5. Permitted and Conditional uses within Community Business Districts.

#### **SECTION 1328 - Density**

The maximum intensity of uses in a Moderate Industrial district shall not exceed 25,000 square feet of gross floor area per acre.

### **SECTION 1330 - Minimum District Size**

The minimum size and extent of a Moderate Industrial district shall not be less than twenty (20) acres and shall consist of contiguous private property.

### **SECTION 1332 - Minimum Standards**

All permitted, accessory and conditional uses, buildings and structures in this district are subject to the Article 25, Table 25-1 for dimensional standards and Article 23 for Site Plan Review requirements.

### **SECTION 1340 – Heavy Industrial Intent (I-3)**

The following regulations shall apply in all Heavy Industrial (I-3) districts. The intent of this district is to regulate surface and subsurface mining excavation, extraction, processing, storage, loading, hauling, and unloading of sand, gravel, rock, clay, shale, stone, coal, and similar natural resources including soil and minerals and for treatment and processing of such products which may be produced from such raw materials.

### **SECTION 1342 - Principally Permitted Uses**

The following uses are permitted:

1. Any principally permitted use or conditional use of an I-1 or I-2 district;
2. Surface and subsurface mining;
3. Prison and correctional institutions;
4. Junkyards, Salvage Yards, Wrecking Yards;
5. Landfills, and incinerators;
6. The manufacture, assembly, processing, treatment or storage, explosives or fireworks as permitted under State law;
7. Gas production plants, natural or manufactured gas and oil storage and distribution points, gas pressure control stations;

### **SECTION 1344 - Accessory Uses**

Accessory uses, buildings and structures customarily incidental and subordinate to the purposes of the district including:

1. Recreation uses;
2. The administration, management, research, sales and any related or integral office use or activity of the permitted use;
3. Public transit stations and terminals;
4. Signage (See Article 20);
5. Parking (See Article 21);

### **SECTION 1346 – Conditional Uses and Criteria**

The following uses and appropriate accessories subject to the approval and conditions of the Board of Zoning Appeals provided: a) the activity is provided primarily in support of and obtains its trade from the employees of the district; or b) the activity is of integral relation to the purpose of the district; and c) the use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses of the district; and d) provided the arrangement of uses of buildings or structures is mutually compatible with the organization of permitted and accessory uses to be protected in the district:

1. Permitted and Conditional uses within Community Business Districts.

### **SECTION 1348 - Density**

There is no maximum density for uses in a Heavy Industrial district.

### **SECTION 1350 - Minimum District Size**

The minimum size and extent of a Heavy Industrial district shall not be less than fifty (50) acres and shall consist of contiguous private property.

### **SECTION 1352 - Minimum Standards**

All permitted, accessory and conditional uses, buildings and structures in this district are subject to the Article 25, Table 25-1 for dimensional standards and Article 23 for Site Plan Review requirements.





## ARTICLE 14

### SEXUALLY ORIENTED BUSINESSES

#### SECTION – 1400 Purpose and Intent

It is the purpose and intent of this Article to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the County and to establish reasonable and uniform regulations to allow sexually oriented businesses in locations where their presence will cause no deleterious or adverse secondary effects. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of the ordinance to condone or legitimize the distribution of obscene material.

#### SECTION 1405 - Definitions

For the purpose of this Article, certain terms and words are defined as follows:

A. **Sexually Oriented Businesses** are those businesses defined as follows:

1. **Adult Arcade:** an establishment where pictures or images are shown by any medium or technology for viewing by five or fewer persons each, which are characterized by the depiction or descriptions of specified sexual activities or genital areas.
2. **Adult Novelty, Video or Bookstore:** a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:
  - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
  - b. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or sexual abuse of themselves or others.
  - c. An establishment may have other principal business purposes that do not involve the offering for sale rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its



principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

3. **Adult Cabaret:** a nightclub, bar, restaurant, "bottle club", or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear nude, semi-nude or in a state of nudity; (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
4. **Adult Motel:** a motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub rent the sleeping room for a time period of less than ten (10) hours.
5. **Adult Motion Picture Theater:** a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.
6. **Adult Theater:** a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."
7. **Escort:** a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
8. **Escort Agency:** a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purpose for a fee, tip, or other consideration.
9. **Massage Parlor:** any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of, or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas". The definition of sexually oriented business shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath or therapist, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor

or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

10. **Nude Model Studio:** any place where a person, who regularly appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
  11. **Sexual Encounter Establishment:** a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.
- B. **Employee** means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.
- C. **Establishment** means and includes any of the following:
1. The opening or commencement of any such business as a new business;
  2. The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
  3. The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or
  4. The relocation of any such sexually oriented business.
- D. **Nudity or State of Nudity** means: (a) the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.
- E. **Operator** means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.
- F. **Permitted or Licensed Premises** means any premises that require a license and/or permit and that is classified as a sexually oriented business.
- G. **Permittee and/or Licensee** means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.
- H. **Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- I. **Public Building** means any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

- J. **Public Park or Recreational Area** means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the County which is under the control, operation, or management of the County park and recreation authorities.
- K. **Religious Institution** means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
- L. **Residential District or Use** means a single family, duplex, townhouse, multiple family, or mobile park or subdivision and campground as defined in the Dearborn County Zoning Code.
- M. **School** means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. "School" includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- N. **Semi-Nude** means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.
- O. **Sexually Oriented Business** means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.
- P. **Specified Anatomical Areas**, as used in this division, means and includes any of the following:
1. Human genitals, pubic region, buttocks, anus, or female breast below a point immediately above the top of the areolae; or
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- Q. **Specified Sexual Activities** as used in this division, means and includes any of the following:
1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
  2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
  3. Masturbation, actual or simulated;
  4. Human genitals in a state of sexual stimulation, arousal or tumescence;
  5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection.
- R. **Substantial Enlargement of a Sexually Oriented Business** means increase in the floor areas occupied by the business by more than 15%, as the floor areas exist on the effective date of Dearborn County Commissioners Ordinance # 7 - 1996.
- S. **Transfer of Ownership or Control of a Sexually Oriented Business** means and includes any of the following:

1. The sale, lease or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;
3. The establishment of a trust, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

### **SECTION – 1410 Regulations for Sexually Oriented Businesses**

The establishment of a sexually oriented business shall be permitted only in the specified M-2 zones, and shall be subject to the following restrictions. No person shall cause or permit the establishment of any of the following sexually oriented businesses, as defined above, within 1,000 feet of another such business or within 1,000 feet of any religious institution, school, boys club, girls club, or similar existing youth organization, or public park or public building, or within 1,000 feet of any property zoned for residential use or used for residential purposes and are classified as follows:

1. Adult arcade
2. Adult bookstore, adult novelty store or adult video store
3. Adult cabaret
4. Adult motel
5. Adult motion picture theater
6. Adult theater
7. Massage parlor
8. Sexual encounter establishment
9. Escort agency, or
10. Nude model studio.

Nothing in this Section prohibits the location of sexually oriented businesses within retail shopping centers in all M-2 zones and within M-2 zones wherein such activities will have their only frontage upon enclosed malls or malls isolated from direct view from public streets, parks, schools, religious institutions, boys clubs, girls clubs, or similar existing youth organization, public buildings or residential districts or uses without regard to the distance requirements listed above.

## **SECTION – 1415 Measurement of Distance**

The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexually oriented business and any religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes shall also be measured from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted, to the nearest property line of the premises of a religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization or public park or public building or any properties zoned for residential use or used for residential purposes.

## **SECTION – 1420 Location of Sexually Oriented Businesses**

Sexually Oriented Businesses shall be permitted only as provided in this section in which such use is listed as permissible. Permits for sexually oriented businesses shall be required and governed by the procedures and policies specified by this Ordinance. In addition, any sexually oriented business shall be subject to the following restrictions:

- A. No person shall operate or cause to be operated a sexually oriented business except as provided in this Article.
- B. No person shall operate or cause to be operated a sexually oriented business within 1,000 feet of: (a) any religious institution; (b) any school; (c) the boundary of any residential district; (d) a public park adjacent to any residential district; (e) a property line of a lot devoted to residential use; or (f) a boys club, girls club, or similar existing youth organization, except as provided in Article.
- C. No person shall operate or cause to be operated a sexually oriented business within 1,000 feet of another such business, which will include, any adult arcade, adult book store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment, except as provided in Article.
- D. No person shall cause or permit the operation, establishment, or maintenance of more than one sexually oriented business within the same building, structure, or portion thereof, except as provided in this Article, or cause the substantial enlargement of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.
- E. A person appearing in a state of nudity for a modeling or painting class shall not be considered a Sexually Oriented Business if operated by a:
  - 1. Proprietary school, licensed by the State of Indiana; a college, junior college, or university supported entirely or partly by taxation;
  - 2. A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
  - 3. In a structure in which the following apply:

- a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
- b. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
- c. Where no more than one nude model is on the premises at any one time.

#### **SECTION – 1425 Regulations Governing Existing Sexually Oriented Businesses**

Any sexually oriented businesses lawfully operating prior to the effective date of this ordinance, that is in violation of this Article, shall be deemed a non-conforming use and subject to the requirements in Article 4 of this Ordinance.



## **ARTICLE 15**

### **WIRELESS TELECOMMUNICATIONS FACILITIES**

#### **SECTION 1500 - Purpose and Intent**

The purpose and intent of this Article is to regulate the placement, construction, and modification of Wireless Telecommunications Facilities in order to minimize its negative impact on the character and environment of the County and to protect the health, safety and welfare of the public. The provisions of this ordinance will establish a reasonable and efficient process for the review and approval of Applications, and assure an integrated and comprehensive review of the environmental impacts of such facilities. The County recognizes that facilitating the development of wireless service technology can be an economic development asset to the County and of significant benefit to both the County and its residents. Therefore, it is not the County's intent to unreasonably interfere with the development of the competitive wireless telecommunications marketplace in Dearborn County. Specifically the purposes of these regulations are:

1. To regulate the location of Wireless and Cellular Telecommunications Towers and Facilities within the County;
2. To protect residential areas and land uses from potential adverse impacts of Wireless and Cellular Telecommunications Towers and Facilities;
3. To minimize adverse visual impacts of Wireless and Cellular Telecommunications Towers and Facilities through careful design, placement, landscaping, preservation of natural vegetation and innovative camouflaging techniques and a reduction of the need for new Towers;
4. To promote and encourage shared use and co-location of Wireless and Cellular Telecommunication Facilities as a primary option rather than encouraging the construction of additional single-use towers;
5. To avoid potential damage to adjacent properties caused by Wireless and Cellular Telecommunications Towers and facilities by ensuring such structures are soundly and carefully designed, constructed, screened, modified, maintained, and removed;
6. To the greatest extent feasible, ensure that Wireless and Cellular Telecommunications Towers and Facilities are compatible with surrounding land uses.

#### **SECTION 1502 - Definitions**

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word “shall” is always mandatory, and not merely directory.



1. **“Accessory Facility or Structure”** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **“Applicant”** means any Wireless service provider submitting an Application for a permit for Wireless Telecommunications Facilities.
3. **“Application”** means all necessary and appropriate documentation that an Applicant submits in order to receive a permit for Wireless Telecommunications Facilities.
4. **“Antenna”** means any communications equipment that transmits or receives electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PCS), microwave Telecommunications and services not licensed by the FCC, but not expressly exempt from the County’s siting, building and permitting authority.
5. **“Base station”** means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.
6. **“Business Day”** means a day other than a Saturday, a Sunday, or a holiday as defined by the Dearborn County Code of Ordinances.
7. **“Co-location”** means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.
8. **“Commercial Impracticability”** or **“Commercially Impracticable”** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
9. **“Completed Application”** means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
10. **“County”** means the County of Dearborn, Indiana.
11. **“Electrical Transmission Tower”** means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.
12. **“Equipment compound”** means the area that: (1) surrounds or is near the base of a wireless support structure; and (2) encloses wireless facilities.

13. **"FAA"** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
14. **"FCC"** means the Federal Communications Commission, or its duly designated and authorized successor agency.
15. **"Free Fall Area"** means the area within which the wireless support structure is designed to collapse, as set forth in the Applicant's engineering certification for the wireless support structure.
12. **"Height"** means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightning protection device.
13. **"Modification"** means the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
14. **"NIER"** means Non-Ionizing Electromagnetic Radiation
15. **"Person"** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
16. **"Personal Wireless Facility"** - See definition for 'Wireless Telecommunications Facilities'.
17. **"Personal Wireless Services"** or **"PWS"** or **"Personal Telecommunications Service"** or **"PCS"** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
18. **"Conditional Use Permit"** means a permit granted by the Board of Zoning Appeals permitting Wireless Telecommunications Facilities as required by this ordinance.
19. **"Small Cell Facility"** means: (1) a personal wireless service facility (as defined earlier in this Section and by the Federal Telecommunications Act of 1996); or (2) a wireless service facility that satisfies the following requirements:
  - (A) Each antenna, including exposed elements, has a volume of three (3) cubic feet or less.
  - (B) All antennas, including exposed elements, have a total volume of six (6) cubic feet or less.

(C) The primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less. For purposes of this subsection, the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure:

- (1) Electric meters.
- (2) Concealment equipment.
- (3) Telecommunications demarcation boxes.
- (4) Ground based enclosures.
- (5) Back up power systems.
- (6) Grounding equipment.
- (7) Power transfer switches.
- (8) Cut off switches.

20. **"Small Cell Network"** means a collection of interrelated small cell facilities designed to deliver wireless service.

21. **"State"** means the State of Indiana.

20. **"Stealth" or "Stealth Technology"** means minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

21. **"Substantial Modification of a Wireless Support Structure"** means the mounting of a wireless facility on a wireless support structure in a manner that:

(A) increases the height of the wireless support structure by the greater of:

- (1) ten percent (10%) of the original height of the wireless support structure;
- or (2) twenty (20) feet;

(B) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of:

- (1) twenty (20) feet; or
- (2) the width of the wireless support structure at the location of the appurtenance; or
- (3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.

This term does not include the following:

(A) Increasing the height of a wireless support structure to avoid interfering with an existing antenna.

(B) Increasing the diameter or area of a wireless support structure to:

- (1) shelter an antenna from inclement weather; or
- (2) connect an antenna to the wireless support structure by cable.

22. **"Telecommunications"** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

22. **“Telecommunications Structure”** means a structure used in the provision of services described in the definition of ‘Wireless Telecommunications Facilities’.
23. **“Temporary”** means, temporary in relation to all aspects and components of this Ordinance, something intended to, or that does, exist for fewer than ninety (90) days.
24. **“Utility pole”** means a structure that is: (1) owned or operated by:
- (A) a public utility;
  - (B) a communications service provider;
  - (C) a municipality;
  - (D) an electric membership corporation; or
  - (E) a rural electric cooperative; and
- (2) designed and used to:
- (A) carry lines, cables, or wires for telephony, cable television, or electricity; or
  - (B) provide lighting.

The term does not include a wireless support structure or an electrical transmission tower.

25. **“Wireless Telecommunications Facilities”** means and includes a **“Telecommunications Tower”** and **“Tower”** and **“Telecommunications Site”** and **“Personal Wireless Facility”** means a structure, facility or location designed, or intended to be used as, or used to support, Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an Antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal Telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the County’s siting, building and permitting authorities, excluding those used exclusively for the County’s fire, police or exclusively for private, non-commercial radio and television reception and private citizen’s bands, amateur radio and other similar non-commercial Telecommunications where the height of the facility is below the height limits set forth in this ordinance.

#### **SECTION 1504 - Telecommunications Facilities Not Requiring A Zoning Permit**

Wireless Telecommunications Facilities which are exempt from the regulations of this Chapter include the following listed below. If a proposed facility exceeds the provisions listed below the facility will no longer be deemed exempt from the provisions of these regulations and will become subject to all requirements of this Article. The location of all structures permitted below shall be regulated according to the requirements of accessory structures within this Ordinance.

1. A collocation of wireless facilities on an existing structure that is not considered a substantial modification, as defined by this Ordinance and IC 8-1-32.3;
2. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located with an antenna height not exceeding seventy-five (75) feet;
3. A ground or building mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed fifty (50) feet;
4. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed fifty (50) feet;
5. A ground or building receive-only radio or television satellite dish antenna, which does not exceed eight (8) feet in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridge line of the primary structure on said parcel;
6. Citizen band radio antennas operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of adoption of these regulations;
7. Mobile Services providing public information coverage of a news event of a temporary nature;
8. Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless phones, garage door openers. Similar exempt devices shall be determined by the Plan Commission;

9. Government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems and similar uses, with heights not exceeding fifty (50) feet.

#### **Section 1506 - General Requirements for all Wireless Telecommunication Facilities**

The design and construction of all Wireless Telecommunications Facilities shall meet the following standards:

1. All Wireless Telecommunications Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Wireless Telecommunications Facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the County, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
2. All Wireless Telecommunications Facilities shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the applicable governmental entities or agencies having jurisdiction over the applicant.
3. All Wireless Telecommunications Facilities shall notify the County of any intended substantial modification of a Wireless Telecommunication Facility and shall apply to the Department of Planning and Zoning to:
  - a. Increase the height of the wireless support structure by the greater of ten percent (10%) of the original height of the structure or twenty feet (20');
  - b. Add an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of: twenty (20) feet; or the width of the wireless support structure at the location of the appurtenance; or increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.
  - c. Relocate or rebuild a Wireless Telecommunications Facility.
4. The owner, and his/her successors in interest, of a Tower shall negotiate in good faith for the shared use of the Tower by other Wireless service providers in the future, and shall:
  - a. Respond within 60 days to a request for information from a potential shared use Applicant;
  - b. Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
  - c. Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

Failure to abide by the conditions outlined above may be grounds for revocation of the permit for the Tower.

### **SECTION 1508 - Required Permit**

Any new Wireless Telecommunications Facility, or existing Wireless Telecommunications Facility that is making a substantial modification, is required to obtain the proper permit that is in accordance with the requirements of this Article. The individual zoning district articles indicate whether a Wireless Telecommunications Facility is a Principally Permitted Use or Conditional Use, which determines the required process. All Principally Permitted Uses shall follow the Site Plan Review procedure as detailed in Article 23 of this Ordinance. A Conditional Use shall follow the Conditional Use procedure as detailed in Article 3.

No new Wireless Telecommunications Facility, or substantial modification to an existing Wireless Telecommunications Facility, shall be installed or constructed until the Application is approved by the County, and a Permit has been issued. All applications to the County to collocate on an existing Wireless Telecommunications Facility must be submitted first to the Department of Planning and Zoning to verify or determine if there are substantial modifications involved, prior to the review and issuance of any Building Permit. The County may at its discretion delegate or designate other official agencies to accept, review, analyze, evaluate and make recommendations with respect to the approval, or denial, of proposed Wireless Telecommunications Facilities.

An Application for a new wireless support structure or for a substantial modification to an existing wireless support structure shall be reviewed within ten (10) business days of its receipt to determine if it is complete. If the Department of Planning & Zoning staff determines that an Application is not complete, the staff reviewer shall notify the applicant in writing of all defects in the Application. If the Department of Planning & Zoning staff does not notify an applicant in writing of all defects in the Application, the Application is considered complete, in accordance with the terms set forth in Section 20 of IC 8-1-32.3. An applicant that receives a written notice of defects to an Application from County staff may cure the defects set forth in the notice and resubmit a corrected Application to the Department of Planning & Zoning within thirty (30) days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority in writing of the additional time the applicant requires to cure the defects. Not more than ninety (90) days after making an initial determination of Application completeness, the Department of Planning & Zoning shall:

1. Review the Application to determine if it complies with applicable laws and ordinances governing land use and zoning; and
2. Notify the applicant in writing whether the Application is approved or denied\*

*\*Notwithstanding the ninety (90) day period set forth earlier in this Section, if the applicant requested additional time in the aforementioned, prescribed manner to cure defects in an Application, the ninety (90) day period set forth in this Section will be extended for a corresponding amount of time.*

Applications for proposed wireless support structure that require a Conditional Use or Variance must be reviewed and all actions must be completed by the Board of Zoning Appeals within 120 days of County staff's initial determination that an Application is complete.

## **SECTION 1510 - Pre-Application Meeting**

Prior to the submittal of an Application for a new wireless support structure, it is recommended that a pre-Application meeting take place between the Applicant and the County, or agency designated by the County that will review the Application. For new wireless support structure applications that involve a Conditional Use or Variance, a pre-Application meeting will be required. The purpose of the Pre-Application meeting is to address potential issues, which will help expedite the review and permitting process. The pre-Application meeting may include a site visit, if there has not been a prior site visit for the proposed site. It shall also be determined at the pre-Application meeting, the number of copies necessary for the applicant to submit a completed Application.

## **SECTION 1512 - Application Requirements**

All Applications for a new Wireless Telecommunications Facility, or existing Wireless Telecommunications Facility that is making a substantial modification, shall comply with the requirements set forth in this Section. Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the County. The Applicant shall be required to perform the following actions:

- ◆ Sign the Application with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. Any individual signing the Application shall be an authorized individual of the Applicant. The property owner (or an authorized individual of the owner), if different than the Applicant, shall also sign the Application.
- ◆ Attest to the following statement on the application form:
  - "The proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and shall remain in compliance with all permits and conditions of permits, as well as all applicable County, State and Federal Laws, rules, and regulations."
- ◆ With any Application for a new tower, the Applicant must submit written documentation that a commitment has been made by commercial service provider to occupy space on the proposed tower. Any Application for a new tower that does not have such a commitment shall not be accepted.

### **Applications for New Wireless Support Structures**

All Applications for the construction or installation of a new Wireless Telecommunications Facility shall contain the information hereinafter set forth. Where a certification is called for, such certification shall bear the signature and seal of a ***Professional Engineer licensed in the State of Indiana***. At the discretion of the County, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction. The Application must include:

- 1) The name, business address, phone number and any other contact information of the person preparing the application;
- 2) The name, address, and phone number of the property owner, operator, and Applicant;
- 3) The postal address and tax map parcel number of the property;



- 4) The zoning district or designation in which the property is situated;
- 5) Size of the property stated both in acreage and lot line dimensions, and a drawing showing the location of all lot lines;
- 6) The location of any structure within the proposed Free Fall Area, as determined by the Applicant's engineering certification;
- 7) The location, size and height of all structures on the property which is the subject of the Application;
- 8) The location, size and height of all proposed and existing antennae and all appurtenant structures;
- 9) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- 10) The number, type and design of the Tower(s) and Antenna(s) proposed and the Tower's capacity to accommodate multiple users;
- 11) The make, model and manufacturer of the Tower and Antenna(s);
- 12) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- 13) Certification that the proposed Antenna(s) will not cause interference with other telecommunications devices;
- 14) A copy of all applicable Federal, State, or Local licenses for the intended use of the Wireless Telecommunications Facilities;
- 15) An engineering certification indicating that the structure is within acceptable engineering standards and safety requirements and that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site. This certification should also acknowledge that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- 16) Evidence supporting the choice of location for the proposed Wireless Telecommunications Facility, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:
  - a) would not result in the same wireless service functionality, coverage, and capacity;
  - b) is technically infeasible; or
  - c) is an economic burden to the applicant.
- 17) The Applicant shall demonstrate and provide in writing that the facility is sited to be in the least visually intrusive location reasonably possible, and thereby having the least adverse visual effect on the environment, its character, the existing vegetation, and on the residences in the area. It shall also be demonstrated that all areas and related structures located at the base of the proposed Wireless Telecommunications Facilities are effectively screened from all public right-of-ways and adjoining property lines.
- 18) The applicant must note whether or not the proposed structure is intended or otherwise required to have lighting and if so, must indicate the type of lighting proposed or required.

- 19) If a Conditional Use or Variance is required for a proposed Wireless Telecommunications Facility, the Applicant must also submit evidence showing that the application complies with the criteria set forth in Article 3 (Section 315 for the former and Section 320 for the latter) of this Ordinance.

The Applicant shall submit to the County the number of completed Applications determined to be needed via the pre-Application meeting process.

Applications Involving Substantial Modifications to Existing Wireless Support Structures

All Applications for the substantial modification of an existing Wireless Telecommunications Facility shall contain the information hereinafter set forth. Where a certification is called for, such certification shall bear the signature and seal of a ***Professional Engineer licensed in the State of Indiana***. At the discretion of the County, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction. The Application must include:

- 1) The name, business address, phone number and any other contact information of the person preparing the application;
- 2) The name, address, and phone number of the property owner, operator, and Applicant;
- 3) The postal address and tax map parcel number of the property;
- 4) The zoning district or designation in which the property is situated;
- 5) Size of the property stated both in acreage and lot line dimensions, and a drawing showing the location of all lot lines;
- 6) The location of any structure within the proposed Free Fall Area, as determined by the Applicant's engineering certification;
- 7) The location, size and height of all structures on the property which is the subject of the Application;
- 8) The location, size and height of all proposed and existing antennae and all appurtenant structures;
- 9) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- 10) The number, type and design of the Tower(s) and Antenna(s) proposed and the Tower's capacity to accommodate multiple users;
- 11) The make, model and manufacturer of the Tower and Antenna(s);
- 12) A description of the existing and proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- 13) A copy of all applicable Federal, State, or Local licenses for the intended use of the Wireless Telecommunications Facilities;

- 14) An engineering certification indicating that the structure is within acceptable engineering standards and safety requirements and that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site. This certification should also acknowledge that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- 15) If a Variance is required for a proposed Wireless Telecommunications Facility, the Applicant must also submit evidence showing that the application complies with the criteria set forth in Article 3, Section 320 of this Ordinance.

The Applicant shall submit one copy of a complete application to the County at the time of submittal. If a Variance is required, additional copies will be required as set forth in Article 3.

#### **SECTION 1514 - Location of Wireless Telecommunications Facilities**

Wireless Telecommunications Facilities shall be located, sited and erected in accordance with the following priorities, with one (1) being the highest priority and eight (8) being the lowest priority.

1. On existing Towers or other structures provided there are no substantial modifications to the existing tower or structure that require a Variance;
2. On property zoned Heavy Industrial (I-3)
3. On property zoned Moderate Industrial (I-2)
4. On property zoned Light Industrial (I-1)
5. On property zoned Community Business (B-2)
6. On property zoned Local Business (B-1); *requiring a Conditional Use*
7. On property zoned Agricultural (A); *requiring a Conditional Use*
8. On property zoned Residential (R); *requiring a Conditional Use*

If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The explanations shall include the reason or reasons why such a permit should be granted for the proposed site and a description of the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

Notwithstanding the above, the County may approve any site located within an area in the above list of priorities, provided that the County finds that the proposed site is in the best interest of the health, safety and welfare of the County and its inhabitants and will not have a harmful effect on the nature and character of the community and neighborhood.

## **SECTION 1516 - Tower Design and Construction**

The design and construction of all Wireless Telecommunications Facilities shall meet the following standards:

1. The foundation and attachments shall meet all local, County, State and Federal structural requirements for loads, including wind and ice loads.
2. All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
3. Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the County.
4. At a Telecommunications Site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
5. The Applicant shall examine the feasibility of designing a proposed Tower to accommodate future demand for at least five (5) additional commercial Applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least five (5) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:
  - a. The foreseeable number of FCC licenses available for the area;
  - b. The kind of Wireless Telecommunications Facilities site and structure proposed;
  - c. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
  - d. Available space on existing and approved Towers.

### **SECTION 1518 - Height of Telecommunications Tower(s)**

The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

### **SECTION 1520 - Appearance and Visibility of Wireless Telecommunications Facilities**

All Wireless Telecommunications Facilities and Antennas shall be designed to minimize the adverse visual impacts of its surroundings. Specifically:

1. Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.
2. Towers shall be galvanized and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
3. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

### **SECTION 1522 - Security of Wireless Telecommunications Facilities**

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and Telecommunications control points shall be installed such a manner that they are readily accessible only to persons authorized to operate or service them.

### **SECTION 1524 - Signage**

Wireless Telecommunications Facilities shall contain signage, as permitted by the underlying zoning district, in order to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation.

### **SECTION 1526 - Lot Size and Setbacks**

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: An area within which the wireless support structure is designed to collapse, as set forth in the Applicant's engineering certification for the wireless support structure and approved by the Dearborn County Technical Review Committee (as certified by the County Engineer and Planning Director), or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory Structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. Structures that are not being used in conjunction with the Wireless Telecommunications Facilities, with the exception of accessory structures, shall not be located within the Free Fall Area unless otherwise approved by the Board of Zoning Appeals.

### **SECTION 1528 - Shared use of Wireless Telecommunications Facilities**

Locating on existing Towers or others structures without increasing the height, shall be preferred by the County, as opposed to the construction of a new Tower.

An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant. Such shared use shall consist only of the minimum Antenna array technologically required to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

### **SECTION 1530 - Retention of Expert Assistance and Reimbursement by Applicant**

The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the Application, including the construction and modification of the site, once permitted.

An Applicant shall deposit with the County funds sufficient to reimburse the County for all reasonable costs of consultant and expert evaluation and consultation to the County in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the County shall precede the pre-Application meeting. The County will maintain a separate escrow account for all such funds. The County's consultants/experts shall invoice the County for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the Applicant shall immediately, upon notification by the County, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the County before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the County is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.

The total amount of the funds needed for consulting purposes may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

### **Section 1540 - Waiver of Requirements**

Any requirement of this Article may reasonably be waived by the Board of Zoning Appeals if it is determined that such action is warranted given the nature of an individual project and such action will serve to preserve the purpose and intent of these regulations. The Planning Director, or designee, may grant a waiver for Principally Permitted Uses, if the waiver does not affect the location, height or appearance of the Wireless Telecommunications Facilities. Any waiver related to the location, height or appearance must be approved by the Board of Zoning Appeals, which must follow the Variance procedure as defined in Article 3 of this Ordinance.

### **Section 1542 - Adherence to State and/or Federal Rules and Regulations**

The holder of a permit for a Wireless Telecommunications Facility shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC, unless specific relief has been granted by the proper agency. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

## **ARTICLE 16**

### **PLANNED UNIT DEVELOPMENT**

#### **SECTION 1600 – Intent**

The purpose of this Article is to provide for an alternative zoning procedure for innovative, developments that provide value to the community over the conventional zoning district and which is consistent with the Dearborn County Comprehensive Plan and intent of the zoning ordinance. The Planned Unit Development (PUD) shall provide for unique, innovative and flexible approaches in the design and development of land in return for mixing of land uses and densities. A planned development shall encourage and promote a harmonious and appropriate mixture of uses, facilitate the adequate and economic provision of streets, utilities and public services and preserve the natural environmental and scenic features of the site. In addition, the planned development shall encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features and mitigate site specific problems or conditions. The Planned Development shall provide for and be compatible with surrounding areas and foster the creation of attractive, healthful, efficient, and stable environments for living, shopping, or working within the County.

The Planned Unit Development regulations and procedures may apply to the redevelopment of presently developed lands, the development of open or vacant lands, and parcels of varying sizes. Planned Unit Development regulations are intended to encourage innovations in land development techniques with greater flexibility and variety in type, design and layout of sites and buildings, and the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life, thus ensuring that the growing demands of the community may be met.

Density, open space, infrastructure, and other land use factors and impacts are significant in reviewing any Planned Unit Development. Where building density is increased on a particular portion of a Planned Unit Development then the amount of open space, retention of existing vegetation, buffer areas, new landscape, public commons, community open space, and parks shall be evaluated for proportionate increase for the remainder of the Planned Development. A Planned Unit Development may vary the height, use, organization, design, intensity, size or other features of the proposed development

The Planned Unit Development district shall promote, provide, and create:

1. A maximum choice of living environments by allowing a variety of housing and building types and permitting a reduction in lot dimensions, yards, building setbacks, and area requirements in exchange for development that demonstrates excellence in environmental design, the mitigation of land use factors or impacts, and the provision of amenities;
2. A more useful pattern of open space and recreation areas incorporated as part of the project and that is compatible with the immediate vicinity, and that coordinates commercial uses and services in a manner that is consistent and compatible with existing or planned infrastructure;
3. A development pattern, which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural



drainage patterns;

4. More efficient use and development of land than is generally achieved through conventional regulations resulting in substantial savings through shorter utilities, streets, and other infrastructure;
5. A development pattern which is consistent with the adopted Comprehensive Plan and any other appropriate land use studies;
6. The materials and design of buildings, signs and the site should provide for a unified theme throughout the development and should be of a higher quality than that found within a conventional zoning district.

#### **SECTION 1605 – Conflicting Provisions**

Any provisions within this article, which may be in conflict with other provisions of this ordinance, shall be governed by this article because of the special characteristics of planned unit developments. Subjects, which are not addressed within this article, shall be governed by the provisions found elsewhere in this order.

#### **SECTION 1610 - Permitted Uses**

An applicant for a Planned Unit Development may propose any type or combination of uses for consideration in their request. However, any use or combination of uses proposed for the district shall not adversely affect adjacent property, and/or the public health, safety, and general welfare and/or the provisions of the adopted Comprehensive Plan.

#### **SECTION 1615 – Density**

The density for each use proposed within a PUD shall be determined by the conventional zoning which would permit the proposed use. For example, the conventional zoning for a PUD with a shopping center and a mixed use residential would be General Business and Residential. Therefore, the density could not exceed 30 additional percent of the maximum density permitted by the conventional zoning district.

#### **SECTION 1620 - Minimum Size**

There is no minimum district size required for a Planned Unit Development.

#### **SECTION 1625 - Planned Unit Development Standards**

In addition to the findings for a rezoning found in Article 5, Section 540, the Plan Commission, legislative unit or the Board of County Commissioners should use the following criteria which

apply to evaluating the rezoning and proposed Concept Development Plan.

1. *Compatibility of Uses:* Uses within a planned development shall be compatible within the development as well as to and adjacent sites. Compatibility of uses may be accomplished through the provisions of buffer zones, common open space areas and landscape features, transitional land uses, or a mixed-use development in which no specific type of land use is dominant. Compatibility/mitigation measures shall exceed the usual minimum standards of this order, when needed, to address impacts of the proposed development.
2. *Open Space:* Useable open space(s) shall be provided in an amount over and above setback areas and open areas required by the underlying zone. These spaces may be provided in the form of parks, plazas, arcades, commons, trails, sports courts or other athletic and recreational areas, outdoor areas for the display of sculptural elements, etc. Land reservations for community facilities may be considered in lieu of useable open space.
3. *Transportation System:* Planned developments shall incorporate transportation elements, which allow for connections to existing developments or undeveloped land both within and outside the planned development. These transportation elements should provide for improvements through street connections, road designs, and ingress and egress to the existing transportation network depending on the foreseeable needs of future residents and users of the site, and the relationship of the project site to the community at large. Transportation elements shall provide for the creation of a system if applicable, which encourages multi-modal transportation, to include provisions for mass transit stops or stations, car pooling lots, pedestrian and bicycle paths and lanes, bicycle parking areas, etc.
4. *Preservation of Existing Site Features:* Existing topography, significant tree cover, and water courses and water bodies shall be largely preserved and incorporated into the project design, where appropriate and consistent with the remainder of this article.
5. *Landscaping:* Substantial landscaping shall be provided in a planned development with emphasis given to streetscape areas, buffer zones, and the provision of significant landscaping (in terms of size of landscape areas and quantity and quality of landscape materials) within the developed portions of the site. The use of landscape design guidelines is required for multi-phased projects.
6. *Architecture:* A planned development shall incorporate a consistent architectural theme which is unique to the specific site and surrounding community through the use of materials, signage and design. Generic corporate architecture and big box designs are strongly discouraged but not prohibited. Uses should be designed according to the limitation of the site rather than the removal of the limitations. Specific design details such as roof parapets, architectural details, varying roof heights, pitches and materials and building colors and materials should be addressed. The use of architectural guidelines is required for large multi-phased projects.
7. *Historic and Prehistoric Features:* Historic and prehistoric features on the project site shall be retained, utilized, and incorporated into the overall project design if physically and economically feasible.
8. *Signage:* A consistent signage theme shall be provided within a planned development. Building mounted signs shall be the predominant signage on the project site. Freestanding signs shall be monument style and of a limited size and height. The use of signage design guidelines is required for multi-phased projects.

9. *Conformance with Comprehensive Plan:* All planned developments shall conform to the provisions of the adopted Comprehensive Plan and take into account the limitations or existing or planned infrastructure.

Concept Development Plan proposals within areas that are subject to a specific land use or corridor study shall be evaluated against the criteria or requirements of such study as well as the criteria in this section.

#### **SECTION 1630 - Pre-Application Meeting**

Any applicant or property owner proposing a Planned Unit Development district shall be required to meet with the planning staff of the Plan Commission prior to the submission of the application and Concept Development Plan. The purpose of the meeting will be to informally discuss the purpose and effect of this order, the criteria and standards which may apply, and to familiarize the applicant/owner(s) with the objectives of the Comprehensive Plan and its elements, this order, and this article.

#### **SECTION 1635 – Public Hearing Procedure**

Because a PUD is a rezoning, the public hearing and findings of fact shall follow the same procedure as outlined within Article 5, Sections 530-570. The Concept Development Plan shall follow the minimum and optional guidelines as outlined in Article 5, Section 520.

#### **SECTION 1640 – Modifications to Approved Concept Development Plans**

Any amendment proposed to a previously approved Concept Development Plan shall be considered by the Dearborn County Technical Review Committee to determine if the changes are considered major or minor in scope. In all circumstances where the Dearborn County Technical Review Committee determines that a major amendment is involved, the Committee shall forward its findings and recommendations to the Plan Commission for its consideration and official action at a subsequent public hearing, as set forth in Sections 530 and 1635 of this order.

Major changes to approved Concept Development Plans may involve any material changes to supplemental conditions of approval or the approved development concepts. This may include—but is not limited to—any number of the following:

1. Any modification that alters the land use types originally permitted
2. Any increase of land use intensities or densities
3. Any movement of primary access locations, where it is determined that the movement would adversely affect the safety and efficiency of the existing and planned) road network
4. The elimination of roadway connections to adjacent tracts or subdivisions
5. The elimination or reduction of low-impact uses, open space, recreational uses, landscaping and bufferyard features, or other amenities
6. Any amendments that are expected to result in additional public investment or maintenance
7. Any modification that involves an additional Homeowners' Association or Property Owners' Association

Minor adjustments to approved Concept Development Plans shall be administered by the Technical Review Committee and Plan Commission staff. These types of changes shall be limited to one (1) modification per calendar year. All additional minor changes that are proposed in a one (1) year time period shall require Plan Commission approval. Minor changes may include—but are not limited to—any number of the following:

1. Imperceptible modifications to the location, sizes, and configurations of the originally-permitted land use types
2. Reconfigurations of the internal street network that do not eliminate access to adjacent tracts or subdivisions
3. Improvements to the accessibility within, or adjacent to, the development
4. Reductions of high-impact land use areas and their associated, approved densities (e.g. high-density residential land use areas, commercial or industrial land use areas)

Increases to low-impact land use areas, their corresponding densities, or amenities (e.g. recreational use areas, landscaping and bufferyards, etc.)

#### **SECTION 1645 - Subdivision and Site Plan Approvals**

After approval of the Concept Development Plan by the legislative unit with jurisdiction, the developer of the property is required to follow the applicable subdivision procedures found within the Dearborn County Subdivision Ordinance and site plan review as outlined within this ordinance.

#### **SECTION 1650 – Designation on Zoning Map**

Property that is rezoned under the procedures of this article shall be designated on the Official Dearborn County Zoning Map as a Planned Unit Development (PUD).



## **ARTICLE 17**

### **PLOT PLAN REVIEW**

#### **SECTION 1700 – Intent**

The purpose of this article is to provide plot plan regulations that will enhance the Improvement Location Permitting process under Article 6. Plot plans are required for single-family residential uses, additions, accessory uses, and any other structure that requires an Improvement Location Permit.

#### **SECTION 1705 – Authority**

The purpose of Plot Plan Review is to protect the public health, safety and general welfare of Dearborn County. The provisions and requirements in this article are written and shall be administered to ensure orderly growth and development of Dearborn County. No building shall be erected, expanded or improved, on any lot, site, or parcel for uses where Plot Plan Review is required except in accordance with the regulations in this Zoning Ordinance and with the requirements stated in this article. All such Plot Plans shall be reviewed by the Planning Department and a determination either approving or rejecting such plans shall be made in accordance with the requirements of this article and other applicable, articles of this order.

The Planning Department shall not be permitted to reject any Plot Plan, which is in full conformance with the requirements, terms and conditions of this article and Zoning Ordinance. Nor can additional regulations be imposed which are not included within this order. All approved Plot Plans shall be binding upon the applicant, property owner, developer, or their successors and shall limit the development or project to the construction work as shown on the approved Plot Plan and to all conditions and limitations for such plans agreed to by the applicants. Amendments or changes to the approved Plot Plans shall be subject to the provisions of Section 1735.

#### **SECTION 1710 – Procedure**

Before submitting an application for Plot Plan Review each applicant, property owner, or developer is encouraged to read the following categories to determine which level the construction proposal matches. If a determination cannot be ascertained the applicant is encouraged to have a pre-application meeting with the Dearborn County Plan Commission staff.

- Minor Plot Plan: A plot plan that requires no significant exterior utility construction (e.g., storm sewer, water, sanitary sewer, etc.), and no status as a residential living unit. Typically this review pertains to the construction of accessory uses, minor additions, swimming pools, ponds, etc.
- Major Plot Plan: A plot plan that involves significant exterior utility construction (e.g., storm sewer, water, sanitary sewer, septic sites, etc.), and buildings constructed as a residential living unit. Typically this review pertains to the construction of a single family residence, mobile home, and manufactured home. The Planning Director or Designee will determine the allowable distance from flood zones A and B that are exempt from flood certification.

### **SECTION 1715 – Application and Approval**

An applicant, property owner, or developer is required to file an application with the Dearborn County Planning Department. Action in the form of approval or denial of a Minor Plot Plan or Major Plot Plan by the Planning Commission's Staff shall occur within 7 working days of when the plan is officially submitted to the Planning Department's office in complete form. Any incomplete Plot Plan or Application may result in delays.

An appeal of the Staff denial of a Minor / Major Plot Plan is possible before the Board of Zoning Appeals at its next regularly scheduled meeting after written notification is made by the applicant to the Planning Director within thirty (30) calendar days of the Staff denial. The Board of Zoning Appeals shall make final action for approval or denial on the appeal of a Minor / Major Plot Plan. Reasons for denial of a Minor / Major Plot Plan by the Board of Zoning Appeals shall be given to the applicant in written form

### **SECTION 1720 - Plot Plan Requirements**

All Minor Plot Plans submitted to the Dearborn County Plan Commission shall be in accordance with this article and shall contain the following information:

1. A complete and accurate application form,
2. In order that all the required plot plan information be properly documented and correctly designed, it is necessary that all plot plans be drawn to a scale that allows all improvements and notes to be legible. Digital plans are preferred. Paper copies of plans should be submitted on standard paper sizes—either 8 ½ x 11 or 11 x 17. All plans larger than 11 x 17 must be submitted in an acceptable digital format (such as a .jpeg or .pdf file);
3. A graphic scale shall be noted on the plot plan along with the date and north arrow;
4. Property boundaries / location reference(s);
5. Location of all public and private streets and / or private lanes, as well as the location and width of proposed driveway entrances on the subject property;
6. Label and locate all existing and proposed structures;
7. Approximate location of all known utilities and associated easements (e.g., sewer lines, water lines, septic tanks, electric lines, gas lines, and so on). **\*All applicants are advised to call 811, "Call-Before-You-Dig".**
8. Distances from the corners of the proposed structure(s) to the appropriate property lines—sufficient to determine that all required setbacks, including those from easements and the identified floodplain, have been met. \*Setbacks / distances from the proposed improvement(s) to any septic field or tank area within 50 feet must be identified / shown on the plot plan provided to the Department of Planning & Zoning as a part of this process, to illustrate conformance with Article 25, Section 2576 of the Zoning Ordinance. For proposed ponds, the proposed setbacks / distances from the pond dam and to any existing or proposed adjacent residences, must be shown in accordance with Article 25, Section 2554 of the Zoning Ordinance (along with the location of the spillway and outflow area, the proposed depth of the pond, etc.);

All Major Plot Plans submitted to the Dearborn County Plan Commission in accordance with this article shall contain the following information

1. A complete and accurate application form;
2. In order that all the required plot plan information be properly documented and correctly designed, it is necessary that all plot plans be drawn to a scale that allows all improvements and notes to be legible. Digital plans are preferred. Paper copies of plan should be submitted on standard paper sizes—either 8 ½ x 11 or 11 x 17. All plans larger than 11 x 17 must be submitted in an acceptable digital format (such as a .jpeg or .pdf file). In situations where the scaled lot is larger than the preferred paper size a large scale plot plan with a close up view of the major features is acceptable;
3. A graphic scale shall be noted on the plot plan along with the date and north arrow;
4. Property boundaries / location reference(s);
5. Location of all public and private streets and / or private lanes, as well as the location and width of proposed driveway entrances on the subject property;
6. Recorded easements identified;
7. Label and locate all existing and proposed structures;
8. Exterior dimensions of structure (including decks or porches and overhang measurements);
9. Elevation of the ground floor noted on plan (i.e. the distance of the floor of the improved area to the soil grade). For structures within an identified flood-prone area, additional elevations will be required in accordance with Article 8;
10. Distances from the corners of the proposed structure(s) to the appropriate property lines—sufficient to determine that all required setbacks, including those from easements and the identified floodplain, have been met;
11. Location of structures on adjacent lots--only when trying to acknowledge / establish a different building setback line exists other than the current ordinances;
12. Approximate location of all known utilities and associated easements (e.g., sewer lines, water lines, septic tanks, electric lines, gas lines, and so on). **\*All applicants are advised to call 811, “Call-Before-You-Dig”.**
13. Location of Primary and Secondary On-Site Sewage Disposal System areas;
14. A Plot Plan signed, dated, and approved by an appropriate Health Department Official, where an official Health Department Permit Release is not immediately available. \*Setbacks / distances from the proposed improvement(s) to any septic field or tank area within 50 feet must be identified / shown on the plot plan provided to the Department of Planning & Zoning as a part of this process, to illustrate conformance with Article 25, Section 2576 of the Zoning Ordinance;
15. Approximate boundaries of the 100-year flood plain using the Flood Insurance Rate Maps and Floodway Maps for Dearborn County. Properties located within the floodplain shall provide written documentation from the Indiana Department of Natural Resources regarding the Flood Protection Grade and location of the floodway (See article 8 of the Dearborn County Zoning Ordinance);
16. A Plot Plan signed, dated, and approved by an appropriate Department of Transportation & Engineering Official, where an official Driveway Permit Release is not immediately available. (Sight distance will be checked and affirmed by the affected Department of Transportation & Engineering during the application process.)



**SECTION 1725 – Expiration, Extension, and Completion of Approval Period**

If the work described in a zoning permit has not been initiated within one (1) year from the date it was issued, the permit shall expire. The permit shall also expire if the described work has not been substantially completed within two (2) years of the date it was issued. If, for any reason, the Zoning Permit expires, all work must be stopped immediately until the permit has been renewed or a new permit has been obtained. The Planning Director or designee may grant an extension on a Zoning Permit, if the applicant can demonstrate a good cause for such an extension, prior to the date of expiration.

**SECTION 1730 – Changes or Amendments**

Any changes made to the approved Plot Plan before the development of the site or building shall require the approval of the Plan Commission staff. Any variations to an approved Site Plan that occurred in the development of the site or building will require that an “as built” Site Plan be submitted for review to the Planning Department. Depending on the extent of the changes, a new application may be required by the Planning Director or designee. If the “as built” site plan does not conform to the requirements in the Ordinance or if a Certificate of Occupancy is not granted, it will be handled as a violation of the ordinance under Article 6.

## ARTICLE 18

### WIND ENERGY CONVERSION SYSTEMS

#### **Section 1800 – Purpose & Intent**

The purpose of this Article is to regulate the placement, construction, and modification of Mini WECS, SWECS, and Wind Energy Conversion Systems (WECS) in Dearborn County. The regulations set forth herein have been formulated to facilitate economic opportunities for the local economy and to protect the health, safety, and general welfare of the public as these improvements are commissioned. The provisions of this Article will:

1. Establish a reasonable and efficient process for the review and approval of Mini WECS, SWECS, and WECS applications;
2. Prescribe required distances for setbacks for Mini WECS, SWECS, and WECS from buildings, property lines, and easements;
3. Institute minimum performance regulations for Mini WECS, SWECS, and Wind Energy Conversion Systems;
4. Create standards for the removal of Mini WECS, SWECS, and WECS and their appurtenant structures.

#### **Section 1802 – Definitions**

For the purposes of this Ordinance, the defined words, terms, phrases, abbreviations, and their derivations shall have the meanings given in this Section.

**“Mini Wind Energy Conversion System” or “Mini WECS”** means the system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity less than ten (10) kW and a system height of less than forty-five feet (45’). For the purposes of this Ordinance, a roof-mounted structure shall be considered a Mini WECS if it meets the rated capacity and height requirements set forth in this Section. **Only one (1) Mini Wind Energy Conversion System may be permitted per principle structure. Mini WECS shall be considered an accessory use in all Zoning Districts.**

**“Small Wind Energy Conversion System” or “SWECS”** means the system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity of less than, or equal to, one-hundred (100) kW and a system height of less than eighty feet (80’). **Only one (1) Small Wind Energy Conversion System may be permitted per principle structure. SWECS shall be considered a Principally Permitted Use in all agricultural (A), commercial (B-1, B-2) and industrial (I-1, I-2, I-3) zones and as a Conditional Use in all Residential Districts.**

**“Wind Energy Conversion System” or “WECS”** means the system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity of more than one-hundred (100) kW or a system height of more than eighty feet (80’). **WECS shall be considered a Principally Permitted Use in intense commercial (B-2) and industrial (I-1, I-2, I-3) zones and as a Conditional Use in all Agricultural (A), Residential (R), and Local Business (B-1) Districts.**

**“Applicant”** means the entity or person who submits to the County, pursuant to this Article, an application for the siting of any WECS or substation or thereafter operates or owns a WECS.

**“Financial Assurance”** means an insurance performance bond or one irrevocable, unconditional letter of credit, either one of which must be obtained from a single financial institution licensed in the State of Indiana.

**“Free Fall Area”** means the area in the shape of a circle surrounding the WECS whose radius is the height of the structure plus ten percent (10%) of the height of the WECS or structure.

**“Modification”** means the addition, removal or change of any of the physical and visually discernable components or aspects of a Wind Energy Conversion System. A modification shall not include the replacement of any components of a Wind Energy Conversion System where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a Wind Energy Conversion System without addition, removal or discernable change.

**“Operator”** means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

**“Owner”** means the entity or entities with an equity interest in the WECS, including their respective successors and assigns.

**“Permit”** means a Zoning Permit, unless specifically noted otherwise in this Article.

**“Professional Engineer”** means a qualified individual who is licensed as a professional engineer in the State of Indiana.

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

**“State”** means the State of Indiana.

**“WECS Project”** means the collection of WECSs and substations as specified in the siting approval application pursuant to this Ordinance.

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

**“WECS Tower Height”** means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

#### **Section 1804 – Wind Energy Conversion Systems Not Requiring a Zoning Permit**

Mini WECS or SWECS structures may be established to serve an existing agricultural use. These structures may not exceed 45 feet in height and must be situated fifty (50) feet from both all property lines and overhead utility easements to be exempt from the provisions set forth later in this Article. **Although a Zoning Permit may not be required for Mini WECS or SWECS and appurtenant structures of this type, a Building Permit is required and must be applied for and approved prior to any site work.**

#### **Section 1806 – General Requirements for all Wind Energy Conversion Systems**

The design and construction of all Mini WECS, SWECS, or Wind Energy Conversion Systems shall meet the following standards:

1. All applicants shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted system in strict compliance with all current applicable technical, safety and safety-related codes adopted by Dearborn County, the State of Indiana, or the United States. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply;
2. All applicants shall obtain, at their own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by Dearborn County or any other governmental entity or agency having jurisdiction over the applicant;
3. All applicants shall notify the County of any intended modification of a Mini WECS, SWECS, or Wind Energy Conversion System and shall apply to the County to modify the height, relocate or rebuild such structure;
4. All Wind Energy Conversion Systems shall conform to applicable industry standards of the American National Standards Institute (ANSI) and be approved by a wind certification program recognized by the American Wind Energy Association. **All WECS that are over twenty-five (25) feet in height must be designed by a professional engineer.** The engineer must certify that the foundation and tower constructed for the Wind Energy Conversion System is within acceptable code and industry standards—given local soil and climate conditions.

### **SECTION 1808 - Required Zoning Permit**

All applicants involving a new Mini WECS, SWECS, or Wind Energy Conversion System, or an existing Mini WECS, SWECS, or Wind Energy Conversion System that involves a visible modification, are required to obtain the proper permit that is in accordance with the requirements of this Article. The individual zoning district articles indicate whether a Wind Energy Conversion System is a Principally Permitted Use or Conditional Use, which determines the required process. All Mini WECS and SWECS that are considered Principally Permitted Uses shall follow the Plot Plan Review procedure as detailed in Article 17 of this Ordinance. All WECS shall follow the Site Plan Review procedure as detailed in Article 23 of this Ordinance, in addition to a Conditional Use process, if necessary. All Conditional Uses shall follow the Conditional Use procedure as detailed in Article 3. Applications for the modification of an existing structure that does not increase the overall height or appearance shall be considered a Principally Permitted Use. If it is determined that the application meets the purpose and intent of this Article, the application shall be approved. If it is determined that the application does not meet the purpose and intent of this Article, the application shall be denied with the specific reasons detailed.

No Wind Energy Conversion System of any type shall be installed or constructed until the application is reviewed and approved by the County, and a permit has been issued. The County may at its discretion delegate or designate other official agencies to accept, review, analyze, evaluate and make recommendations with respect to the approval, or denial, of proposed Wind Energy Conversion System. Any permit issued for Wind Energy Conversion System shall not be assigned, transferred or conveyed without the express prior written notification to the County.

### **SECTION 1810 - Pre-Application Meeting**

Prior to the submittal of an application that does not involve an exempt Mini WECS or SWECS structure, the applicant is required to contact the County and its designated representatives to schedule a pre-application meeting. The purpose of this meeting is to address potential issues, which will help expedite the review and permitting process. The pre-application meeting shall include a site visit, if there has not been a prior site visit for the proposed site. It shall also be determined at the pre-application meeting, the number of copies necessary for the applicant to submit a completed application. The applicant shall pay any and all costs that are associated with the preparation and attendance of the pre-application meeting.

## **SECTION 1812 – Zoning Application Requirements**

All applications for Mini WECS, SWECS, or Wind Energy Conversion Systems, or any modification of such facility, shall comply with the requirements set forth in this Section. Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the County. The applicant shall be required to perform the following actions:

- ◆ Sign the application with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. Any individual signing the application shall be an authorized individual of the applicant. The landowner, if different than the applicant, shall also sign the application.
- ◆ Submit the following statement in writing:
  - "The proposed Mini WECS, SWECS, or Wind Energy Conversion System shall be maintained in a safe manner, and in compliance with all conditions of the Permit, without exception, unless specifically granted relief by the County in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal Laws, rules, and regulations."

All applications for the construction or installation of new Mini WECS, SWECS, or Wind Energy Conversion Systems shall contain the information set forth in this Section. Where a certification is required, such certification shall bear the signature and seal of a ***professional engineer***. At the discretion of the County, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

Applicants must submit all of the information required to obtain a Major Plot Plan Zoning Permit, as referenced in Article 17, Section 1720 of the Dearborn County Zoning Ordinance, to the Dearborn County Plan Commission. In addition to the information required to obtain a Zoning Permit, the applicant shall provide all of the information that is necessary to obtain a Conditional Use Permit from the Dearborn County Board of Zoning Appeals, if applicable.

Information that is also relevant to the following items must also be specifically supplied:

1. The location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed Mini WECS, SWECS, or WECS;
2. The location of all underground utility lines associated with the project site;
3. Dimensional representation of the structural components of the tower construction including the base and footings;
4. Manufacturer's specifications and installation and operation instructions or specific Mini WECS, SWECS, or WECS design information;
5. Certification by a registered professional engineer that the tower design, including all footers, is sufficient to meet all County, State, and Federal requirements;
6. Information relevant to any existing, or anticipated, access easements or utility easements;
7. Acknowledgement that no appurtenances other than those associated with the wind turbine operations may be connected to any wind tower except with express, written permission by the BZA;
8. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation;
9. A re-vegetation plan that restores areas temporarily disturbed during construction;

10. For all Mini WECS, SWECS, or WECS sites involving one (1) acre or more of land disturbance, a drainage and erosion control plan must also be developed in consultation with the Dearborn County Soil and Water Conservation District.

#### **SECTION 1814 - Location of Wind Energy Conversion Systems**

An application for a Mini WECS, SWECS, or Wind Energy Conversion System may be approved in any zoning district of Dearborn County, provided that County officials find that the proposed site does not interfere with the health, safety and welfare of the County and its inhabitants and will not have a harmful effect on the nature and character of the community and neighborhood.

Notwithstanding that a potential application may require approval for a Conditional Use, the County may disapprove an application for any of the following reasons:

1. Conflict with safety and safety-related codes and requirements;
2. Conflict with the historic nature or character of a neighborhood or historical district;
3. Conflict with a purpose of an existing, specific zoning or land use designation;
4. The placement and location of Wind Energy Conversion System which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the County, or employees of the service provider or other service providers;
5. Conflicts with the provisions of this ordinance.

#### **SECTION 1816 - Structure Design and Construction**

The design and construction of all Mini WECS, SWECS, or Wind Energy Conversion Systems shall meet the following standards:

1. The foundation and attachments shall meet all local, County, State and Federal structural requirements for loads, including wind and ice loads;
2. All utilities at a Mini WECS, SWECS, or Wind Energy Conversion Systems site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the County;
3. Mini WECS, SWECS, Wind Energy Conversion Systems, and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings;
4. At SWECS or Wind Energy Conversion System project sites, an acceptable access and turn-around area shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

## **SECTION 1818 - Height and Clearances of Wind Energy Conversion Systems**

Mini WECS must have a system height of less than forty-five (45) feet.

No Wind Energy Conversion System Tower constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, County, State, and/or any Federal statute, law, ordinance, code, rule or regulation.

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

## **SECTION 1820 - Appearance and Visibility of all Wind Energy Conversion Systems**

All Mini WECS, SWECS, or Wind Energy Conversion Systems and their appurtenant structures shall be designed to minimize the adverse visual impacts of its surroundings. Specifically:

1. Mini WECS, SWECS, or Wind Energy Conversion Systems shall not be artificially lighted or marked, except as required by law.
2. All Mini WECS, SWECS, WECS and supporting structures must consist of a non-reflective, unobtrusive color—usually gray or white. No advertising signage shall be permitted; however, the manufacturer's identification with ratings is allowed.
3. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

## **SECTION 1822 - Security of Wind Energy Conversion Systems**

All Mini WECS, SWECS, and Wind Energy Conversion Systems and their appurtenant structures shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, all Mini WECS, SWECS, and WECS and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with.

## **SECTION 1824 - Signage**

All Wind Energy Conversion Systems and their appurtenant structures shall contain a sign no larger than four (4) square feet in order to provide the name(s) of the owner(s) and operator(s) of the WECS as well as emergency phone number(s). This sign shall be visible from the access point of the site and shall not be lighted, unless lighting is required by applicable law, rule or regulation. A four (4) square-foot warning sign concerning voltage must also be placed at the base of all pad-mounted transformers and substations in a conspicuous location. No other signage, including advertising, shall be permitted.



## **SECTION 1826 - Lot Size and Setbacks**

All proposed Mini WECS, SWECS, or Wind Energy Conversion Systems shall be set back from abutting parcels, recorded rights-of-way and existing or anticipated access or utility easements by the greater of the following distances: A distance equal to the height of the proposed Mini WECS, SWECS, or WECS structure plus ten percent (10%) of the height of the supporting structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. Structures that are not being used in conjunction with the Mini WECS, SWECS, or Wind Energy Conversion Systems, with the exception of accessory structures, shall not be located within the free fall area unless otherwise approved by the Board of Zoning Appeals.

A transfer of ownership of an adjacent lot, held in combination and under common ownership at the time of Mini WECS, SWECS, or WECS installation, shall include a grant of easement equal to the required off-site setback encroachment; approved by the Planning Director; and recorded with the Dearborn County Recorder's Office to run with the deed.

## **Section 1832 – Maintenance & Inspections**

The owner or operator of a WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the owner or operator must furnish such operation and maintenance reports as the County reasonably requests. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification by a professional Engineer licensed in the State of Indiana and it shall be necessary to apply for both a Zoning Permit and a Building Permit.

The Dearborn County Planning Director and Building Commissioner will be responsible for contacting all owners or operators of a WECS that does not meet local, State, or Federal codes and regulations. Once notified in writing, the owner or operator of a WECS will be required to address any repairs or alterations within thirty (30) days after receiving notice—or within a longer period of time mutually acceptable to both parties. During this time period, the owner or operator of a WECS may retain a licensed 3rd party professional engineer familiar with WECS systems to prepare and submit to the appropriate Dearborn County officials a written report which addresses the repairs or alterations required, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary. The Dearborn County Planning Director and Building Commissioner will consider any such written report and determine whether the repairs or alterations should be made as originally requested, or as suggested in the written report.

### **Section 1834 - Liability Insurance**

The owner or operator of any WECS will provide proof of liability coverage; shall maintain a current general liability policy covering bodily injury and property damage; and may be required to name Dearborn County as an additional insured with dollar amount limits per occurrence, in the aggregate, and a deductible, which is suitable and in a form acceptable to the Dearborn County Plan Commission Attorney.

### **Section 1836 - Indemnification**

Any application for Wind Energy Conversion Systems that is proposed for County property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the County, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said WECS, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the County, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the County. An indemnification provision will not be required in those instances where the County itself applies for and secures a permit for WECS.

### **Section 1838 - Removal of Wind Energy Conversion Systems**

The holder of a permit for a Mini WECS, SWECS, or Wind Energy Conversion System, or its successors or assigns, shall dismantle and remove such facilities, and all associated structures, from the site and restore the site to as close to its original condition as is possible, if at any time any of the following apply:

1. The system has been abandoned for a period of one hundred-eighty (180) days in any three hundred-sixty five (365) day period. For properties involving foreclosure, vacant residential structures, or for other unusual or extreme circumstances, a waiver may be requested to extend this time period. All waiver requests of this specific type must be submitted in writing to the Planning Director and may be issued only if the waiver is determined to be necessary and if the requested waiver does not adversely affect the other requirements of this Article;
2. The system falls into such a state of disrepair that it creates a health or safety hazard;
3. The system has been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required permit, or any other necessary authorization;

4. The Board of Zoning Appeals determines that the health, safety, and welfare interests of the County warrant and require the removal of the Mini WECS, SWECS, or Wind Energy Conversion System.

#### **Section 1840 - Avoidance and Mitigation of Damages to Public Infrastructure**

Applicants of all Wind Energy Conversion Systems shall identify all roads to be used for the purpose of transporting system materials, parts, and / or equipment for the construction, operation, or maintenance of the WECS and shall:

1. Conduct a pre-construction baseline survey in coordination with the impacted transportation authorities to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility as the WECS is being constructed;
2. Obtain any applicable weight and size permits from all impacted transportation authorities prior to construction;
3. Prepare a written statement that acknowledges that the Applicant will be responsible for addressing on-going road maintenance, drainage, erosion control, or dust issues identified by the Dearborn County Engineer, the Indiana Department of Transportation (INDOT), the Indiana Department of Environmental Management (IDEM), or another applicable public agent during all phases of the construction process. All such issues must be addressed in the prescribed time(s) and manner(s) set forth by the applicable governmental entity.

#### **Section 1842 - Variances**

Any requirement of this Article may receive a variance by the Board of Zoning Appeals if it is determined that such action is warranted given the nature of an individual project and such action will serve to preserve the purpose and intent of these regulations.

## **ARTICLE 20**

### **SIGNS**

#### **SECTION 2000 – Intent**

The purpose of this article is to coordinate the type, placement, illumination, maintenance, density, and physical dimensions of signs within the different zones and to recognize the communication requirements of all sectors of the business community and the community's right to free speech. Furthermore, this article is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the physical appearance of the community. This article is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and generally enhance community development and the natural environment.

#### **SECTION 2005 - Government Signs Excluded**

For the purpose of this order, signs erected and maintained pursuant to and in discharge of any federal, state or local law, order, or governmental regulations such as warning signs, signs directing traffic, and those supported by compelling government interest, such as public notices, are exempt from the provisions of this article.

#### **SECTION 2010 - Sign Permits**

Except as provided in Section 2015 in this Article, it shall be unlawful for any person to construct, install, attach, place, paint, alter, relocate, or otherwise maintain a sign located within the jurisdictions covered by this ordinance without first obtaining a sign permit in accordance with this ordinance. In those cases where a Sign Permit is required, an application must be submitted to the Plan Commission. A Sign Permit shall only be issued if the proposed sign meets the requirements of this ordinance. If provisions of this Article are in conflict with any other County, State, and/or Federal code, the more restrictive, legal requirement(s) shall apply. A Sign Permit application shall include, at a minimum, the following information:

1. Name and address of the applicant;
2. Name and address of the owner of the property on which the sign is to be located, and the owners signature that will authorize the use of the land for the purposes of locating a sign;
3. A written description of the proposed sign including type of sign, supporting structure, method of illumination (if any), and construction materials to be used in the sign;
4. A site plan of the property on which the sign is to be erected showing existing structures, right-of-way lines and proposed location of the sign, including proposed setbacks;

5. A drawing or picture of the proposed sign verifying the type of sign, indicating display area dimensions, and the height of the sign from grade to bottom and top of the sign.

Upon receipt of a full and complete application for a Sign Permit, the Planning Director or designee shall issue a permit or notify the applicant of any non-conformance with the provisions of this article within ten (10) working days. Failure to issue a permit or notify the applicant of any non-conformance does not constitute approval of the proposed sign. If the sign described in any sign permit has not been erected or installed within one (1) year from the date of issuance, the permit shall expire without further notice. The permit may be extended upon request of the applicant prior the date of expiration for a period not to exceed six (6) months. The Planning Director or designee shall maintain a file of all applications for sign permits.

### **SECTION 2015 - Signs Not Requiring a Permit**

The following signs are subject to applicable regulations of this article, but do not require a permit:

1. The replacement of a panel or display message on an approved sign—involving no changes to size, location, or lighting.
2. Painting, repainting, cleaning, or other normal maintenance and repair of an existing sign or sign structure, unless a structural change is involved;
3. Temporary, noncommercial, non-illuminated, free-standing signage per tenant / occupant for a period not to exceed ninety (90) days per calendar year.
  - a) Signs shall be limited to either one (1) sign that is sixteen (16) square feet in area or up to two (2) signs with each sign limited to a maximum of eight (8) square feet in area.
  - b) Sign shall not be greater than five (5) feet above the grade level of the adjacent street to which the sign is located or four (4) feet above ground level, whichever is greater.
  - c) Such temporary signs shall conform to the general requirements defined by Section 2020 of this Article, and other standards deemed necessary to accomplish the intent of this Article.

4. Property for sale / lease is permitted one (1) sign per property frontage—up to a maximum of two (2) total signs—when the property is: i) being actively offered for sale through a licensed real estate agent in a listing resource; or ii) being actively offered for sale by the owner through current advertising in either a local newspaper of general circulation and / or through a listing in one or more reputable, recognized online resources.
  - a) Such described property in Residential Zones is allowed six (8) square feet of sign area for property on less than one hundred (100) feet of road frontage and twenty (20) square feet of sign area on property with greater than one hundred (100) feet of road frontage.
  - b) Such described property in Business and Industrial Zones are permitted twenty (20) square feet of sign area when not adjoining a State highway and thirty-two (32) square feet of sign area when adjoining a State highway.
  - c) Signage shall not exceed a maximum height of five (5) feet for property containing less than one hundred (100) feet of road frontage and a height of eight (8) feet when containing more than one hundred (100) feet of road frontage. *The height of all signs will be measured in accordance with Section 2020 of this Article.*
  - d) For lots with more than one (1) street frontage, all signage must be located at least five (5) feet from the public right-of-way, outside of all vehicular sight triangles, and must be at least fifteen (15) feet from the corner of the lot / intersection.
  - e) For through lots (fronting two parallel streets), two (2) signs may not face the same street.
  - f) Illuminated signage of this type is not permitted.
  - g) Signs must be removed fifteen (15) days following the date on which a contract of sale has been executed by a person purchasing the property.
5. Signs erected by, or on the order of, a public officer in the performance of his duty including but not limited to public notices, safety signs, danger signs, traffic and street signs, and signs of historical or cultural interest.
6. Up to 3 flag poles containing no more than 2 flags per pole. Flag means a piece of fabric or other flexible material solely containing distinctive colors, patterns, standards, words, emblems, symbols, and other information, including but not limited to political jurisdictions. In nonresidential districts, a flagpole with a maximum height of 70 feet bearing a flag or flags of up to 216 square feet is permitted. In a residential district flagpole height is limited to 25 feet, and total flag area is limited to 40 square feet per flag. A vertical flag pole shall be set back from all property boundaries, rights-of-ways, and easements a distance which is at least equal to the height of the pole.
7. On-premise incidental signage, not exceeding six (6) square feet of area per sign or five (5) feet in height, may permitted per property, as long as the sign provides identification and direction for the safety, necessity, and convenience of the public such as “entrance,” “exit,” “no admittance,” “telephone,” “parking,” and “123 Main St.” Signs directing and guiding traffic and parking on private property, such as drive-thru lanes, shall be permitted on any property. Such signage shall be limited to directional text and/or graphics.

8. Indoor signage displayed inside a building, including in window spaces, which cannot be viewed legibly by drivers outside the building.
9. Murals or other works of art that convey no commercial message. Murals or other works of art with a commercial message shall be regulated as a sign in accordance with permitted or Conditional Uses as well as the locations where they are placed. In cases where murals or other works of art contain a partial commercial message, the determination of the signage area will be as set forth and measured in Section 2025 of this Article.
10. Miniscule messages displayed on or near a primary entrance provided that the area of each message does not exceed thirty (30) square inches and the cumulative area of all miniscule messages does not exceed two hundred and eighty-eight (288) square inches per primary entrance. Examples include “Visa”, “ATM”, and corporate logos.

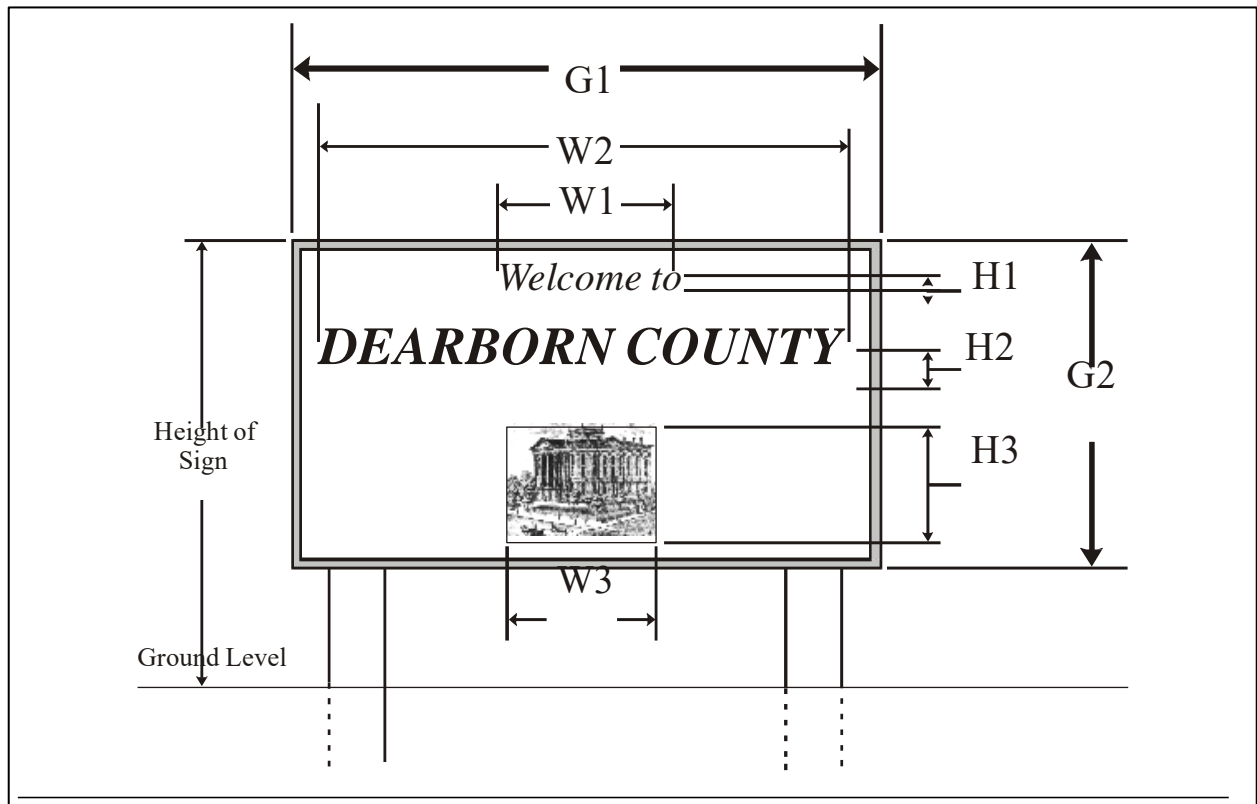
### **SECTION 2020 - General Requirements for All Signs and Districts**

A sign may be erected, placed, established, painted, created, or maintained within the county jurisdictional area only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance. The regulations contained in this section shall apply to all signs and all land use districts.

1. A permitted sign must be placed a minimum of five (5) feet outside the public right-of-way and any public easement—and may not obstruct traffic visibility at street intersections or within parking lots. In the case where a road may not have a dedicated right-of-way the sign must be placed a minimum of 30 feet from the edge of the nearest lane of traffic, and outside of any known easement;
2. The height of the sign will be measured from the top of the sign structure to the finished ground elevation. Berms and mounds cannot be used to increase the height of the sign;
3. Any illuminated sign or lighting device shall employ only light which emits illumination of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. In no event, shall an illuminated sign or lighting device be placed or directed so as to directly beam upon a public road, highway, street, sidewalk, or other vehicular or pedestrian system or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance, as set forth in Article 25 Section 2530;
4. No sign shall employ any parts of elements that revolve, rotate, whirl, spin or otherwise make use of motion so as to constitute a traffic hazard or nuisance;
5. No part of a building mounted sign may be placed above the highest part of the roof or parapet for the section of wall on which the sign is mounted;
6. No sign shall be placed in any public right-of-way except those in accordance with Section 2005 and those in accordance with this chapter, such as warning signs, traffic control and directional signs, and those supported by compelling government interest;

7. Free-standing signage may not be placed in any area used for vehicular movement(s) or parking, including the sign's overhanging area, unless there is: i) a defined curb or wall to prevent vehicle accessibility; and ii) the signage is elevated at least ten (10) feet above the paved level of such area. The height requirement will be increased as necessary where tractor- trailer or other large vehicle traffic would require a greater height clearance;
8. No building mounted sign shall project more than eighteen (18) inches from the area of fascia on which they are mounted;
9. All signs must conform to building and electrical code requirements;
10. All signs shall be maintained in a safe, legible condition, and shall not be in a state of disrepair. Sign faces must be removed from an abandoned sign if the property or use has been abandoned or discontinued for six months or more; however, the sign structure may remain if the property owner is actively pursuing a new tenant or buyer. Disrepair shall include, but not be limited to, burned out lights, broken sign faces or sign structures, peeling paint, and weathered or discolored sign faces or structures.
11. Sign types not specifically recognized in this chapter that are similar in type to another type specifically described will be treated and permitted, where possible, in accordance with the like type with approval from the Planning Director, or his or her designee.





**Measurement of Sign Area**

<p><math>G1 \times G2 =</math></p> <p>General Total Surface Area of  Sign</p>	<p> <math>W1 \times H1 = A</math>  <math>W2 \times H2 = B</math>  <math>W3 \times H3 = C</math> </p> <p> <math>A + B + C =</math> </p> <p>Actual Total Surface Area of Sign</p>
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**Figure 20.1 – Measurement of Sign Area**

## **SECTION 2025 - Measurement of Sign Area**

The surface area of a sign shall be computed by including the entire area serving as written or graphic advertisement within a regular, geometric form comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not used for advertising matter shall not be included in computation of surface area. A general calculation of the Total Sign Area may also be used, if the general total surface area of the sign meets the described guidelines. (*See Figure 20.1*) Where a sign has two (2) display faces back to back, the area of only one (1) face shall be considered the sign area, provided the two (2) sign faces are not visible from one location therefore constituting two (2) signs.

## **SECTION 2035 - Signs Prohibited in All Districts**

The following types of signs are prohibited in all districts:

1. Abandoned signs and support structures;
2. Pennants, ribbons, streamers, spinners, strings of lights, other similar moving devices or any sign that is temporary in nature due to its design or construction except as provided in Section 2075;
3. Signs imitating, resembling or conflicting with official traffic signs or signals;
4. Signs attached to trees, telephone poles, streetlights, public benches, or placed on any public property or public right-of-way, except as noted in Section 2005;
5. Vehicle signs with a sign area greater than fifty (50) square feet in cumulative area. Prohibited vehicle signs shall not be construed to include vehicles with signs on them that:
  - a. Are lawfully parked overnight or during non-business hours on a paved surface in a discreet location, or in an enclosed location;
  - b. Are making deliveries, sales calls, transporting persons or property, or customary practices relating to operating the business; or
  - c. Are used in conjunction with customary construction operations on a construction site.
6. Portable signs (including portable signs mounted to poles, buildings, or other structures);
7. Skyward lights, search lights, beacons, or any light or lights that project light in visible beams skyward, or project light horizontally or vertically in a circle or other pattern regardless if the light is part of or independent of a sign;
8. Signs that promote illegal activities, profanity, or obscenities or pornography.
9. Any other sign not specifically permitted by this order.

## **SECTION 2040 - Entrance Signs Requiring a Permit**

In all Agricultural and Residential zoning districts entrance signs for recognized planned or platted developments and/or otherwise named subdivisions shall be permitted. Typically, entrance signs utilize masonry walls or similar structures and are placed within landscaped areas such as earthen berms. The sign may not obstruct visibility within vision triangles at curbcuts or intersections (see Section 2412).

One (1) entrance sign of up to fifty (50) square feet in area or two (2) entrance signs of up to twenty-five (25) square feet each shall be permitted for each entrance into a development. Entrance signs shall conform to the general requirements listed in Section 2020.

## **SECTION 2050 - Agricultural Districts & Residential Districts**

The following types of signs are permitted in Agricultural and Residential Districts for Principally-Permitted uses, and Conditional Uses where permitted by the Board of Zoning Appeals, and require a permit:

1. One free-standing/monument style sign not to exceed thirty-two (32) square feet in area. Uses which have 300 feet or greater of road frontage where the sign is to be located may increase the size of the sign to fifty (50) square feet. No sign shall exceed ten (10) feet in height, as measured in Section 2020.
2. Home Occupations, where permissible, shall be permitted signage in accordance with Article 25, Section 2556 of this Ordinance.

## **SECTION 2055 - Business / Commercial Districts**

The following types of signs are permitted, with a permit, in all Business / Commercial Districts:

### **1. Building Mounted Signs**

An establishment shall be permitted building mounted signage for a maximum of three (3) building elevations. The primary building elevation shall be permitted two (2) square feet of sign area per lineal foot of building width for the elevation upon which it is mounted, or in multi-tenant buildings, the width of the portion of the building frontage occupied by an individual establishment. Any additional elevations shall be permitted one (1) square foot of sign area per lineal foot of width for the same elevation on which it is mounted. The square footage allotted for any one side may be divided up to allow for up to three (3) separate building mounted signs on that elevation.

## 2. Canopy Signs

Canopy mounted signage is permitted on three (3) or less elevations of the canopy. The square footage allowed for canopy signs may not exceed 25% of the area of the fascia on which they are mounted. The signs may not extend above or below the fascia of the canopy.

## 3. Free-Standing/Monument Signs

- a. Local Business (B-1) Districts shall be permitted one-half ( $\frac{1}{2}$ ) square foot of sign area per one (1) lineal foot of lot width at the point of the sign's location and shall not be greater than ten (10) feet in height. No monument sign shall exceed one hundred (100) square feet in total area.
- b. Community Business (B-2) Districts shall be permitted one (1) square foot of sign area per one (1) lineal foot of lot width at the point of the sign's location. Individual business establishments not located within a shopping center, mixed use business establishments or a planned development shall be permitted only one (1) on premise monument sign regardless of the number of road frontages. No monument sign shall exceed one hundred and fifty (150) square feet in total area. (See Chart Below)
- c. Shopping centers, mixed use business establishments, and planned developments, shall be permitted one (1) entrance sign for each entrance to such areas from a major access point into the development—with a maximum of two (2) signs permissible for each unique park or planned development area. Such signs cannot exceed two-hundred (200) square feet in area.
  - i. Individual stand-alone establishments, such as out-lots located within the shopping center, mixed use establishments or planned developments shall be permitted only one monument sign, a maximum of thirty (30) square feet in size and eight (8) feet in height.
- d. The maximum height of a monument sign in a business district area, unless otherwise specified in Article 20, Section 2055, subsection 3, shall be proportional to the width of the lot at the point where the sign is to be located and determined by the chart below.

WIDTH OF LOT	MAXIMUM SIGN HEIGHT
100 feet or less	10 feet in height
101 to 300 feet	20 feet in height
301 to 500 feet	30 feet in height

- e. Up to 50% of any permitted monument sign may be used for a manually changeable copy sign.

- f. If a monument sign is not possible or desirable as permitted above, then each building shall be permitted one (1) projecting sign. This sign shall not project more than four (4) feet from the face of the building and the bottom of the sign shall be at least ten (10) feet above grade. The surface area of the sign shall not exceed one-half (1/2) square foot for each lineal foot of building width and the maximum area for any projecting sign shall not exceed thirty-two (32) square feet.

## **SECTION 2060 - Industrial Districts**

The following types of signs are permitted in all Industrial Districts and require a permit:

### **1. Building Mounted Signs**

An establishment shall be permitted building mounted signage for a maximum of two (2) building elevations. The primary building elevation shall be permitted two (2) square feet of sign area per lineal foot of building width for the elevation upon which it is mounted, or in multi-tenant buildings, the width of the portion of the building frontage occupied by an individual establishment. An additional elevation shall be permitted one (1) square foot of sign area per lineal foot of width for the same elevation on which it is mounted.

### **2. Free-Standing / Monument Signs**

- a. Individual industrial establishments that are not located within a planned development shall be permitted one (1) monument sign that is located at the entrance of the establishment it is representing. The permitted sign shall be no more than one (1) square foot of sign area per lineal foot of the lot's width at the point of the sign's location. No monument sign shall exceed one hundred (100) square feet in area, and ten (10) feet in height.
- b. Industrial or business office parks, or planned development areas, shall be permitted one (1) entrance sign for each entrance to such parks from a major access point into the development—with a maximum of two (2) signs permissible for each unique park or planned development area. Such signs cannot exceed two-hundred (200) square feet in area and the maximum heights set forth in subsection C of this Section.
  - i. Individual stand-alone establishments, such as out-lots located within the shopping center, mixed use establishments or planned developments shall be permitted only one monument sign, a maximum of thirty (30) square feet in size and eight (8) feet in height.

- c. The maximum height of a monument sign in an industrial area, unless otherwise specified in this Section, shall be proportional to the width of the lot at the point where the sign is to be located and determined by the chart below.

WIDTH OF LOT	MAXIMUM SIGN HEIGHT
100 feet or less	10 feet in height
101 to 300 feet	20 feet in height
301 to 500 feet	30 feet in height
501 feet or more	40 feet in height

- d. Up to 50% of any permitted monument sign may be used for a manually changeable copy sign.
- e. If a monument sign is not possible or desirable as permitted above, then each building shall be permitted one (1) projecting sign. This sign shall not project more than four (4) feet from the face of the building and the bottom of the sign shall be at least ten (10) feet above grade. The surface area of the sign shall not exceed one-half (1/2) square foot for each lineal foot of building width and the maximum area for any projecting sign shall not exceed thirty-two (32) square feet.

#### **SECTION 2065 - Planned Unit Developments**

Signage for Planned Unit Developments, as identified in Article 16, shall be included as part of the Concept Development Plan proposed for the site. If the number, design, size, and height of all signs for the Planned Unit Development are not included as part of the Concept Development Plan, then the signage requirements of this Article shall apply, in accordance with applications for new signs.

#### **SECTION 2070- Off-Premise Signs**

The Board of Zoning Appeals may permit Large Scale Off-Premise Signs as a Conditional Use in B-1, B-2, I-1, I-2, and I-3 zoning districts—and in any zoning districts along Arterial Roads I-74, I-275, and U.S. 50, as set forth in this Article. Small Scale Off-Premise Signs—can be permitted by the Board of Zoning Appeals as a Conditional Use in all zoning districts, provided that all of the necessary criteria, minimum regulations, and requirements of this Article can be addressed in a satisfactory manner. Off-premise signs shall (also) conform to Article 3, Section 315 of this ordinance and the following minimum regulations and requirements:

- 1) Large Scale Off-Premise Signs—shall only be permitted as a Conditional Use Use in a B-1, B-2, I-1, I-2, and I-3 zoning districts—and in any zoning districts along Arterial Roads I-74, I-275, and U.S. 50, provided that all of the necessary criteria can be addressed in a satisfactory manner as set forth in this Article.
  - a) The application for Conditional Use permit shall be accompanied by the information below:
    - i) All of the information required by Section 2010 of this article;
    - ii) Identification of all interstate highways or other thoroughfares from which the sign will be visible;
    - iii) Number of the nearest milepost on the interstate highway from which the sign will be visible, or distance and direction from the nearest intersection on another thoroughfare;
    - iv) The location of the proposed sign as well as the location of all existing off-premise signs within one-half mile radius of the proposed location, on a scaled map;
    - v) A picture or photograph, not less than eight (8) inches by ten (10) inches in size, of the proposed location of the sign taken from each thoroughfare from which the sign will be visible. The proposed location of the sign shall be clearly marked to scale on each photograph.
  - b) A large scale off-premises sign, as a Conditional Use, shall conform, at minimum, to the following requirements:
    - i) No sign shall be larger than nine hundred (900) square feet and no linear dimension shall exceed ninety (90) feet;
    - ii) The maximum height of any sign shall not exceed fifty (50) feet above grade level of the roadway to the bottom of the sign face, as measured from the centerline of the roadway to which the sign is oriented;
    - iii) All signs shall be located at least sixty (60) feet from the right-of- way lines of any interstate highways and at least fifty (50) feet from the right of way lines of any other thoroughfares;
    - iv) Off-premises signs shall not be permitted at intervals of less than one thousand three hundred and twenty (1320) feet (i.e. 1/4 mile), measured along the centerline of each interstate highway or thoroughfare from which the sign will be visible, between lines through the center of the signs and perpendicular or radial to said centerline.
    - v) Off-premise signs shall be regularly maintained in good and safe structural condition.

- 2) Small Scale Off-Premise Signs—shall be permitted as a Conditional Use in all zoning districts, provided that all of the necessary criteria, minimum regulations, and requirements can be addressed in a satisfactory manner.
  - a) The application for Conditional Use permit shall be accompanied by the information below:
    - i) All of the information required by Section 2010 of this article;
    - ii) Identification of all roadways from which the sign will be visible;
    - iii) The location of the proposed sign as well as the location of all existing off-premise signs within one-half mile radius of the proposed location, on a scaled map;
    - iv) A picture or photograph, not less than eight (8) inches by ten (10) inches in size, of the proposed location of the sign taken from each thoroughfare from which the sign will be visible. The proposed location of the sign shall be clearly marked to scale on each photograph.
  - b) A small scale off-premises sign, as a Conditional Use, shall conform, at minimum, to the following requirements:
    - i) All small scale off-premise signs shall be no more than eight (8) feet in height;
    - ii) All small scale off-premise signs shall be no larger than thirty-two (32) square feet in area, which shall be computed by including the entire display area of the sign (see Section 2025);
    - iii) A maximum of one (1) small scale off-premises sign can be permitted per property;
    - iv) All small scale off-premise signs shall be located at least 10 feet from the edge of the road right-of-way. In addition, the sign shall not interfere with vehicular sight triangles / lines of sight for ingress and egress of the property on which it is located, or any other neighboring property.
    - v) Off-premise signs shall be regularly maintained in good and safe structural condition.



## **SECTION 2075 - Temporary Advertising Permits**

When not part of an existing, authorized sign, temporary signage/devices in Business and Industrial Districts shall be permitted only under the following rules and procedures:

1. A Temporary Advertising Permit shall be obtained prior to the placement of any combination of outdoor banners, posters, pennants, flags, ribbons, streamers, spinners, or other similar moving devices, as well as strings of lights. The procedure for obtaining a Temporary Advertising Permit shall be the same as the procedure for obtaining a Sign Permit as outlined in Section 2010, except that all Temporary Advertising Permits must contain the dates that the display will be utilized.
2. Any Temporary Advertising Display shall meet all safety and setback requirements, and performance standards of these regulations.
3. A Temporary Advertising Permit shall allow the use of temporary advertising devices for any establishment for a maximum of 14 days. Any establishment shall be allowed up to five (5) Temporary Advertising Permits in any one calendar year.
4. The fee for Temporary Advertising Permits shall be as set by the Plan Commission in its Schedule of Fees. The Plan Commission shall have the authority to charge a higher fee for displays that are installed or used before the issuance of a permit. This higher fee must be directly related to any increased administrative costs associated with the permit's issuance.
5. Temporary Advertising Displays shall not be permitted in any public right-of-way and shall not be attached to any public structure including but not limited to telephone poles, fire hydrants, and street signs.

## **SECTION 2080 - Electronically Changeable Message Boards**

The Board of Zoning Appeals may permit an electronically changeable message board as a

Conditional Use in any zoning district. Such message signs must conform to Article 3, Sections

315 of this ordinance, and shall also be subject to the following minimum standards and requirements:

- 1) The application for conditional use permit shall be accompanied by the following information:
  - a) All of the information required by Section 2010 of this article;
  - b) Identification of all interstate highways or other thoroughfares from which the sign will be visible;
  - c) The location of the proposed sign as well as the location of all existing electronically changeable message board within one-half mile radius of the proposed location, on a scaled map;

- d) A picture or photograph not less than eight (8) inches by ten (10) inches in size, taken of the proposed location of the sign from each thoroughfare from which the sign will be visible. The proposed location of the sign shall be clearly marked to scale on each photograph.
- 2) An electronically changeable message board that is permitted as a Conditional Use, shall conform, at minimum to the following requirements:
- a) Such message boards will be considered as a part of the permitted freestanding or building mounted signage. Up to 50% of the permitted sign area can be used for an electronically changeable message board.
  - b) Electronically changeable message boards shall not be permitted at intervals of less than six-hundred sixty (660) feet, (i.e. 1/8 mile), measured along the centerline of each interstate or thoroughfare from which the sign will be visible. The distance will be measured from lines through the center of the signs and perpendicular or radial to the centerline.
  - c) Apparent motion of the visual message, caused by, but not limited to, the illusion of moving objects, moving patterns or boards of light, expanding contracting, or rotating shapes or other similar animation effects, shall be prohibited. Such restriction applies to "scrolling" or "running" messages.
  - d) The message displayed on the board must be displayed for a minimum of five (5) second intervals. In no instance can a message, or part thereof, flash on the message board.
  - e) A point of contact—including a name, title, phone number, and email where applicable—must be provided, with the Dearborn County Department of Planning & Zoning to designate the agent for the responsible party for the programming and maintenance of this type of sign. *\*If an agent changes, the responsible party for the programming and maintenance of the sign must direct its new agent(s) to the Dearborn County Department of Planning & Zoning so that an acknowledgement of the conditions associated with each individual sign can be provided and signed and so that contact information for the agent representing the responsible party can be kept current.*

## **SECTION 2085 – Violations**

Any sign installed, erected, constructed, or maintained in violation of any of the terms of this ordinance, shall be deemed a violation and shall be punishable under Article 6 of this ordinance.



## **ARTICLE 21**

### **PARKING & LOADING AREAS**

#### **SECTION 2100 – Intent**

The purpose of this Article is to define minimum parking standards that are consistent with industry standards and practices, available technologies, and traffic engineering in an effort to: protect public security, privacy, and welfare, provide adequate and accessible parking facilities, ensure the safe movement of vehicles, emergency personnel and pedestrians, and provide for the parking, loading and unloading of vehicles.

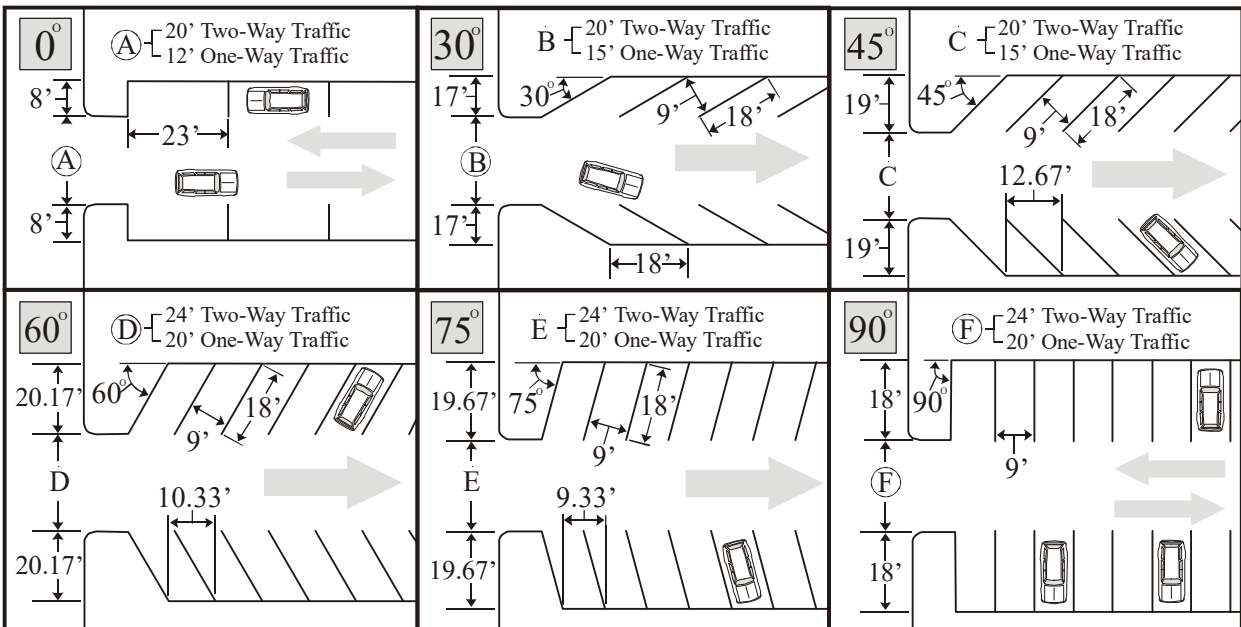
#### **SECTION 2105 - General Requirements**

1. No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this order;
2. The provisions of this Article, except where there is a change of use, shall not apply to any existing building or structure. Where there is a change of use, the number of spaces that are required by this ordinance shall be provided;
3. Whenever a building or structure is constructed after the effective date of this ordinance, and a change is proposed in regards to an increase in the floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change. Whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) percent or more in floor area, number of employees, number of housing units, seating capacity or otherwise enlarged, the said building or structure shall then comply with the full parking requirements defined by this ordinance.

## **SECTION 2110 - Parking Space Dimensions**

The appropriate layout and dimensions for parking spaces are dependent upon the angle at which the spaces are designed. Reductions in the parking space dimensions can be made by the Planning Director if cause can be shown. The angle is measured from a line that is parallel to the aisle, or driveway, which is used to access the parking space. These requirements are specifically described in **Figure 21.1**

**Figure 21.1 - Parking Space Dimensions**



## **SECTION 2115 - Loading Space Requirement and Dimensions**

A loading space shall have minimum dimensions of twelve (12) feet in width, thirty-five (35) feet in length, exclusive of driveways, aisles, and other circulation areas, and a clearance height of not less than fifteen (15) feet. One off-street loading space shall be provided and maintained on the same lot for every building designed to house uses which require delivery/transport of goods and having a gross floor area of up to five thousand (5,000) square feet. One loading space shall be provided for each additional ten thousand (10,000) square feet of floor area that is designed for such uses. The Planning Director shall have the authority to reduce or waive the number of required loading spaces based on the special circumstances of a particular use or site, and to place whatever conditions on such an exemption as appropriate.

## **SECTION 2120 - Striping and Signage**

All parking areas shall be striped to facilitate the appropriate traffic circulation, which includes the movement into and out of parking stalls, in addition to the delineation of access isles and permitted turning movements. All striping will be with lines that are a minimum of four (4) inches in width. The entrances and exits to the parking area shall be clearly marked. Signage and stripping shall be adequately maintained to insure safe and efficient movement of vehicles.

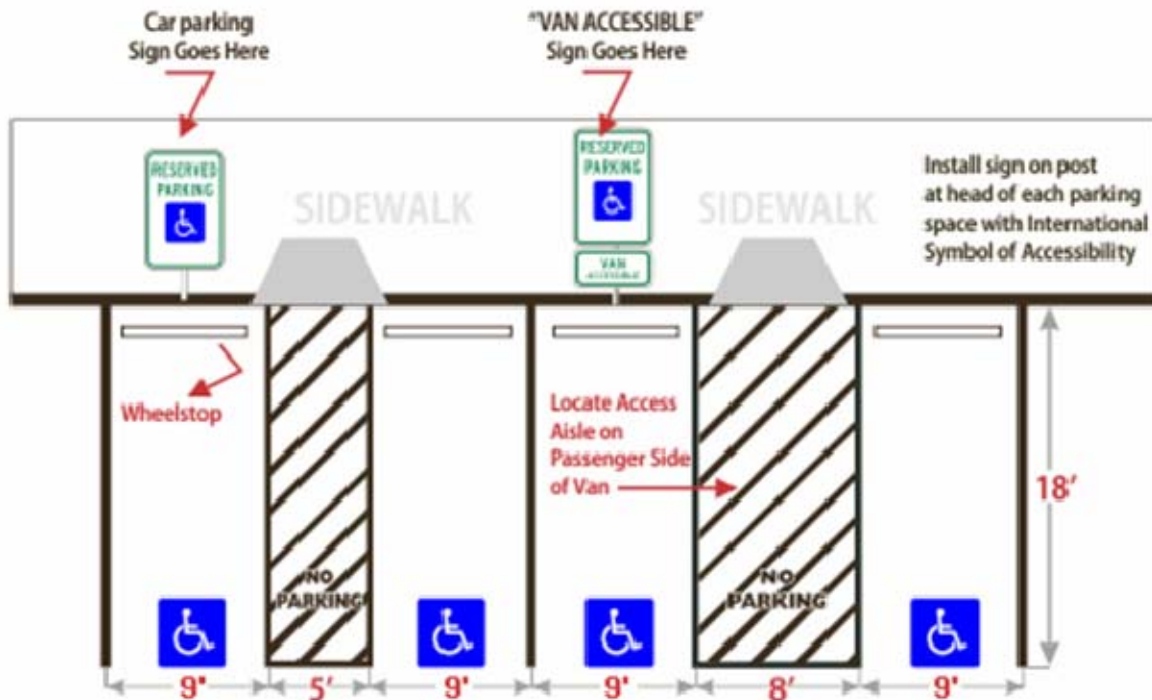
## **SECTION 2125 – Accessible Parking Requirements**

In business districts, or planned developments that are intended for business use, or multi-family housing units, parking spaces for disabled people shall be provided as indicated on the following table:

<b>Total Number of Parking Spaces</b>	<b>Number of Required Spaces for the Disabled</b>
1 to 25	1 space
26 to 50	2 spaces
51 to 75	3 spaces
76 to 100	4 spaces
101 to 150	5 spaces
151 to 200	6 spaces
201 to 300	7 spaces
301 to 400	8 spaces
401 to 500	9 spaces
501 or over	2% of total

1. Parking spaces for disabled people shall use the same dimension requirements as specified in *Figure 21.1*. Van-accessible parking spaces must have a 96-inch (8 feet) wide access aisle adjacent to the parking space, and standard vehicle accessible parking spaces must have a 60-inch (5 feet) wide access aisle adjacent to the parking space. (See *Figure 21.2*)
2. The accessible path of travel from the parking space to the building must start from the access aisle. Access aisles are to be kept clear of all obstructions at all times.
3. Accessible parking spaces must be located on the shortest accessible route of travel from the parking to an accessible building entrance. In parking facilities that do not serve a particular building, accessible parking spaces must be located on the shortest route to an accessible pedestrian entrance to the parking facility. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances. This usually means that the minimum number of accessible parking spaces must be exceeded in order to provide equal access to multiple entrances.
4. Parking spaces for the disabled shall be designated as reserved for the disabled by a pavement marking and a sign showing the international symbol of accessibility. Such signs shall be above grade.

**Figure 21.2 Accessible Parking Spaces**



### **SECTION 2130 - Paving**

All parking and loading spaces required by this ordinance, including driveways, aisles, and circulation areas shall be improved with either asphalt concrete or equivalent material to provide a durable and dust-free surface. Driveways and parking areas serving single-family residences shall be exempt from this requirement; however, an acceptable driveway and parking area must be maintained for easy access to the residence. The Technical Review Committee, upon written request by the applicant, shall determine exceptions to these requirements.

### **SECTION 2135 - Drainage**

All parking and loading areas shall provide for proper and approved drainage of surface water as defined by this ordinance. (See Article 23)

## **SECTION 2140 - Lighting**

Any parking area intended to be used during non-daylight hours shall be properly illuminated to avoid accidents and provide security. During the site plan review process, the Planning Director has the authority to require plans to specify units of illumination measured in foot-candles and illumination patterns when lighting is an integral part of a development's use. The Planning Director also has the authority to require a specific amount of lighting, based on the table illustrated below. Any lights used to illuminate any outdoor area shall be arranged to prevent direct illumination, reflection, and glare on any adjoining property or on any public street (See Article 25).

<b>General Application</b>		<b>Average Foot-candles</b>
<b><i>Building Exterior – Site Areas Adjacent to:</i></b>		
	Active Entrances ( <i>pedestrian and vehicle</i> )	5.0
	Inactive Entrances ( <i>normally locked</i> )	1.0
	Vital Locations or Structures	5.0
	Building Surroundings	1.0
<b><i>Parking Areas</i></b>		
	High Activity	3.6
	Medium Activity	2.4
	Low Activity	0.8
<b><i>Roadways – Non-Dedicated and Private</i></b>		
	High Activity	2.0
	Medium Activity	1.0
	Low Activity	0.5



## **SECTION 2145 - Location of Parking Spaces**

The following regulations shall govern the location of off-street parking spaces and areas.

1. Parking spaces for all detached, single-family residential uses, and duplex residential units, shall be located on the same lot as the use that they are required to service, and may not be in any public right-of-way;
2. Parking spaces for all multi-family residential uses shall be located not more than five hundred (500) feet from the principal use and may not be in any public right-of-way;
3. Off-premises parking spaces for recreation, commercial, employment, or infrastructure uses shall be located not more than seven hundred (700) feet from the principal use.

## **SECTION 2150 - Screening and Landscaping**

Screening and landscaping of parking areas shall be in conformance of Article 22 of this ordinance.

## **SECTION 2155 - Disabled Vehicles**

The parking of a disabled vehicle within a parking or loading area that is not capable of moving under its own power for a period of more than three (3) days shall be prohibited, unless such vehicle is stored in an enclosed garage or other accessory building. This does not apply to auto repair businesses with an approved Site Plan for outside storage. (See Section 2578)

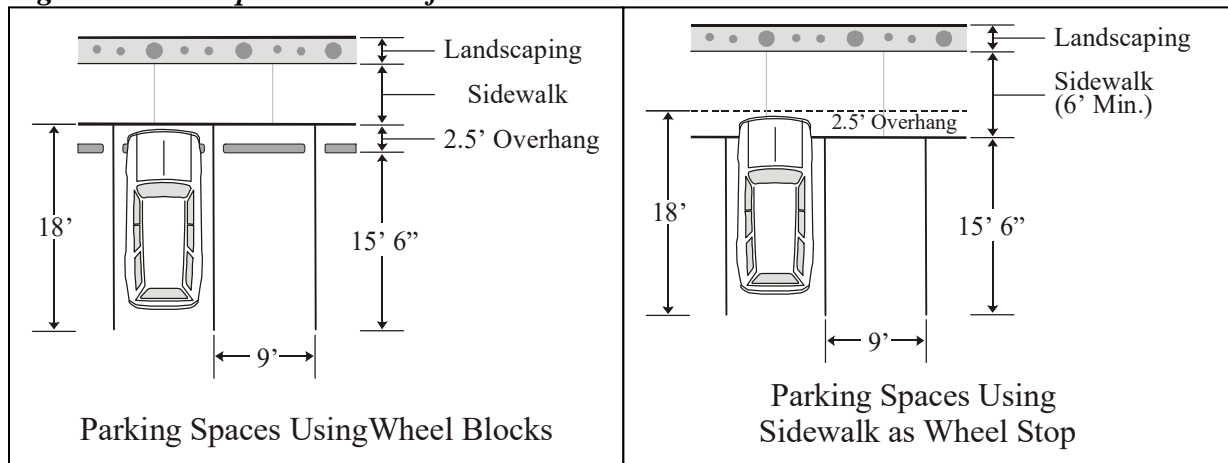
## **SECTION 2160 - Joint Use**

Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap. All applicants that are requesting the joint use of required parking areas shall submit a written agreement between the involved property owners and a parking study which shall be approved, or denied by the Technical Review Committee.

## **SECTION 2165 – Curbs and Wheel Blocks**

Curbs, wheel blocks or other suitable devices must be provided to prevent vehicles from extending beyond a property line, pedestrian walkway, or drainage area. A minimum of 2.5 feet shall be provided for the overhang of a vehicle. When a sidewalk is used as the wheel stop and overhang for a parking stall, the width of the sidewalk shall be no less than 6 feet (See *Figure 21.4*).

**Figure 21.4 - Proper Location of Curbs and Wheel Blocks**



### **SECTION 2170 – Access Points**

Parking and loading areas shall be designed in such a manner that any vehicle using an access point from a public or private street shall be traveling in a forward motion, except for single family and duplex dwellings. Access points shall provide a reasonable distance for any approaching pedestrian or motorist to identify vehicles entering or exiting the parking and loading area. All access points shall be designed with adequate stacking distance to prevent traffic from backing onto public roadways. Where possible and appropriate, parking areas shall be connected to reduce the number of local trips onto public streets. Parking and loading areas shall not be permitted to use a public right-of-way for the purpose of maneuvering a vehicle into the designated space. For specific design specifications of access points, see Article 24. Exceptions to the loading requirements can be made when the business is located on a dead-end street or the business has infrequent deliveries or the lot is too small to practically locate a loading facility.

### **SECTION 2175 - Internal Driveways**

Driveways that are located within a designated parking area shall maintain the following standards. No parking shall be allowed along internal driveways. Driveways must be clearly divided from parking areas with directional signs or markings in each driveway.

## **SECTION 2180 – Traffic Control and Circulation Plan**

All parking lots shall be required to provide a plan that indicates the location of all traffic control devices such as stop signs, traffic lines, and stop bars, as well as the internal circulation patterns of traffic within the parking lot. Areas of the parking lot that have multiple turning areas shall be designed to form intersections, when practical, with appropriate control measures. Concentrated traffic flow areas shall be designed to channel traffic to designated control points through landscaped islands and curbs. All drive-thru facilities shall have adequate internal stacking area and shall not be permitted to disrupt traffic flow within the parking lot or outside of the site. Any traffic control measures shall be the responsibility of the land owner to maintain in proper working order.

## **SECTION 2185 - Required Parking Spaces**

Parking space requirements described in this section of the ordinance shall apply to the described uses. (“gfa” shall refer to square footage of gross floor area)

### **Required Parking Space Table:**

	Category	Use	Min. Spaces Required
<b>Residential</b>	Note: Dwelling garages shall be credited toward the parking requirements	Detached Single-family & Duplex Dwellings	2 spaces per unit
		Townhouse & Multi-family Dwellings: Efficiency & One Bedroom Units	1.5 spaces per unit
		Townhouse & Multi-family Dwellings: Two or more Bedroom Units	2 spaces per unit
		Mobile Home Park	2 spaces per unit
<b>Commercial</b>	Office	Medical Office & Clinics	5 spaces per 1,000 gfa
		Veterinarian	5.5 spaces per 1,000 gfa
		Government Office, Business or Professional Office	4 spaces per 1,000 gfa
		Banks & Other Financial Institutions	4 spaces per 1,000 gfa
	Retail	General Retail, including Wholesale	4 spaces per 1,000 gfa
		Automobile, Building Materials or Furniture Sales	3 spaces per 1,000 gfa
		Multi-Business Center	4 spaces per 1,000 gfa

Commercial	Category	Use	Min. Spaces Required
	Eating & Drinking Establishments	Fast Food	15 spaces per 1,000 gfa
		Carry-Out, Specialty, Sit-Down	10 spaces per 1,000 gfa
	Lodging	Hotel, Motel, Bed & Breakfast	1 space per room <u>AND</u> 75% of the required spaces for banquet / meeting spaces or restaurants
	Service Establishment	Barber, Beauty Salon, Dry Cleaners, etc.	4 spaces per 1,000 gfa
	Vehicle Facilities	Gas Station, Service Station, Vehicle Repair	1 space per 2 gasoline pumps <u>AND</u> 2 parking spaces for each working bay
Industrial	Entertainment	Live Performance Areas or Movie Theaters	1 space per 3 seats
	Warehouses	Warehouses & Distribution Centers	1 space per employee on the largest shift of the use <u>AND</u> 1 space for each automobile used for the business AND 1 space per 500 sq. ft. of floor area open to the public
	Storage	Mini-Warehouses, Personal Storage, etc.	5.5 spaces per 1,000 gfa of office space
	Manufacturing	Manufacturing, Processing, Fabrication & Other Similar Uses	1.25 spaces per 1,000 gfa

Recreational	Category	Use	Min. Spaces Required
	Outdoor Uses	Golf Course	8.0 spaces per hole (This includes associated uses such as clubhouse, office, driving range, maintenance, etc.)
		Driving Range	1 space per tee
		Miniature Golf	1.5 spaces per hole
		Boarding Stable	.5 spaces per stable unit
		Swimming Pools	1 space per 100 sq. ft. of pool area
		Tennis Courts	1 space per 1,000 gfa
	Indoor Uses	Bowling Alleys	4.25 spaces per lane
		Ice & Roller Skating Rinks	5 spaces per 1,000 gfa
		Billiard Room	2.5 spaces per table
		Recreation Center, Health Club	5 spaces per 1,000 gfa
		Firing Range	1.5 spaces per firing stall
	Sports Facilities	Stadiums, Arenas, Fields & Similar Venues	20 spaces per field or diamond <u>OR</u> .25 spaces per seat, whichever is greater
Public Facilities	Cultural Centers	Libraries, Museums, etc.	2.5 spaces per 1,000 gfa
	Hospital	Human	1 space per bed
		Convalescent / Nursing Home	1 space per 4 beds
	Religious Assemblies	Churches, Houses of Worship, Funeral Home, Mortuary, Mausoleum	1 space per 3 seats

Public Facilities	Category	Use	Min. Spaces Required
	Schools	Elementary / Junior High Schools	3 spaces for each room to be used for class instruction or office
		High School, College, Professional, Trade, Vocational	6 spaces for each room to be used for class instruction or office
		Daycare, Preschool, Nursery	3 spaces per 1,000 gfa
	Community Services	Police, Fire, Utilities, Post Offices, & Other Services	1 space per 2 employees on the largest shift for which the site is used <u>AND</u> 1 space for each automobile on the site associated with the use

### **SECTION 2190 - General Interpretations**

In the interpretation of this Article, the following rules shall govern:

1. Parking spaces for other permitted or conditional uses not listed in this Article shall be determined by the Technical Review Committee. The Committee will establish the number of parking spaces required for a land use based on information that the applicant supplies related to:
  - a. The estimated number of total trips generated during peak conditions (inbound and outbound);
  - b. The estimated parking duration per vehicle trip (turn-over rates);
  - c. The estimated number of employees.
2. When determining the number of parking spaces required by this Article, all fractional numbers shall be rounded to the nearest whole number.
3. If there is an adequate public transit system, or where parking demand is unusually low, the parking space requirements cited within this Article may be reduced proportionately by the Technical Review Committee.
4. In areas where the parking of large trucks, vans, or tractor-trailers is planned or reasonably expected, an on-site parking area of sufficient size shall be required to accommodate the parking of such vehicles. These parking areas shall be clearly designated and marked, and shall be exclusive of driveways, aisles, and other circulation areas. The provision of parking areas for such vehicles shall under no circumstances cause a reduction in the minimum required number of automobile parking spaces.



## **ARTICLE 22**

### **LANDSCAPING, BUFFERING, SCREENING & FENCES**

#### **SECTION 2200 – Intent**

The purpose of this Article is to promote and protect the health, safety, and general welfare of the community through the reduction of noise, air, and visual pollution, the stabilization of soils, the containment of wind-blown dust and debris, and the provision of a wide variety of living plant material around buildings, adjacent properties, large expanses of paved areas, and transitional areas between land uses.

#### **SECTION 2205 – Required Landscape Review**

All developments that are subject to a Site Plan Review as defined by Article 23 of this ordinance must demonstrate that the requirements of this Article will be achieved. No new site development, building or structure shall be constructed unless landscaping is provided as required by this Article. Any improvements to an existing development, which includes building additions, and loading area expansions, shall be required to bring only the new improvements into compliance with this Article. Single-family residences and duplexes are not subject to the landscaping requirements of this ordinance.

#### **SECTION 2210 - General Requirements**

1. A Landscaping Plan will be required as part of the Site Plan Review process. The information required on this site plan is listed in Article 23, Section 2320, Item 12.
2. The owner of the property is responsible for the installation of all landscaping materials and required bufferyards. The maintenance of all landscaping materials and required bufferyards shall also be the responsibility of the owner of the property—unless documents establishing the maintenance and liability of these improvements have been recorded and approved by the Plan Commission (prior to recordation in the Office of the Dearborn County Recorder). Maintenance and liability can be designated or transferred to an established homeowners' association, conservation trust, park board, the commercial management entity associated with a development, or another entity if approved by the Plan Commission.
3. All landscaping materials and required bufferyards shall be kept in a proper, neat and orderly appearance—regularly free of weeds or tall grass, refuse and debris. All unhealthy or dead plant materials shall be replaced by the next planting season, or within one year, whichever comes first.



4. All plant material must be installed, according to the approved landscaping plan, no later than the next planting season or within 6 months from the date that a building occupancy permit is issued, season permitting. If no occupancy permit is required all plant material must be installed by the next planting season from the date of approval for the landscaping/site plan.
5. All plant materials selected should be able to tolerate their specific planting environment and be easily maintained. Also, all landscaping shall be designed and installed to permit access to any area where repairs, renovations or regular maintenance to site buildings, utilities, etc. are expected.
6. All trees from Plant Type D (See Section 2230) shall be a minimum of six (6) feet (not to include the root ball) in overall height at the time of planting. In addition, all trees from Plant Type A and B shall be a minimum of 2 inches in caliper size (at dbh) and all shrubs from Plant Type E shall be a minimum 24 inches B&B or 3 gallon size at planting.
7. In addition to the designated width of all landscaping strips and the types of plants that are required, some type of ground cover shall be incorporated in the design, which may include any combination of grass, low ground cover, shrubs, flowers, or mulch. Gravel, limestone, river rock or similar materials may only be used as mulching around plants or for the purpose of providing landscaping accents. These types of materials shall not exceed thirty percent (30%) of the ground cover associated with the required bufferyard area(s) for the site, unless approved by the Technical Review Committee during the Site Plan Review process.
8. All bufferyards, landscaping strips, and planted areas that adjoin a street; and all vehicular use areas, shall install a minimum six (6) inch high curb along the landscaping strips to protect the planted area from vehicular traffic. If it is determined by the Planning Director or designee that damage from vehicles will not occur, curbing will not be necessary.
9. The Technical Review Committee may require additional landscaping, beyond the requirements of this Article if the developing use will create visual and aesthetic impacts, noise or light impacts, or other negative impacts that will not be reduced by the requirements of this Article.
10. All landscaping shall be located a minimum of 25 feet from the centerline of a public road if the right-of-way is less than fifty (50) feet total or 25 feet half right-of-way. Unless otherwise permitted within this Article or Ordinance the landscaping shall not be permitted within a right-of-way or easement.

## **SECTION 2215 – Landscaping Reductions**

The Technical Review Committee shall have the authority to grant a twenty-five percent (25%) reduction of any of the requirements in this Article upon receipt of a written request that explains the reasoning for the reduction. The Technical Review Committee shall review each written request, and a reduction shall only be granted if an unusual or extreme circumstance exists which causes an unreasonable hardship due to the size or irregular shape of the site and the use being proposed on the site. The Technical Review Committee may also approve an alternative approach if it is determined that the intent and purpose of this Article is achieved.

## **SECTION 2220 – Enforcement**

Inspections shall be conducted by the Planning Director, or designee, before and after construction to assure compliance with the submitted and approved Site Plan. Post development site inspections will be conducted according to Article 23.

## **SECTION 2225 - Sight Triangles**

All required landscaping plans must incorporate sight triangles (see Section 2412) that preserve the visibility of pedestrians and motorists. Any plant material taller than 3½ feet shall not be permitted within sight triangles. Plant material includes trees that are limbed up, because a mature tree trunk can impair motorist visibility.

## **SECTION 2230 – Plant Types**

The Plant Types listed below are arranged by size of plant at maturity and evergreen or deciduous plant types. The height is measured from the surface of the planted area to the top of the plant (does not include the roots of the plant) or by container size. All plants selected from each plant type shall be indigenous to this region or capable of flourishing within the proposed planting area. Information about the proposed plants may be required for review and verification of the plant type from the nursery.

1. Plant Type A      Large deciduous trees over 50 feet in height at maturity
2. Plant Type B      Medium sized deciduous tree from 25 to 50 feet in height at maturity
3. Plant Type C      Large shrubs or small trees 10 to 25 feet in height at maturity
4. Plant Type D      Large evergreen trees over 50 feet in height at maturity
5. Plant Type E      Shrubs that include all sizes and ground cover

*\*\*Please refer to Article 22, Section 2280 for a listing of plants which are unacceptable within right-of-ways for streets, alleys, or required parking areas.*

## **SECTION 2235 –Berms or Earthen Mounds**

Berms, which are earthen mounds that are designed to provide visual interest, screen undesirable views, and decrease noise, may be used as an effective method of landscaping and screening in accordance with the following guidelines:

1. A berm shall be located between the right-of-way and the building setback lines;
2. Berming shall generally vary in height, width and length to create a free-form naturalistic effect;
3. The slope of a berm shall not exceed a 2.5:1 ratio;
4. The use of berms may reduce the size and number of plants required by a specific bufferyard, if it is specified in Section 2260;
5. The design of berms shall include provisions for drainage that is tied into entire site system if necessary or applicable.

## **SECTION 2240 - Landscaping Along Street Frontages**

When a developing use adjoins a street, regardless of whether it is public or private, landscaping shall be required in accordance with a Bufferyard Level 2 (See Table 22.2) along the entire street frontage. If parking is located between the street and a proposed use, the required bufferyard(s) will be increased by thirty percent (30%)—in terms of planting materials and the area needed to adequately maintain and support the additional plants—and will contain an approved architectural screen, plant materials screen, or earthen mound, berm—or an acceptable combination—between 36-42 inches in height unless the screening is 50% transparent. The required landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the street frontage and not clustered entirely at the ends of the property. The landscaping will provide screening for vehicular use areas, while also allowing flexibility for uses, which require high visibility from street frontages. If the street frontage (area between the building and the street) does not contain a vehicular use area or a parking area, then only a Bufferyard Level 1 shall be required.

Activities, such as outside storage, loading/unloading areas, parking of semi-trailers and heavy equipment or other unsightly activities or operations which do not require public visibility for the operation of the use, shall be required to provide screening that corresponds to the type of use being developed and the zoning of adjoining properties, as referenced in Article 22, Section 2270 Table 22.1.

## **SECTION 2250 – Building Landscaping**

Any building with a blank facade, or blank portion of a facade, that is not used for outdoor display, storage or loading shall be required to provide the following landscaping if the wall is visible from a public right-of-way. Blank facades shall be classified as any wall that does not have windows used for display or entry doors for customers or the general public. Buildings that are 10,000 square feet or smaller shall be exempt from the requirements within this section.

1. The plant types found within Bufferyard Level 1 shall be required to break the mass and visual monotony of long blank facades. The landscaping is not required to be placed in a linear design, but shall be dispersed throughout the entire length of the blank facade. If the required front yard bufferyard can be used to adequately reduce the view of the facade from the public right-of-way, no building landscaping shall be required. The Planning Director shall make the determination of whether the required bufferyard can be used for building landscaping;
2. Facades that adjoin a vehicular use area shall have a minimum width of 8 feet for the required planting area. This planting area can be reduced to 4 feet if sidewalks are installed;
3. Landscaping should not be installed in an area that is planned for future expansion and shall not be installed in an area that is used for an emergency exit from the building.

## **SECTION 2255 – Loading, Storage, Utility & Trash Collection Areas**

The loading/unloading areas, storage areas, utility and mechanical equipment and trash collection or compacting areas shall be screened from view of any public street right-of-way and from view of any adjoining residential use. The required screening can be accomplished by a continuous solid closed fence, masonry wall, earthen mound or berm, hedging, evergreen plant materials or combination, which is high enough to effectively screen the items mentioned above from view. Any wall or fence shall be the same or compatible, in terms of texture and quality, with the material and color of the principal building.

## **SECTION 2260 – Bufferyards**

A bufferyard is defined as a planted area that is used to separate uses that are not compatible or provide an aesthetic separation between uses. This planted area should reduce or eliminate noise and light pollution and other adverse impacts, while providing a year-round or partial visual separation. Bufferyards shall consist of a continuous strip of land with screening that shall contain existing vegetation, planted vegetation, an earthen mound or berm, a wall or fence or any combination of these. Bufferyards may be required in addition to any other landscaping requirement defined by this Article except Section 2240. The following are general requirements:

1. The bufferyard shall extend along the entire property line, where the bufferyard is required.
2. A proposed development may reduce the required bufferyard width by one-half if the developing use adjoins an existing use that has an established mature buffer, which meets or exceeds the bufferyard requirements for the adjoining developing use. However, the same quantity of plant material shall still be required within the bufferyard if a healthy planting environment can be provided.
3. The elimination or reduction of bufferyard requirements can be made if a developing site contains healthy mature vegetation. The amount of reduction permitted will depend on the size, type and density of the trees and vegetation that exists on the site. The required plant material can be completely eliminated if the existing vegetation accomplishes the type of screening required by the prescribed bufferyard. If this is not accomplished by the existing vegetation, then evergreens, fencing, berming, masonry wall or combination shall be used to supplement the existing screening as required.
4. Bufferyards can be located within building setbacks. However, this will require approval by the Technical Review Committee and shall only be permitted if the required amount of plant material can be accommodated in an area in which the plants will be permitted to flourish. Planting within these areas shall require a written agreement from the grantee of the easement or owner of the right-of-way. If the vegetation is removed or damaged because of necessary maintenance or construction, it will be the responsibility of the owner of the property to replace the required vegetation at their expense. No structures or activity may be located or situated within the bufferyard except for ingress and egress to the site (including driveway connections between adjoining sites), sidewalks, bicycle trails and passive recreation uses. In addition, detention and retention systems can also be located within the required bufferyards if the visual screening requirements are not altered or diminished.
5. The design and exact placement of the bufferyard shall be the decision of the designer or developer, but shall be reviewed during the Site Plan Review process to ensure compliance with this Article. Trees and shrubs will be planted a minimum of five (5) feet away from property lines, right-of-ways, and easements to ensure maintenance access and to avoid encroachment on neighboring property, unless permitted otherwise by Section 2215 or Item 7 of this Section.

6. When a proposed development adjoins an undeveloped parcel of land, the required bufferyard shall be determined by the type of use being developed and the zoning of adjoining properties and shall be installed in the time period required by this Article as if the adjoining property were developed.
7. Bufferyard Levels 1 and 2, as referenced in Table 22-2, can be shared between uses if an easement is provided and recorded which indicates how the maintenance and replacement of unhealthy plants will be accomplished. The width of the shared bufferyard can be reduced by 50 percent from the combined width of the required bufferyards. However, the number of plants required cannot be reduced within the shared bufferyard.

### **SECTION 2265 - Required Bufferyards**

The type of bufferyard that is required is dependent upon the zoning and use of the property that is being developed in comparison to the zoning and use of the adjoining properties. If the zoning of the developing use is the same as the adjoining property, a bufferyard shall still be required. (See *Table 22.1*)

### **SECTION 2270 - Bufferyard Types**

Each type of bufferyard is described by the minimum number of plants and the type of plants that are required for each 100 linear feet of bufferyard—unless noted otherwise. (See *Table 22.2*) Smaller trees may be replaced with larger trees if desired. A minimum of two different plant species that possess similar traits shall be used from each plant type required. Fences or walls that are used within bufferyards shall be located within the center or interior of the bufferyard and the plants shall be installed on both sides of the fence or wall. Fences in the side and rear yards shall be solid and provide 100 percent opacity. Chain link fences with slats shall not be permitted.

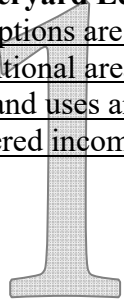
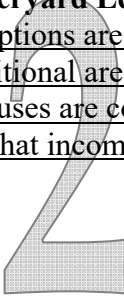
\*Find the row that corresponds to the use that is being developed, and match it to the column that corresponds to the zoning of the adjoining property.

**Table 22.1 - Bufferyards Required by Zoning District and Use**

Type of Use Being Developed	Zoning and / or Use of Adjoining Property	Bufferyard Level Required**
SINGLE-FAMILY DWELLING UNIT SUBDIVISIONS	Residential (R), Local Business (B-1), General Business (B-2), all Manufacturing / Industrial (I)	1
	Agricultural (A)	2
MULTI-FAMILY DWELLINGS For the purpose of this Section, multi-family dwelling units shall be units consisting of more than 2 units.	Agricultural (A), All Manufacturing / Industrial (I)	1
	Residential (R), Local Business (B-1), General Business (B-2)	2
MANUFACTURED HOME PARK If the use being developed exceeds 50 home sites, and adjoins a single-family residential use, a Bufferyard 3 is required.	Agricultural(A)	1
	Local Business (B-1), General Business (B-2), all Manufacturing / Industrial (I)	2
	Residential (R)	3
COMMERCIAL USES	Local Business (B-1), General Business (B-2), all Manufacturing / Industrial (I)	1
	Agricultural(A)	2
	Residential (R)	3
INDUSTRIAL USES	All Manufacturing / Industrial (I)	1
	Agricultural (A), Local Business (B-1), General Business (B-2)	2
	Residential (R)	4

\*\* If parking is located between the street and a proposed use, the front yard bufferyard(s) will be increased by thirty percent (30%)—in terms of planting materials and the additional area needed to adequately maintain and support them—and will contain an approved architectural screen, plant materials screen, or earthen mound, berm—or an acceptable combination—between 36-42 inches in height unless the screening is 50% transparent.

**Table 22.2 - Bufferyard Types & Levels**

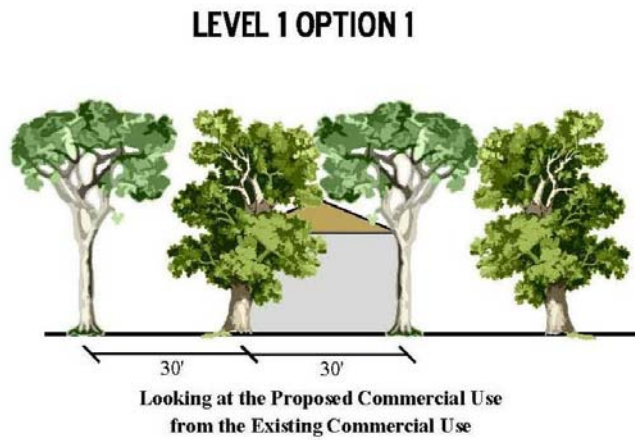
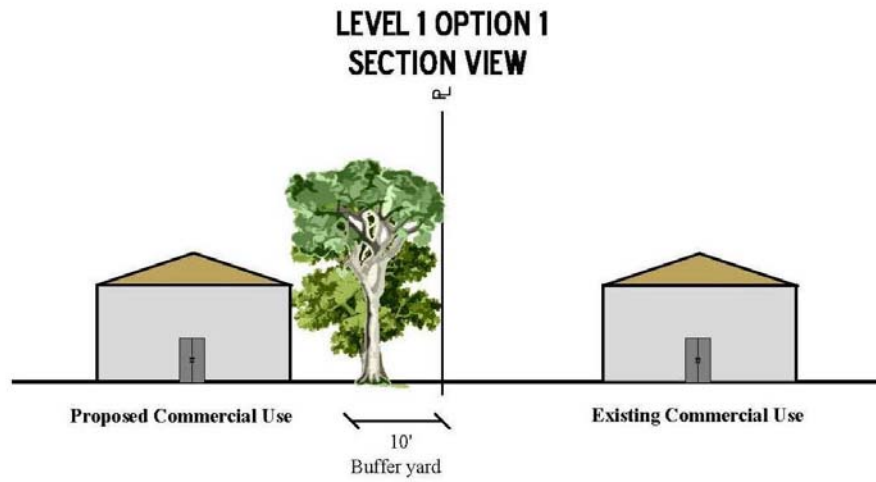
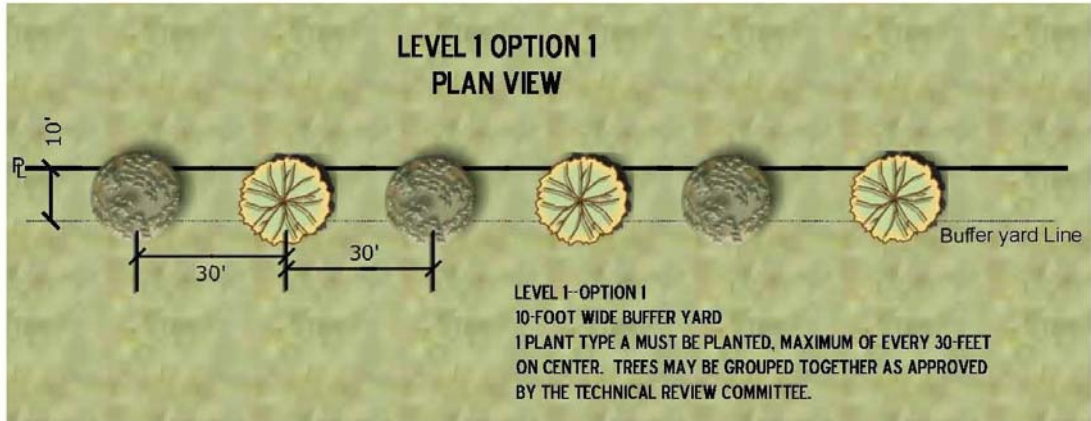
<b>BUFFERYARDS</b>		
<b>Description</b>	<b>Option 1</b>	<b>Option 2</b>
<p><b>Bufferyard Level 1</b>  <u>*These options are generally for transitional areas, where the land uses are not considered incompatible.</u></p> 	<p>1 Plant Type A must be planted at a maximum of every 30 feet on center of linear distance along the bufferyard. The required trees may be grouped together; however, spacing(s) must be approved by the Technical Review Committee.  <b>This buffer must be at least 10 feet wide.</b></p>	<p>1 Plant Type B, C, or D must be planted at a maximum of every 20 feet on center of linear distance along the bufferyard. The required trees may be grouped together; however, spacing(s) must be approved by the Technical Review Committee. <i>A minimum of 50% of the Plant Types in this option must be a Plant Type B variety.</i></p> <p><b>This buffer may be 6-10 feet in width</b></p>
		<p><b>Option 3</b></p> <p><b>**Up to fifty-percent (50%) of the trees required in Option 2 can be replaced with 4 Type E shrubs per tree.</b></p>
<p><b>Bufferyard Level 2</b>  <u>*These options are generally for transitional areas, where the land uses are considered somewhat incompatible.</u></p> 	<p>Option 1 <u>or</u> Option 2 of Bufferyard Level 1</p> <p><b><u>AND</u> +</b></p> <p>15 Type E Shrubs  (for each 100 linear feet of bufferyard)</p> <p><b>This buffer must be at least 20 feet in width</b></p>	<p>Each 100 linear feet of bufferyard must include:</p> <ul style="list-style-type: none"> <li>• 2 Plant Type A Trees for each 100 linear feet of bufferyard</li> <li>• 3 Plant Type B Trees for each 100 linear feet of bufferyard</li> <li>• A continuous 4-foot hedge, wall, or fence</li> </ul> <p><b>This buffer must be at least 10 feet wide.</b></p>

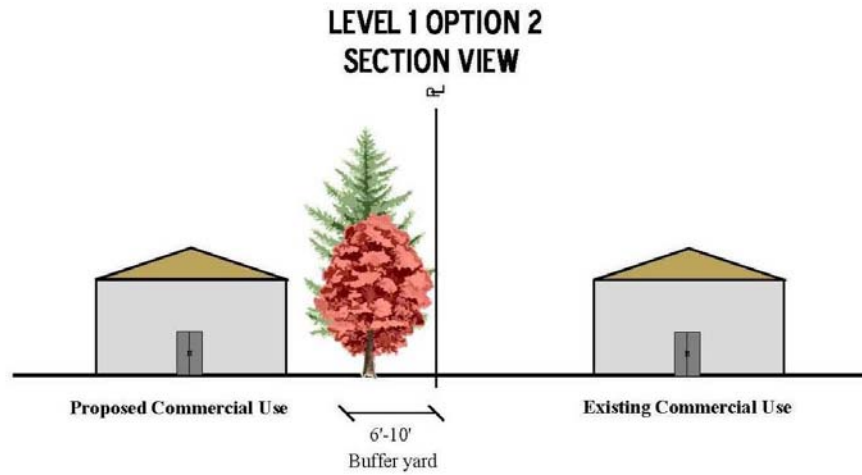
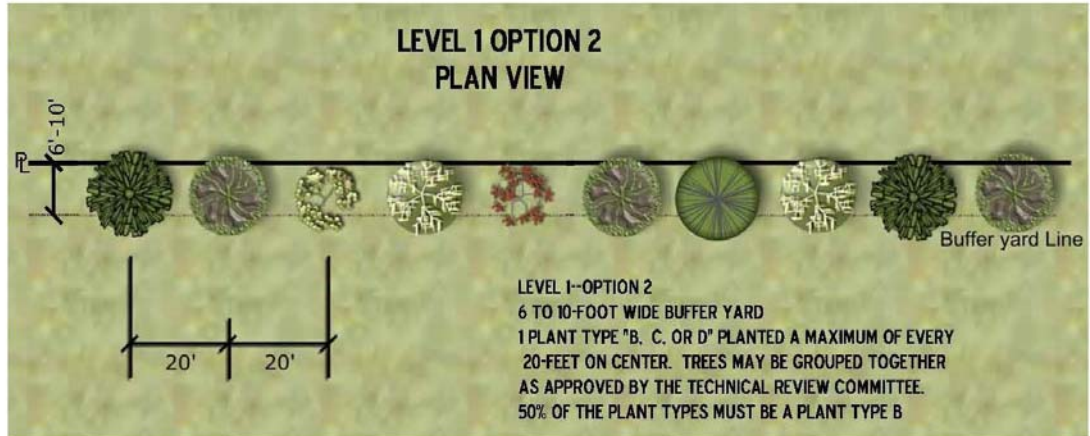


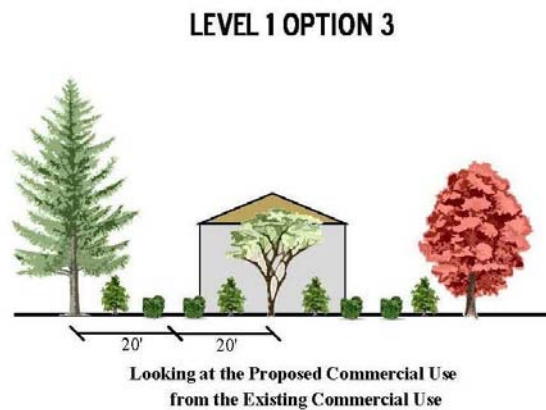
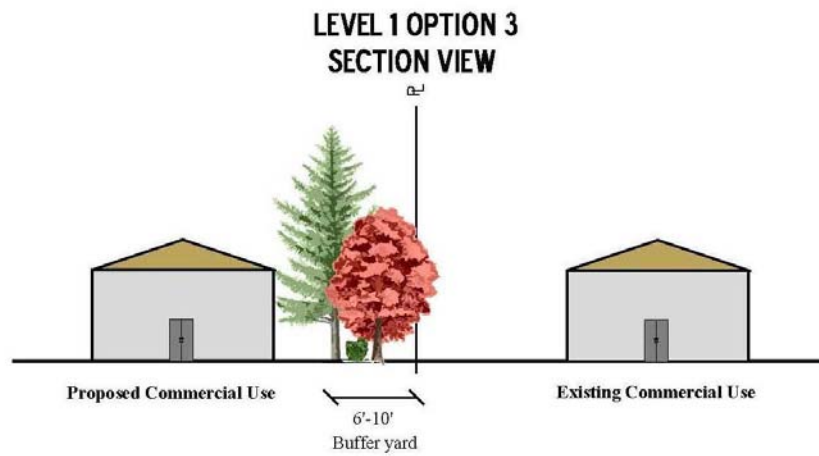
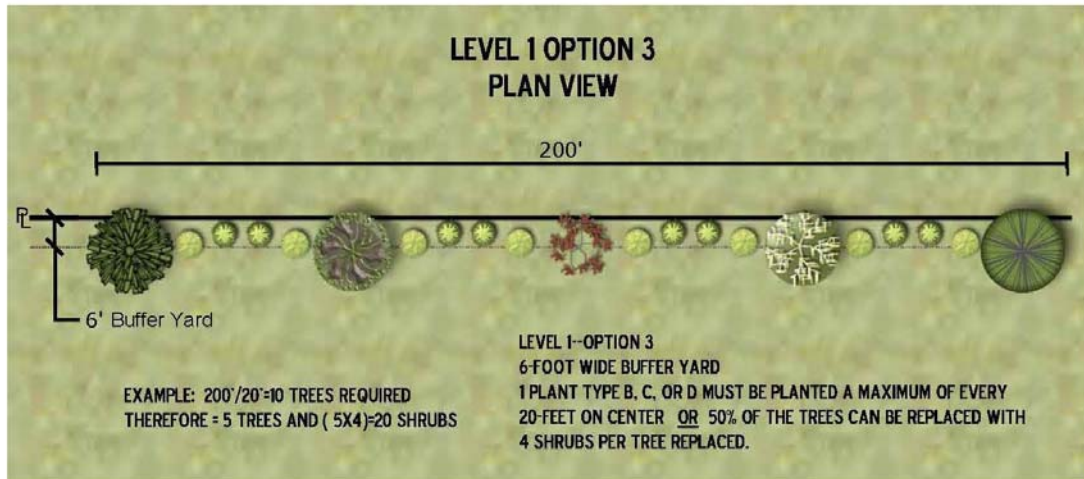
## BUFFERYARDS

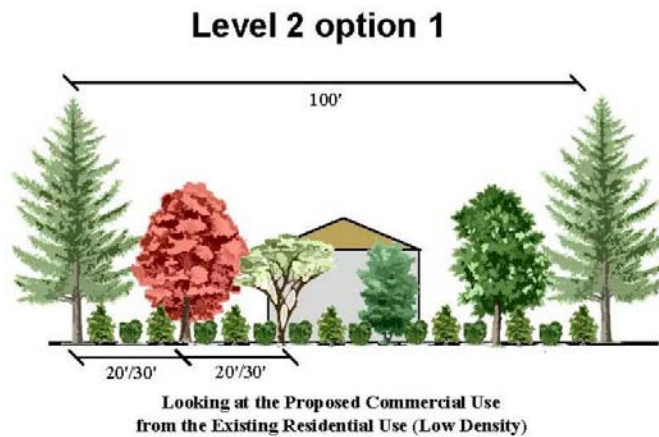
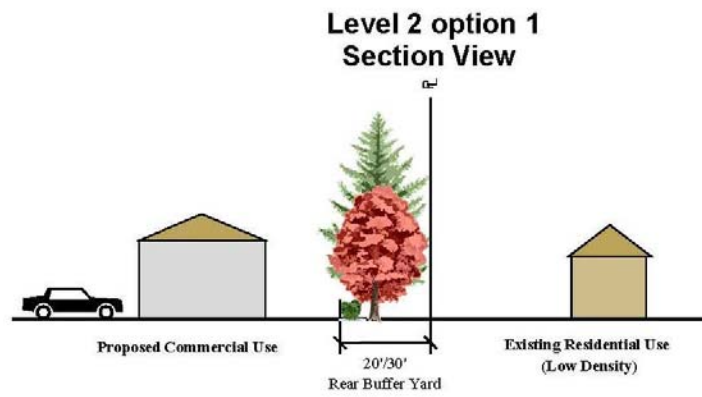
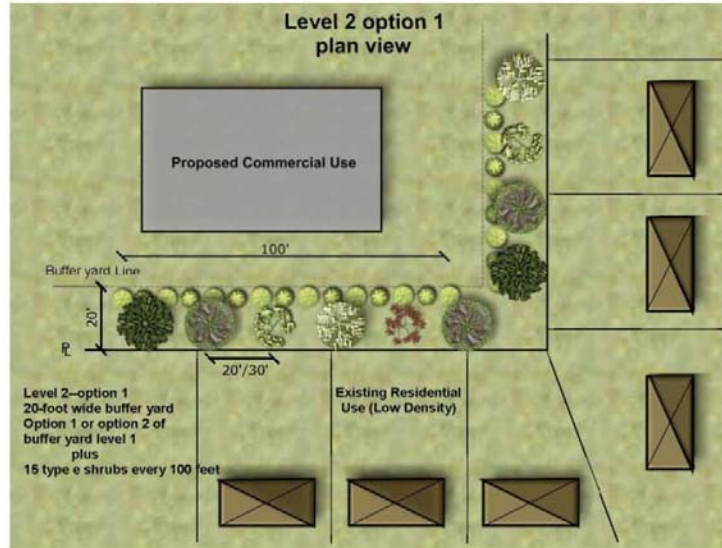
Description	Option 1	Option 2
<p><b>Bufferyard Level 3</b></p> <p><u>*These options are generally for transitional areas, where the land uses are considered to conflict.</u></p>	<p>A continuous, staggered double-row planting of trees from Plant Type D placed 20 feet on center.</p> <p><b>This buffer must be at least 35 feet in width</b></p>	<p>Each 100 linear feet of bufferyard must include:</p> <ul style="list-style-type: none"> <li>• 3 Plant Type A Trees</li> <li>• 3 Plant Type B Trees</li> <li>• 3 Plant Type C Trees</li> <li>• A continuous 5-foot hedge, wall, or fence</li> </ul> <p><b>This buffer must be at least 25 feet wide.</b></p>
<p><b>Bufferyard Level 4</b></p> <p><u>*These options are generally for transitional areas, where the land uses are considered to conflict significantly.</u></p>	<p>Each 100 linear feet of bufferyard must include::</p> <ul style="list-style-type: none"> <li>• 2 Plant Type A Trees</li> <li>• 3 Plant Type B or C Trees</li> <li>• 5 Plant Type D Trees</li> <li>• A continuous 6-foot hedge, wall, or fence</li> </ul> <p><b>This buffer must be at least 60 feet wide.</b></p>	<p>A continuous, staggered double-row planting of trees from Plant Type D placed 15 feet on center.</p> <p><b><u>AND</u> +</b></p> <p>An earthen mound or berm that is 6-feet in height</p> <p><b>This buffer must be at least 50 feet in width</b></p>

*\*Alternative Bufferyard scenarios can be presented to the Technical Review Committee during the Site Plan Review process. The Committee may approve an alternative bufferyard scenario if it finds that an applicant's proposal meets the purpose of this Article, as well as other conditions that may apply.*

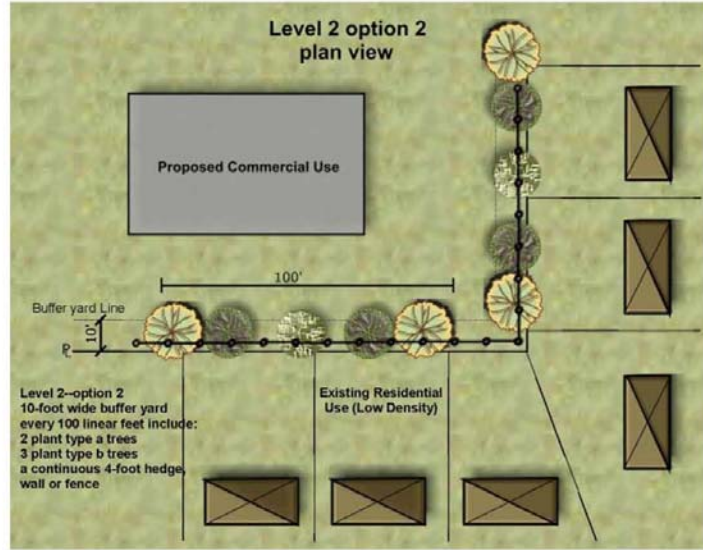




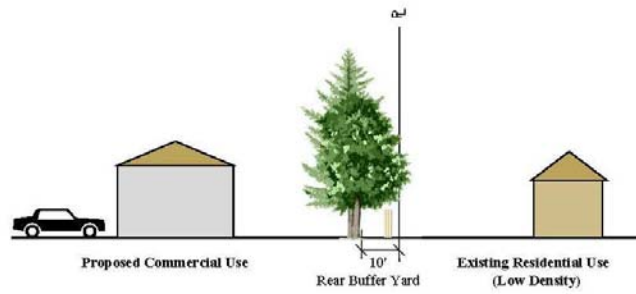




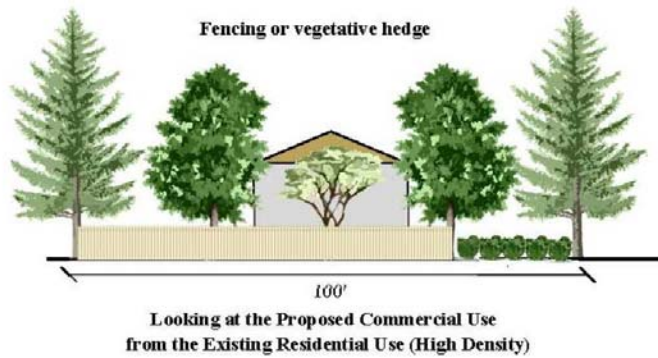


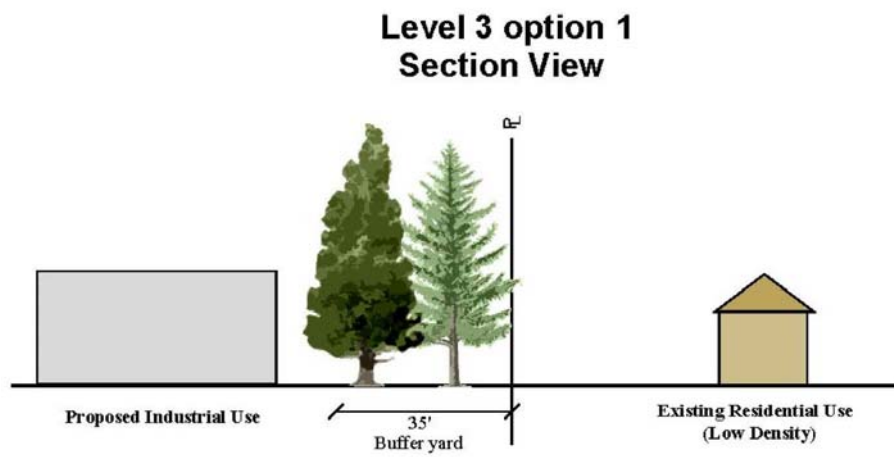
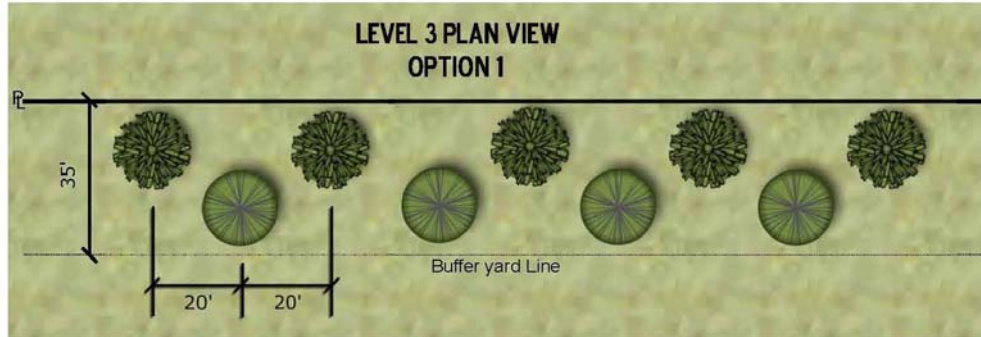


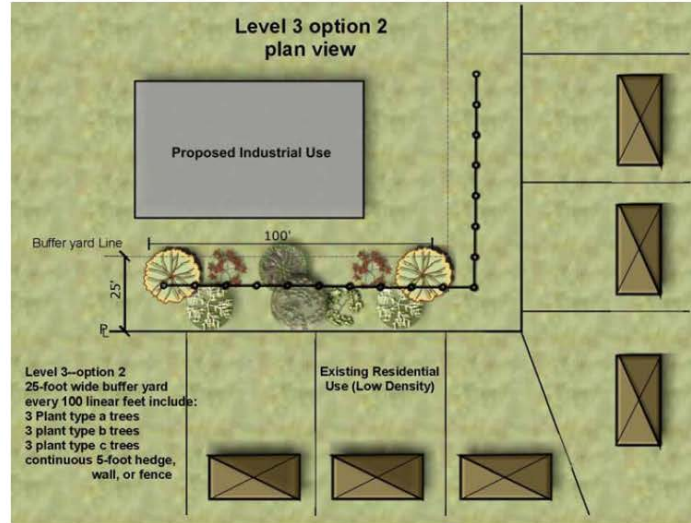
**Level 2 option 2  
Section View**



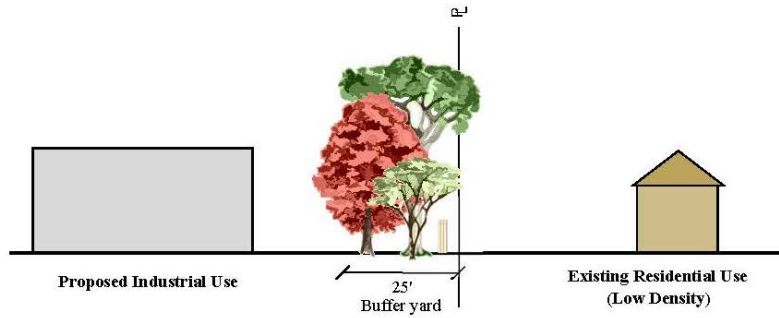
**Level 2 option 2**





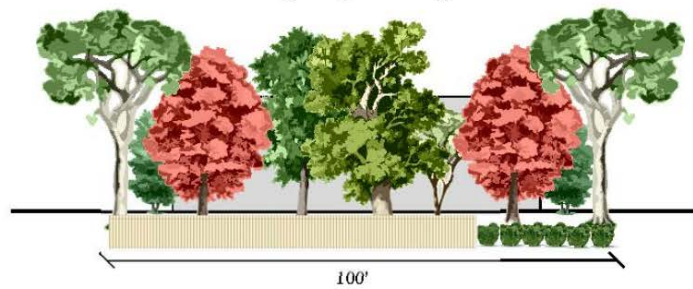


### Level 3 option 2 Section View



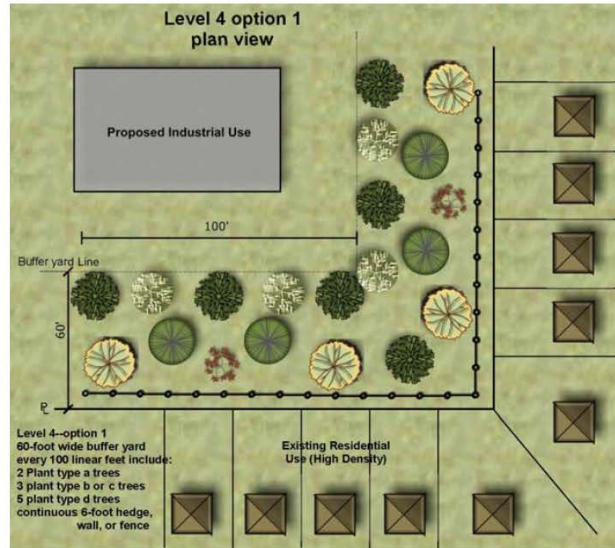
### Level 3 option 2

Fencing or vegetative hedge

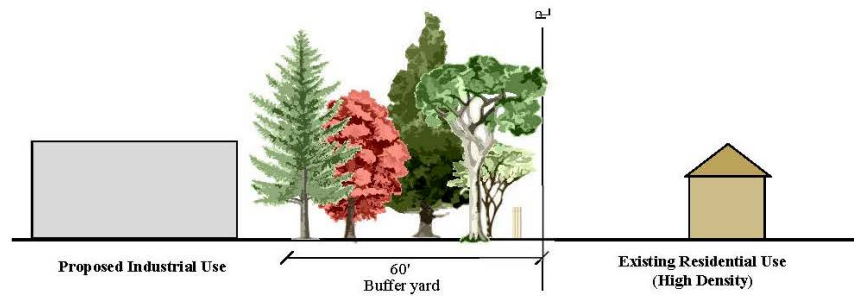


Looking at the Proposed Industrial Use  
from the Existing Residential Use (Low Density)

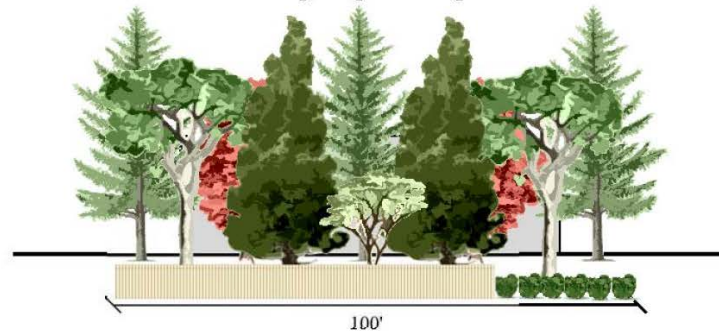




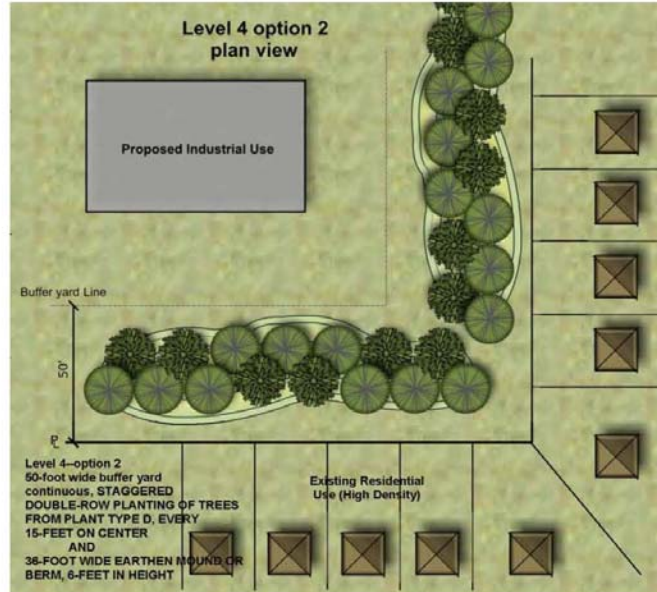
### Level 4 option 1 Section View



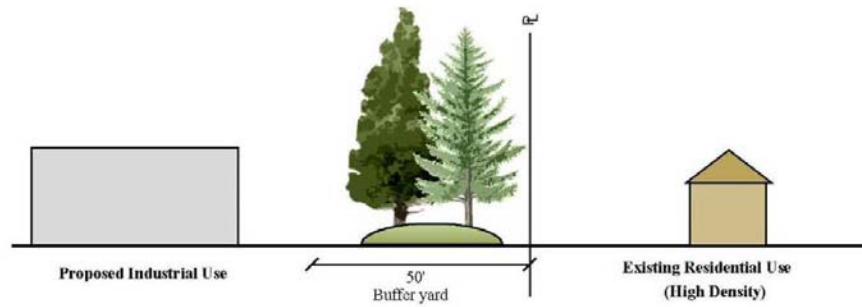
### Level 4 option 1 Fencing or vegetative hedge



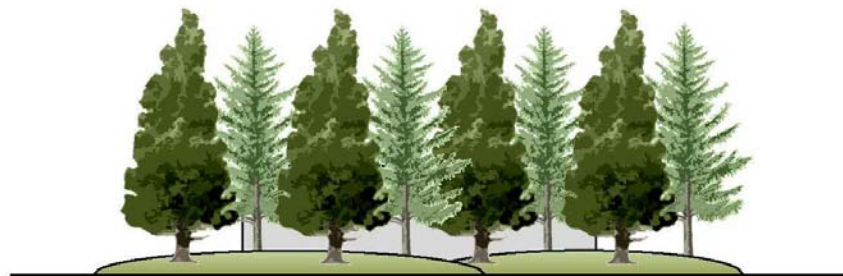
Looking at the Proposed Industrial Use  
from the Existing Residential Use (High Density)



**Level 4 option 2  
Section View**



**Level 4 option 2**



**Looking at the Proposed Industrial Use  
from the Existing Residential Use (High Density)**

## **SECTION 2275 – Architectural Screens & Fences**

1. All fences shall have the finished side facing out, with no structural supports visible from adjoining properties, or public street right-of-way unless the fence is designed so that such supports are visible from both sides.
2. Fences shall be permitted within all districts. Fences within Residential Zones shall not exceed six (6) feet in height, and shall be located within the side or rear yards, unless otherwise permitted by item 5 of this section; fences within Business Zones shall not exceed eight (8) feet in height; and fences within Agricultural & Industrial Zones shall not exceed twelve (12) feet in height.
3. All fences shall be constructed of durable materials and shall be installed to withstand the natural weather conditions. Fences shall be maintained in good condition at all times.
4. No fence may be located within a public right-of-way nor can it be located in an area which will obstruct the sight triangle for any motorist or pedestrian as defined in Article 24 (*See Figure 24.1*).
5. All fences within front yards—*except those that are established for Agricultural Uses*—shall require a permit. In addition, fences within *Residential Districts* must be constructed in accordance with the following standards:
  - a. No solid fences may be built to exceed three (3) feet in height, above grade. Fences with “open views” (i.e. with an opacity level of fifty (50) percent or more) may be constructed a maximum of 4 feet in height, above grade (*See Figure 22.5*).
  - b. Fencing in the front yard shall consist of materials that are normally manufactured for, used as, and recognized as decorative fencing materials, such as: wrought iron or other metals suitable for the construction of fences, wood planking, vinyl or fiberglass composite or other similar type of materials. Chain link fences shall not be permitted between a street and a principal structure.
6. In situations where fencing for outside storage is proposed or exists, a site plan must be submitted to, and approved by, the Planning Director or designee (See also Article 25, Section 2578). Fences constructed and installed for these purposes shall be solid and one-hundred percent (100%) opaque. Chain link fences with slats shall not be permitted.

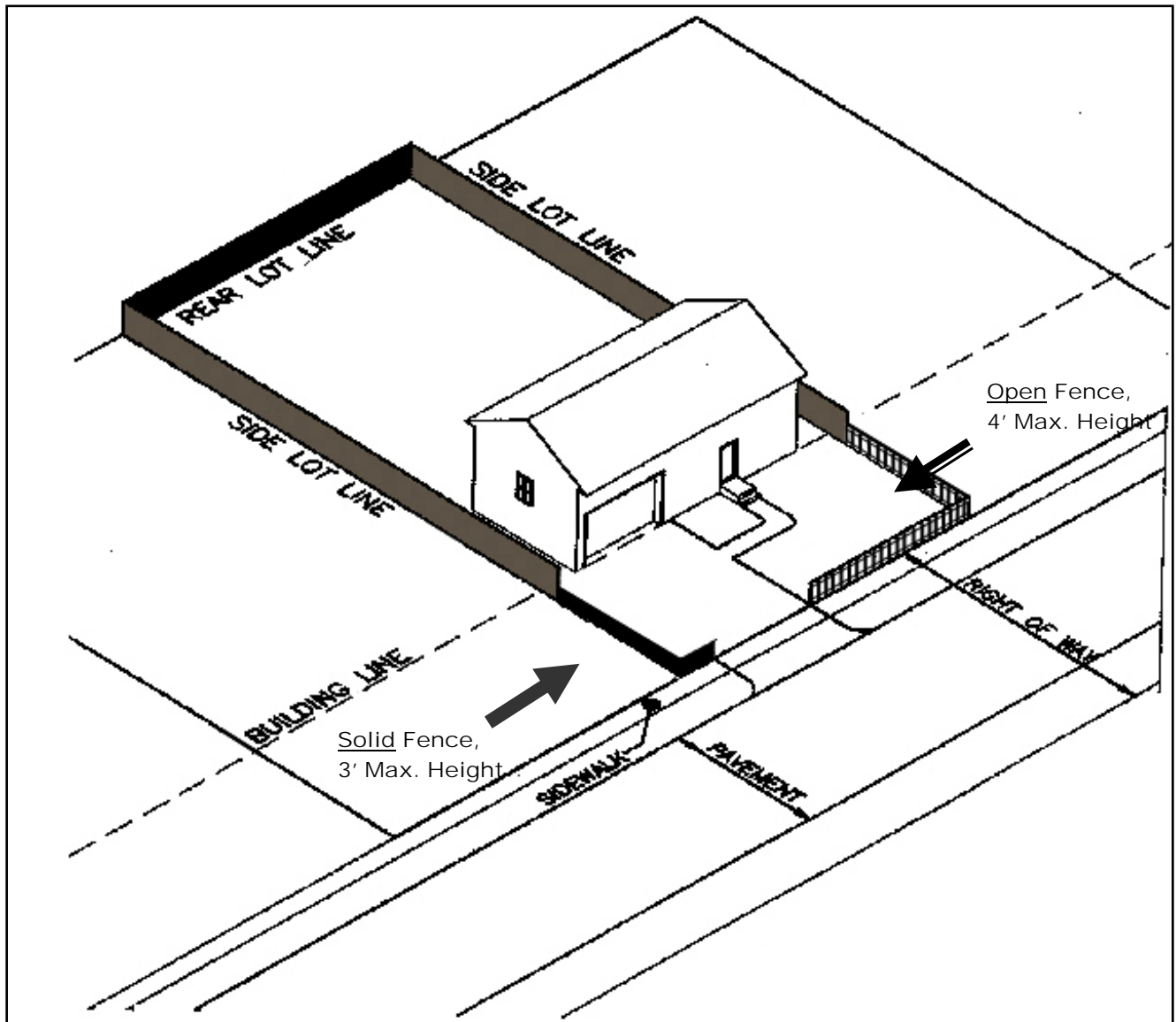
### **Footnotes:**

Please refer to Article 25, Section 2546 of the Dearborn County Zoning Ordinance for fencing requirements for pools.

Please refer to Article 25, Section 2554 of the Dearborn County Zoning Ordinance for fencing requirements for ponds.

Please refer to Title 32, Article 26 of the Indiana Administrative Code for state fencing requirements (IC 32-26).

*Figure 22.5 – Solid and Open Fences in Residential Districts*



## **SECTION 2280 – Unacceptable Plants**

The following plant species shall not be planted in a location or manner that causes any interference or obstruction within right-of-ways for streets, alleys, or required parking areas. The plants listed within this Section are not entirely prohibited; however, the use of these species should be limited to agricultural or residential areas where they can be properly installed, monitored and maintained in accordance with this Ordinance.

Non-bearing fruit cultivars or hybrids of the plants listed in this Section may be used as acceptable plants, provided that the plants do not present other unacceptable problems to the above-referenced restrictions (and locations). The Technical Review Committee will determine if a cultivar or hybrid is acceptable, if the plant has been listed as an ‘unacceptable plant’ as set forth in this Section.

***\*\*Plant materials shall not be installed or planted in utility and / or drainage easements.***

*(L) = Large trees*

SCIENTIFIC NAME	COMMON NAME	COMMENTS
Acer negundo	Box Elder	Weak-wooded trees with extensive shallow root systems.
Acer platanoides	Norway Maple (L)	Invasive species with poor growth habits and susceptibility to disease.
Acer saccharinum	Silver Maple (L)	The use of this tree should be tempered because of its extensive shallow root system that will cause drain tiles to clog and sidewalks to buckle. The tree is also weak wooded, which causes it to become a liability with age.
Aesculus hippocastanum	Horse Chestnut (L)	These trees pose significant maintenance issues, which emanate from large fruit and low rates of leaf drop. Less hardy or tolerant in restricted areas.
Ailanthus altissima	Tree of Heaven (L)	Invasive species with weak-wood and extensive root systems that have been known to damage sewers and foundations.
Albizzia julibrissin	Mimosa	Weak-wooded, invasive species that is not hardy in this area. It is not very disease and insect tolerant.

SCIENTIFIC NAME	COMMON NAME	COMMENTS
<i>Alnus glutinosa</i>	Black Alder, European Alder, Common Alder	These trees pose significant maintenance issues and are prone to pests.
<i>Betula papyrifera</i>	Paper Birch (L)	Susceptible to Bronze Birch Borer. Life expectancy in a site with some stress (i.e. street tree) is short in an urban area.
<i>Betula pendula</i>	European White Birch (L)	Susceptible to Leaf Miners and Bronze Birch Borers. This tree is also intolerant of urban stress and is short-lived with a low-branching pattern.
<i>Castanea dentata</i>	American Chestnut (L)	Very susceptible to diseases. Flowers have an unpleasant odor. Less hardy or tolerant in restricted areas.
<i>Catalpa bignoniodes</i>	Southern Catalpa	Weak-wooded trees with messy fruit.
<i>Eleagnus angustifolia</i>	Russian Olive	Short-lived invasive species that is also disease-prone.
<i>Fraxinus americana</i>	American Ash, (L) White Ash (L)	In general, these types of ash trees require significant maintenance and are susceptible to the Emerald Ash Borer.
<i>Fraxinus excelsior</i>	Common Ash, (L) European Ash (L)	
<i>Fraxinus pennsylvanica</i>	Green Ash (L)	
<i>Ginkgo biloba</i> (Female)	Ginkgo (L)	The female of this species is unacceptable anywhere because of its fruit. The fleshy seed is extremely messy with a very unpleasant odor.
<i>Gleditsia triacanthos</i>	Common Honey Locust (L)	This weak-wooded tree is too thorny for use in the urban environment.
<i>Ligustrum</i>	Privets	If a high degree of maintenance is not provided, these shrubs become leggy and do not meet required opacities. These invasive species are also susceptible to severe winter damage.
<i>Maclura promifera</i>	Osage Orange	The large fruit of this tree makes it unsuitable for high-traffic areas.
<i>Malus</i>	Apple	The large fruit of these trees makes them generally unsuitable for high-traffic areas.

SCIENTIFIC NAME	COMMON NAME	COMMENTS
Morus species	Mulberry (L)	The mulberries are unsuitable because of the fruit that they produce, which is fleshy and extremely messy.
Paulownia tomentosa	Royal Paulownia, (L) Princess Tree (L)	Weak-wooded, invasive species with root systems known to damage sidewalks and driveways.
Pinus nigra	Austrian Pine, (L) Black Pine (L)	Highly susceptible to Diplodia tip blight.
Populus nigre “Italica”	Lombardy Poplar (L)	Poplars are generally unacceptable because they are disease-prone, weak-wooded, and their roots will clog drain tiles and storm and sanitary sewer lines.
Populus deltoides	Cottonwood	
Populus deltoides	Carolina Poplar (L)	
Prunus cerasifera	Cherry Plum	The fruit of these trees makes them generally unsuitable for high-traffic areas. Additionally, these trees experience serious disease problems and are disease-sensitive.
Prunus persica	Peach	The fruit of these trees makes them generally unsuitable for high-traffic areas. Additionally, these trees experience serious disease problems and are disease-sensitive.
Pyrus	Pear	The large fruit of these trees makes them generally unsuitable for high-traffic areas.
Quercus palustris	Pin Oak	Susceptible to Bacterial Leaf Scorch.
Rhamnus cathartica	Common Buckhorn	Invasive species that is susceptible to winter die back.
Rhamnus frangula	Glossy Buckhorn	Invasive species that is susceptible to winter die back and serious diseases.
Rosa multiflora	Japanese Rose Multiflora Rose	This invasive shrub becomes leggy after harsh winters and in general is very difficult to maintain.
Salix species	Willows	Weak-wooded trees which are susceptible to canker disease and tap sewer and water lines.
Sorbus species	Mountain Ash	These trees are susceptible to a host of diseases and pests that should temper its use. Not considered urban tolerant.

SCIENTIFIC NAME	COMMON NAME	COMMENTS
Lonicera maackii	Amur Honeysuckle	Very weedy, invasive species which are difficult to maintain.
Lonicera tartarica	Tartarian Honeysuckle	
Lonicera morrowii	Morrow Honeysuckle	
Ulmus americana	American Elm (L)	In general, these types of elms are disease-prone, weak-wooded, and messy—requiring significant maintenance.
Ulmus carpiniflora	Smoothleaf Elm (L)	
Ulmus fulva	Red Elm (L)	
Ulmus pumila	Siberian Elm (L)	





## **ARTICLE 23**

### **SITE PLAN REVIEW**

#### **SECTION 2300 – Intent**

The purpose of this article is to regulate multi-family, commercial, office, industrial and other developments of structures and sites in a manner which considers the impacts to adjacent properties and public infrastructure. Single family residences are exempt from Site Plan Review. Site Plan Review will address specific issues such as parking, landscaping, internal and external access, stormwater runoff and erosion, garbage collection areas and outside storage. Further, this article is written for the benefit of a property owner or developer because it provides the design standards and requirements for developing property within Dearborn County. This article includes references to all other pertinent articles related to the Site Plan Review procedure and requirements.

#### **SECTION 2305 – Authority**

The purpose of Site Plan Review is to protect the public health, safety and general welfare of Dearborn County. The provisions and requirements in this article are written and shall be administered to ensure orderly growth and development of Dearborn County. No building shall be erected or expanded, nor shall any grading take place or other site improvements occur, on any lot, site, or parcel for uses where Site Plan Review is required except in accordance with the regulations in this Zoning Ordinance, the requirements stated in this Article, and all other applicable local, state, and federal codes related to the provision and promotion of public health, safety, and general welfare. All such Site Plans shall be reviewed by the Planning Department—and where necessary, the Technical Review Committee—and a determination either approving or rejecting such plans shall be made in accordance with the requirements of this Article and other applicable, articles of this order.

The Planning Department shall not be permitted to reject any Site Plan which is in full conformance with the requirements, terms and conditions of this Article and Zoning Ordinance, nor can additional regulations be imposed which are not included within this order. All approved Site Plans shall be binding upon the applicant, property owner, developer, or their successors and shall limit the development or project to the construction work as shown on the approved Site Plan and to all conditions and limitations for such plans agreed to by the applicants. Amendments or changes to the approved Site Plans shall be subject to the provisions of section 2335. Site Plan Review is required when specified by the individual zoning district, when the proposal is beyond the scope of an Improvement Location Permit as specified in Article 17, or when the scope of the proposal is within the definition of a Minor Site Plan or Major Site Plan as described in Section 2310. Site Plan Review is **always** required for commercial, institutional, and industrial uses that are identified in Articles 11-13 of this Ordinance.

## **SECTION 2310 – Procedure**

Prior to submitting an application for Major Site Plan Review or when waivers are requested in accordance with Section 2315 of this Article, each applicant, property owner, or developer is **required** to have a pre-application meeting with the Dearborn County Plan Commission staff, at least 2 weeks prior to the submittal of a site plan application. For projects that will clearly involve Major Site Plans, the Plan Commission staff will advise the applicant, property owner, or developer as to whether or not a pre-application meeting involving the Executive Committee members of the Technical Review Committee (i.e. the Planning Director, County Engineer, and County Surveyor or their respective designees) is warranted. The purpose of the pre-application meeting is to advise each applicant, property owner, or developer of the Site Plan Review procedure and requirements and discuss any initial concerns and omissions about the Site Plan that is being previewed. In addition, the results of the meeting will also determine whether the development proposed will follow the Minor Site Plan Review procedure or the Major Site Plan Review procedure. Both types of procedures are described below. Typically, new developments on undeveloped land will require Major Site Plan Review.

Minor Site Plan:      A Site Plan that involves no exterior utility construction (e.g., storm sewer, water, sanitary sewer, etc.), either no grading work or a minimal amount of grading work, no more than a 4,000 square foot increase of the impervious surface associated with the primary use or structures, including the parking area, no additional access points or curb cuts, and loading areas that are less than 10,000 square feet.

Major Site Plan:      A Site Plan that involves exterior utility construction (storm sewer, water, sanitary sewer, etc.), grading work, more than a 4,000 square foot increase of the impervious surface associated with the primary use or structures (including the parking area), access points or curb cuts, and a loading area in excess of 10,000 square feet. Major Site Plans may be reviewed by the Technical Review Committee and other outside agencies in addition to the Plan Commissions Staff.

Accessory structures that are for storage purposes only—which are constructed in the same manner and appearance as those permitted within Agricultural and Residential zones, containing no signage or active employee or customer areas, and not exceeding 2,500 square feet—are subject only to the improvement location permit (a.k.a. zoning permit) procedures for an accessory use, and do not require Site Plan Review. Any Minor Site Plan or Grading Plan application that is within 30 feet of a stream or wetland—or that is within 30 feet of areas that are noted or shown to have wetland soil types, wetland vegetation, and / or other criteria that are typically considered primary characteristics of wetlands—must also be reviewed and approved by the Stormwater Coordinator from the Dearborn County Soil and Water Conservation District Office; and where necessary or applicable, other State and Federal agencies.

## **SECTION 2315 - Application and Approval**

An applicant, property owner, or developer is required to file an application and corresponding copies of a Site Plan and fees (as approved in the current plan commission fee schedule) with the Dearborn County Planning Department. Action in the form of approval or denial of a Minor Site Plan by the Plan Commission's Staff shall occur within 10 working days of when the plan and all corresponding materials are officially submitted to the Plan Department's office in complete form—including all prerequisite permits from other agencies and letters from utility and service providers. Action in the form of approval or denial of a Major Site Plan by the Plan Commission's Staff, in consultation with the Technical Review Committee and other agencies, shall occur within 30 calendar days of when the plan and all corresponding materials are submitted to the Dearborn County Plan Commission's office in complete form—including all prerequisite permits from other agencies and letters from utility and service providers, unless the Plan is tabled.

Site Plan applications which are not submitted in accordance with this Article will be tabled and will not be formally reviewed. Applications that are tabled because of an inadequate submission will remain tabled—*for a period of up to 90 days (unless a time extension is granted as set forth later in this Section)*—until they are determined to meet the requirements of this Article.

A Site Plan application which receives conditional approval with deficiencies noted in writing must address all technical issues identified by the Plan Commission staff and Technical Review Committee members (where applicable) **prior to the commencement of any construction activities**—except previously approved grading and soil and erosion control plans permitted by the applicable local, state, and federal agencies. Site Plans applicants that have been approved with conditions shall be given *(90) days* to address all applicable technical issues and conditions of approval and provide two (2) hard copies and one electronic, digital copy of all of the final Site Plan documentation.

Unless the Site Plan applicant, property owner, or developer submits a written request for a time extension to the Plan Commission staff, and Technical Review Committee members (where applicable) prior to the end of the aforementioned 90-day time period, the conditionally-approved Site Plan or tabled Site Plan shall become null and void and a new Site Plan application with corresponding copies and new fees will need to be submitted with the Dearborn County Planning Department.

Site Plans which have been approved or approved with conditions may be amended up to two (2) times, in addition to the original application submittal, to satisfy technical issues and conditions that the Plan Commission staff and Technical Review Committee members (where applicable) have identified in writing. Site Plan Reviews that involve additional, subsequent reviews for changes that require significant review by the Plan Commission staff and Technical Review Committee members (where applicable) shall be assessed the current Technical Review Committee flat fee for each additional review, provided the reviews are within the *90 days* from the original approval or conditional approval date.

An appeal of the Staff denial of a Minor/Major Site Plan is possible before the Plan Commission at its next regularly scheduled meeting after written notification is made by the applicant to the Planning Director within thirty (30) calendar days of the Staff denial. Final action for approval or denial on the appeal of a Minor/Major Site Plan shall be made by the Plan Commission. Reasons for denial of a Minor Site Plan and Major Site Plan by the Plan Commission shall be given to the applicant in written form.

A waiver of any Site Plan requirement can be requested as part of the application for the development. In addition, extensions of the time requirements specified by this Article can be requested with the application for Site Plan Review. All waivers and extensions shall be reviewed by Planning Director and issued only if such waiver/extension is necessary due to unusual or extreme circumstances inherent in the project site and if the requested waiver/extension does not adversely affect the Site Plan requirements of this Article.

### **SECTION 2320 - Site Plan Requirements**

All Minor Site Plans submitted to the Dearborn County Plan Commission shall be in accordance with this article and shall contain the following information:

1. Dimensions of the site or lot;
2. Location and width of all public and private streets, driveways, and other vehicular circulation areas;
3. Location of all existing and proposed structures;
4. The proposed use at the site;
5. Square footage and height of proposed building or addition;
6. Location of all existing water, sanitary sewer, storm sewer, electric and cable television lines, easements and poles;
7. Location of any proposed parking spaces and dimensions and access points;
8. Statement declaring that "no storm water detention, grading, or utility construction necessary for construction of building addition or site work".

All Major Site Plans submitted to the Dearborn County Plan Commission in accordance with this article shall contain the following information:

1. Project name, date, north arrow, location map (a map which clearly shows the location of the property in respect to existing road and landmark);
2. A scale not smaller than 1 inch equals 100 feet or as approved by the Planning Director or designee;
3. A stamp or seal of an Indiana registered professional engineer, architect, landscape architect or land surveyor (the scope of work performed by such professionals in conjunction with a site plan submission is limited to that permitted by their respective licensing authorities). If grading and/or storm sewer construction work are being proposed, an Indiana registered professional engineer or surveyor shall be required to submit grading information and design the appropriate stormwater system. A stamp or seal of a Indiana registered professional engineer or surveyor is required for grading and stormwater construction work;
4. The present zoning of the subject property and all adjacent properties;
5. All existing and proposed public and private right-of-ways and streets; (See Article 24)
6. All abandoned streets;
7. Existing and proposed finished topography of the subject property shown by contours with intervals not to exceed 5 feet. If necessary, the Dearborn County Plan Commission may request a geo-technical report of a specific site;
8. Location and height of existing and proposed structures on the property with each existing and proposed use noted;
9. Dimensions of each lot or property boundaries;
10. Proposed housing units proposed on the property depicting location, arrangements, number or units in each building, and where applicable, location and dimensions of all lots;
11. Location and arrangement of all common open space areas and recreational facilities;
12. Location, size, and type of all landscaping features (e.g. berms, walls fences, planting material) including: a landscape schedule that specifies plant species, number of plants per species, plant size at installation, and mature plant size; total square footage of the Vehicular Use Area (VUA), the total square footage required to be landscaped and the total landscaped area provided; and, existing trees which are to be retained including temporary fenced or taped areas which will be used to protect the trees during site disturbance. (See Article 22).
13. Location, orientation, lighting, materials, size, and height of signs (See Article 20);
14. Floodplain and/or floodway zone certification and base flood elevation if applicable;
15. Location of all existing and proposed utility lines and easements (each line should be labeled existing or proposed). This information shall also be accompanied by a written statement from each service provider that addresses capacity issues as well as affirms the applicant's ability to connect or tap into these services:

- a. Water distribution systems, including line size, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;
  - b. Sanitary sewer system, including pipe sizes, width of easements, gradients, types of pipes, invert elevations, location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances. A project within the territory of the Dearborn County Regional Sewer District requires written acknowledgement / approval—in addition to acknowledgements / approvals of other service providers (where inter-local agreements may exist or be required), where applicable;
  - c. Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of detention or retention and/or sedimentation basins, and data indicating the quantity of stormwater entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of stormwater generated by development of the subject area, and the quantity of stormwater to be discharged at various points to areas outside the subject property. Show location of all detention/retention ponds (See Subdivision Ordinance for Design Standards and Detention Requirements);
  - d. Other applicable utilities (e.g., electric, telephone, etc.) including the type of service and the width of easements, if information is available;
  - e. Statement located on the Plan regarding who will maintain the drainage system;
16. Location of all off-street parking, loading and/or unloading and driveway areas, (See Article 21 & 24);
- a. the type of surfacing;
  - b. width, and depth of parking stalls, including disabled stalls;
  - c. driveway width;
  - d. traffic flow areas for one way traffic;
  - e. angle of parking used;
  - f. number of parking spaces and loading spaces;
17. Circulation system details that include the following: (See Article 24)
- a. Pedestrian walkways, including alignment, grades, type of surfacing, and width;
  - b. Streets and driveways including alignment, grades, type of surfacing, width of pavement, and right-of-way and whether public or private;

- c. Provisions for access management, which may include, but are not limited to:
    - i. a frontage road (public or private);
    - ii. coordination of curb cuts;
    - iii. curb cut connections accessible to adjoining properties;
    - iv. internal and external traffic control measures and traffic circulation patterns; (See Article 21)
  - d. Location of all above ground and underground storage tanks;
  - e. Location of dumpsters;
  - f. Location of outdoor storage areas.
18. Construction or installation details for the following:
- a. paving, curbing, and sidewalk sections;
  - b. wheelchair ramps and/or curbs;
  - c. on-site traffic/vehicular regulatory signs, including disabled parking stall signage,
  - d. curbcuts;
  - e. garbage storage area enclosure or screening;
  - f. site lighting fixtures;
19. Provisions for control of erosion, hillside slippage, and minimization of sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction. Show all affected or disturbed areas during construction on or within close proximity of the site (i.e., excavation, fill or storage). For guidelines and / or requirements for development proposed on steep slopes, see Article 25 of this Ordinance. In situations where a Soil and Erosion Control Permit is not authorized by the Dearborn County Stormwater Coordinator—through the Dearborn County Soil and Water Conservation District—for a major site plan project, best management practices of the Indiana Storm and Water Quality Manual must be followed, as administered by the Technical Review Committee;
20. If the proposed site was part of a zone change request, submit a copy of the approved concept development plan or show the relationship of the location of the proposed structure(s) to the approved zone change request;
21. Each applicant shall be required to submit traffic information estimating at minimum peak hour traffic entering and exiting the site under review. This information shall be used by the Plan Commission in determining the location of curb cuts or any additional traffic management controls on each site. When appropriate, a Traffic Impact Assessment may be required to be submitted for review by the Plan Commission (See Article 24);



22. Architectural information including the location of main doors and overhead doors shown on the site plan and the height of all structures noted on the site plan. Architectural elevations and renderings which illustrate the overall external building design, and materials and colors to be used in the building design, shall be provided for sites that are subject to other design review requirements, such as conditions of zone change or Concept Development Plan approval;
23. Location of existing recorded or unrecorded cemeteries, buildings listed on the National Register or archaeological sites (See Article 25);
24. Location of parking lot and driveway lights and their illumination areas on the project site and adjoining properties (See Article 25);
25. Any development which requires that a public improvement be made as part of the development may require a financial surety to cover the cost of the public improvements. The Planning Director shall determine if a surety is needed.

The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated. For property to be developed in sections or phases, detailed Site Plans containing the above information need not be submitted for the entire property. Plans conforming to these criteria should be submitted for the section or phase to be developed along with conceptual or schematic plans for the entire property in order to show the relationship of the relevant section to the entire development plan.

#### **SECTION 2325 - Expiration and Extension of Approval Period**

The approval of a Site Plan shall be for a period not to exceed two years. If no grading work or building construction has begun within two years after approval is granted, the approved Site Plan will be void. Only a single one (1) year extension of an approved Site Plan may be granted upon request to the Plan Commission prior to the two-year expiration date.

#### **SECTION 2330 - Completion of Site Plan Construction Work and Requirements**

All requirements of the approved Site Plan must be completed within six months of building occupancy unless an extension is granted by the Planning Director upon request. The Plan Commission's Staff will conduct a post-development site inspection after the period specified above or occupancy of the use has begun. The purpose of the site inspection is to verify compliance with the approved Site Plan. Any deviation from the approved Site Plan may require a new application or record drawings. The Technical Review Committee shall make this decision. If no building construction is being proposed, all site construction work, if begun, is to be completed one year from the approval date by the Plan Commission. A copy of the approved Site Plan shall be retained on the job site until all site improvements have been completed and have been accepted by the Dearborn County Plan Commission.

## **SECTION 2335 - Changes or Amendments**

Any changes made to the approved Site Plan prior to the development of the site or building shall require the approval of the Technical Review Committee. Depending on the extent of the changes, a new application may be required. Any variations to an approved Site Plan that occurred in the development of the site or building will require that “record drawings” be submitted for review to the Committee. In the event that any person holding an approved site plan permit pursuant to this ordinance has violated the terms of the permit or has implemented site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Building Commissioner or Planning Director, or their respective designees, may suspend or revoke an approved improvement plan permit and may recommend that the project be addressed further as a violation—in consideration of Article 6 of this order.



## ARTICLE 24

### TRANSPORTATION MANAGEMENT REGULATIONS

#### **SECTION 2400 – Intent**

To promote effective modes of transportation including safe and reasonable access between public roadways and adjacent land, transit service, bicycle, and pedestrian travel. These regulations aim to improve the convenience and ease of movement of travelers on public roads and provide for the reasonable speeds and economy of travel while maintaining the capacity of the roadway. The location and design of transportation facilities shall be in accordance with the following regulations. These regulations shall apply to all existing, planned, or proposed transportation facilities.

#### **SECTION 2402- Provision For Pedestrian Network**

Sidewalk connections to adjacent developments and/or public rights-of-way shall be encouraged and provided along public roads. New developments or re-development of existing sites should provide sidewalks along public roads. Where adequate right-of-way does not exist, right-of-way or public sidewalk easements shall be granted. The width of the sidewalks shall be in conformance with the requirements of the Dearborn County Subdivision Regulations. At intersections and pedestrian crosswalks, wheelchair ramps shall be installed.

#### **SECTION 2404 - Functional Roadway Classification**

The functional classifications of roadways are necessary to differentiate between separate operating systems. The Dearborn County transportation system of roadways is classified by operating class. The classification of highways by operating system in Dearborn County is determined by several factors.

- **Geometric Characteristics** – The physical design of the roadway including, lane width, pavement width, grade etc.
- **Traffic Volumes** – the volume of Average Daily Traffic the roadway serves.
- **Connectivity** – the level of connectivity and access the roadway provides. Higher design roadway classifications generally connect inter-county or inter-state roadways. Lower level classifications generally provide local access.
- **Access Control** – the level of access that is permitted on the roadway.

Each roadway in Dearborn County provides a particular function. In general these functions are differentiated by a hierarchy of traffic movements which includes, from highest to lowest

function, local access roads, collection systems, distribution facilities and primary movements. Each roadway in the county is classified by one of these operational functions.

## 1. ROADWAY CLASSIFICATIONS

The procedure to classify roadways follows a two-phase process.

- 1) *Classification by Access* - A determination made based on the interconnectivity of the roadway and the importance of the route not only within the county but externally as well. This establishes the roadway category; arterial, collector or local roadway.
- 2) *Classification by Traffic Volumes* - Analysis of the Average Daily Traffic (ADT) sub-classifies each facility determining the design parameters appropriate to that level of roadway.

Roadway classifications used for Dearborn County Roadways along with appropriate design criteria and typical sections for each are detailed in the Subdivision Control Ordinance - Article 3 and Appendix C

### A. Arterial System

There are two types of arterials, the principal arterial and arterial roadways. A principal arterial is generally identified as a facility which serves corridor movements adequate for statewide or interstate travel. The roadways in this category can be identified as the interstate system within the county.

Principal Arterial Roadways
I-74
I-275

Arterials are categorized by their linkages to cities or larger towns and they generally provide interstate or intercounty service. They are capable of attracting travel over long distances and have a spacing that is consistent with the population density in the county. All developed areas should generally be within a reasonable distance to an arterial.

Arterial Roadways	
US 50	SR 56
US 52	SR 62
SR 1	SR 148
SR 46	SR 262
SR 48	SR 350
State Line Rd.	North Dearborn Rd.
	Jamison Road

To further classify the roadways in this category, two (2) sub-categories are used based on the ADT volumes on the facilities. A list of these sub-categories is listed in Table 24.1. As each sub-category serves a separate level of traffic, design criteria have been developed separately to accommodate these differences. For example, a high-volume arterial's design standards will be greater than that of a low-volume arterial. Example typical sections and criteria for each are illustrated in Appendix C of the Subdivision Control Ordinance.

**Table 24.1 – Arterial Sub-Categories**

Sub-Category	Average Daily Traffic (ADT)
Category I	ADT < 5,000
Category II	ADT > 5,000

Along an arterial roadway, the provision of direct access to abutting land is **subordinate** to providing service to through traffic as facilitated through the following conditions:

- a. Direct private access to arterial roadways shall be permitted only when the property in question has no other reasonable access to the public roadway network;
- b. The design and location of allowable private access points must comply with all applicable sections of this regulation;
- c. Direct private access points to arterial roadways may be designated as "Temporary" and all requirements of Section 2460 shall apply.

## **B. Collector System**

The collector system generally serves intra-county travel as opposed to statewide movements. The trips associated with a collector are predominantly shorter than those associated with arterial routes. Consequently, lesser design speeds are used and the design standards are generally less than that of arterial routes. Collector routes provide service to smaller communities and provide connections to the arterial system. They are categorized as serving the more important intra-county routes.

Collector Roadways	
Arlington Road	North County Line Road
Bond Road	North Hogan Road
Carolina Trace Road	Old State Road 1
Chesterville Road	Possum Ridge Road
Cole Lane	Pribble Road
Collier Ridge Road	Saint Peters Road
Dutch Hollow Road	Salt Fork Road
Gatch Hill Road	Sand Run Road
Georgetown Road	Sawdon Ridge Road
Hogan Hill Road	Scenic Drive
Hueseman Road	Sneakville Road
Jackson Ridge Road	Soap Hill Road
Johnson Fork Road	Stout Road
Kaiser Drive	Weisberg Road
Lake Tambo Road	West County Line Road
Lawrenceville Road	Whites Hill Road
Legion Road	Wilson Creek Road
Lower Dillsboro Road	Yorkridge Road
Mt. Pleasant Road	

In order to further define the collector system the following sub-categories have been developed based on the ADT volumes on the roadway.

**Table 24.2 – Collector Sub-Categories**

Sub-Category	Average Daily Traffic (ADT)
Category I	ADT <1,000
Category II	1,000 < ADT <3,000
Category III	ADT > 3,000

### **C. Local Roadways**

The local roadway system in contrast to the arterial and collector system primarily provides access to adjacent land and to the wider network. It serves principally shorter trips and constitutes all roadways not classified as arterials or collector roads. To further designate this category and the design parameters required a set of sub-categories has been developed based on the roadway traffic volumes. These sub-categories are presented in Table 24.3 below.

**Table 24.3 – Local Roadway Sub-Categories**

Sub-Category	Average Daily Traffic (ADT)
Category I	ADT <400
Category II	400 < ADT < 3,000
Category III	ADT > 3,000

## 2. ROADWAY CLASSIFICATION VERIFICATION AND TRAFFIC COUNTS

It is important to note that the Roadway Functional Classifications will need to be continually reviewed and updated by the county. Functional Classifications can change over time due to new development and changing travel patterns. **The Plan Commission may require a 24-hour traffic count be conducted at the expense of the applicant on any roadway where an access point is requested.** The traffic count must be preformed by a firm approved by the Planning Director.

The functional classification of roadways within the county will change as the county develops and as road improvements and new roadways are constructed. Therefore development requests shall be reviewed to determine if the request will result in a functional change of the roadway/s. The classification of an existing or proposed roadway may be reviewed based upon a consideration of existing and projected traffic volumes, newly adopted transportation plans, changes in the existing and/or proposed character of lands adjoining the roadway, amended land use plans and zoning classification, and the availability of reasonable access to affected lands.

### **SECTION 2406 - Minimum Spacing of Driveways**

In order to minimize the potential for accidents and delay to through vehicles, all adjacent driveways onto public roadways must be separated by the minimum distance shown in ***Table 24.4 (Item B)***. These minimum spacing requirements may be waived by a majority decision of the County Engineer, the County Surveyor, and the Planning Director and / or their respective designees—as Executive Committee members of the Technical Review Committee—if necessary for a proposed driveway to meet sight distances. Local streets shall be exempt from the following driveway spacing standards.



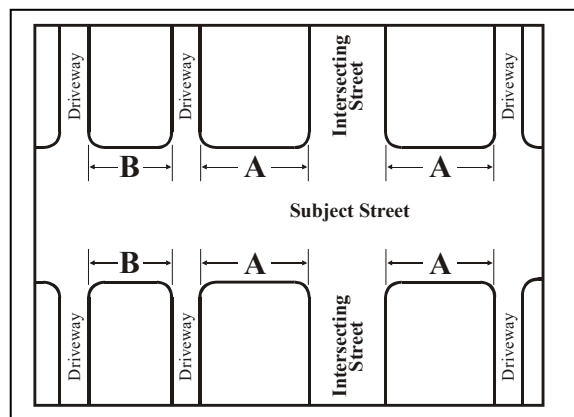
## **SECTION 2408 - Minimum Corner Clearances of Driveways**

In order to minimize the potential for accidents and delay to through vehicles, all adjacent driveways onto public roadways must be separated by the minimum distance shown in **Table 24.4**. These minimum spacing requirements may be adjusted by up to 20% to better accommodate minimum sight distance requirements if approved by majority decision of the County Engineer, the County Surveyor, and the Planning Director and / or their respective designees—as Executive Committee members of the Technical Review Committee. Variance requests exceeding 20% must be reviewed by the Dearborn County Board of Zoning Appeals, unless such requirement is waived under section 2406 of this Title for conformance with minimum sight distance requirements, and must conform, to the extent feasible, to the standards set forth in Article 24 of the Zoning Ordinance and Article 3 of the Subdivision Control Ordinance.

**Table 24.4 - Minimum Corner Clearances of Driveways**

<b>ITEM A</b>			
<i>Type of Intersection</i>	<i>Arterial</i>	<i>Collector</i>	<i>Local</i>
Signalized	230'	175'	50'
Non-Signalized	115'	75'	50'

<b>ITEM B</b>		
<i>Posted Speed Limit</i>	<i>Arterial &amp; Collector Roads*</i>	<i>Local Roads</i>
25 MPH	105'	NA
30 MPH	125'	NA
35 MPH	150'	NA
40 MPH	185'	NA
45 MPH	230'	NA
≥ 50 MPH	275'	NA



Distances shall be measured from edge of pavement

*\*These standards were derived from the American Association of State Highway Transportation Officials, Geometric Design of Highways & Streets*

## **SECTION 2410 – Minimum Sight Distances**

All driveways for Residential uses shall be designed and located so that the minimum sight distances as shown in **Table 24.5** are provided. The sight distance for speeds not located on the chart should be computed by dividing the speed limit by five (5) and multiplying that number by 35 feet [(speed limit / 5) 35].

All driveways for Commercial uses shall be designed and located so that the minimum sight distances as shown in **Table 24.5** are provided. The sight distance for speeds not located on the chart should be computed by dividing the speed limit by five (5) and multiplying that number by 50 feet [(speed limit / 5) 50].

All street intersections shall be designed and located so that the minimum sight distances as shown in Table 24.5 are provided. The sight distance for speeds not located on the chart should be determined by referencing the ‘Intersection Safety: A Manual for Local Rural Road Owners,’ as prepared and distributed by the U.S. Department of Transportation, Federal Highway Administration.

All driveways and street intersections proposed to access State Roads require an access permit from the Indiana Department of Transportation (INDOT).

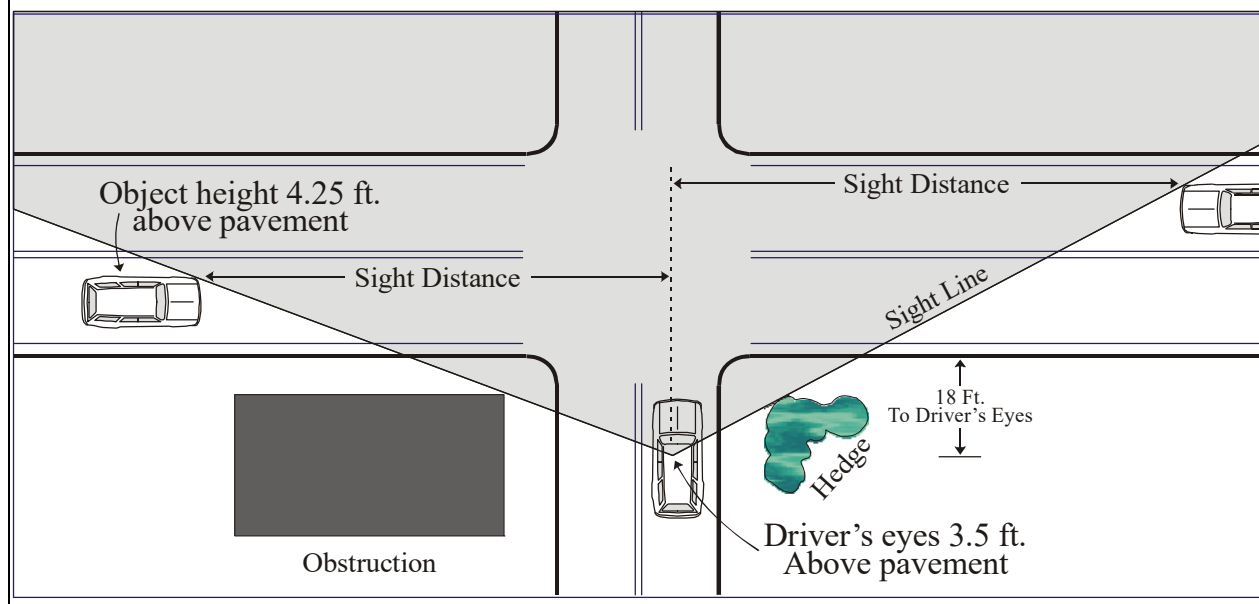
Any road or street that does not have a posted speed limit should refer to the Dearborn County, Indiana Code of Ordinances for its appropriate speed. The sight distances shall be applied as demonstrated by Figure 24.1

The Technical Review Committee can grant a 20% reduction of the required sight distance for proposed driveway accesses in certain situations, such as where the street is: minimally traveled, located on a dead end street, contains little or no development, or is a gravel road.

**Table 24.5 – Minimum Sight Distance Requirements**

Operating Speed	25	30	35	40	45	50	55	60	65
New Residential Driveway Access	175	210	245	280	315	350	385	420	455
New Commercial Driveway Access	250	300	350	400	450	500	550	600	650
New Street Intersection	280	335	390	445	500	555	610	665	720

**Figure 24.1 - Sight Triangle**



## **SECTION 2412 - Sight Triangle**

In addition to the design and location of new access points with adequate sight distance, an adequate sight triangle shall also be maintained. Sight triangles are areas clear of visual obstruction to allow for the safe egress of vehicles from an access point, including an intersecting street onto a roadway. Sight triangles shall conform to the distances detailed in *Figure 24.1*.

## **SECTION 2414 - Provisions for Maintaining the Level of Service of the Roadway**

The Plan Commission may require that all traffic requiring access to and from a development shall operate in such a manner, as to not adversely affect the level of service of the roadway. Provisions for the present or future construction of a frontage road restriction or channelization of turning movements or other improvements may be required, as a condition of approval, in order to maintain the level of service of any adjacent roadway.

## **SECTION 2416 - Number and Location of Access Points**

A driveway permit shall be obtained from the State or County for the road that is to be accessed. Each pre-existing, nonconforming buildable tract and / or each existing buildable or building tract of land, as defined and labeled on a land division plat in accordance with the Dearborn County Subdivision Control Ordinance, is entitled to one access point provided that its location and design fulfill, as a minimum, the requirements of these regulations including the following:

1. Where an undeveloped parcel adjoins another undeveloped parcel on a collector or a arterial roadway, common access points shall be established—preferably along common property lines of such parcels, provided that the potential access meets all other applicable portions of these regulations. When the second a subsequent undeveloped parcel is developed, it shall utilize the common access. In all situations involving a common access, a use and maintenance easement shall be provided, prior to the approval of a zoning request. In addition, such common access easements shall be of sufficient depth to provide adequate stacking distance for vehicles entering the access point from a public street, and shall also provide for dedication of right-of-way if the access should ever be developed into a public street.
2. A tract of land is permitted one access point for each 500 feet of road frontage, however, a single-family dwelling in a residential or agricultural zone may be granted on additional access point on a local road where the lot frontage is at least 150 feet. For corner lots, access points may be permitted on both roads if they meet all applicable codes. All access points must be in compliance with all relevant sections of these regulations—and where necessary, an INDOT permit has been approved and provided.
3. If a property has frontage on more than one street, access will be permitted only on those street frontages where standards contained in this ordinance and all other regulations can be met.
4. If a property cannot be served by any access point meeting the standards set forth in this Article, the Plan Commission will designate one or more access point(s) based on traffic safety, operational needs, and conformance to as much of the requirements of these regulations as possible.

#### **SECTION 2418 - Coordination of Access Points**

Access points on opposite sides of roadways shall be located opposite each other. If not so located, turning movement restrictions may be imposed as determined necessary by the Plan Commission. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with and between adjacent properties developed (present or future) for similar or compatible uses. As a condition of approval for construction, use, or reuse of any access point, the Plan Commission may require that unobstructed and unencumbered access, in accordance with the provisions of this ordinance, be provided from any such access point to adjacent properties if the uses are similar or compatible and such connection is physically possible.

#### **SECTION 2420 - Change in Property Use**

Whenever the use of a parcel of land changes, or two or more parcels of land are assembled under one purpose, plan, entity, or usage, the existing access permit(s) shall become void. The Plan Commission may require the reconstruction, relocation, or closure of the access point(s), based on the new property use. Any such new or re-authorized access point must be in compliance with all applicable sections of this regulation, and may require the submission of a traffic study in accordance with Section 2448 of this order.

#### **SECTION 2422 - Existing Access**

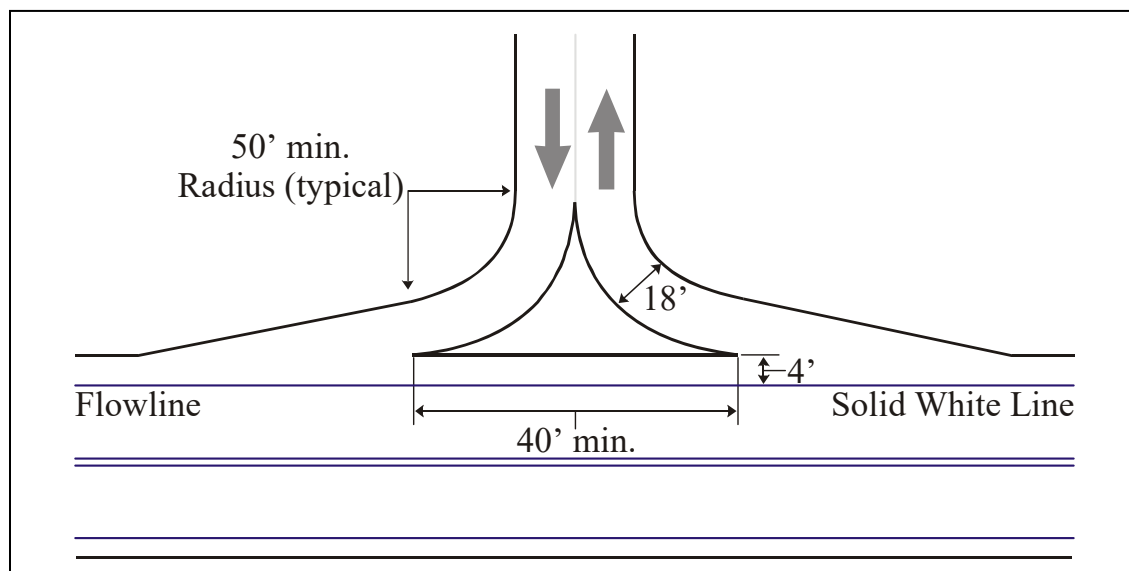
Existing access points even if not in use, may not be relocated, altered, or developed without approval of the Plan Commission.

## **SECTION 2424 - Temporary Access Points**

Any access point that does not comply with one or more sections of this regulation may be designated as “Temporary” upon approval by the Plan Commission. Any access point so designated may be terminated, reduced, limited to certain turning movements, or caused to be relocated by the Plan Commission at such time as the particular use served by an access point changes and/or the property is otherwise provided an alternate means of access via a frontage road, an intersecting street, or a shared common driveway. In all cases where said access points are classified as “temporary”, such designation shall be duly noted on the plan submitted for approval and also recorded as a Certificate of Land Use Restriction at the Dearborn County Recorder’s Office with the, expiration date noted. A driveway permit shall be obtained from the State or County for whichever road is to be accessed.

## **SECTION 2426 – Restriction of Turning Movements**

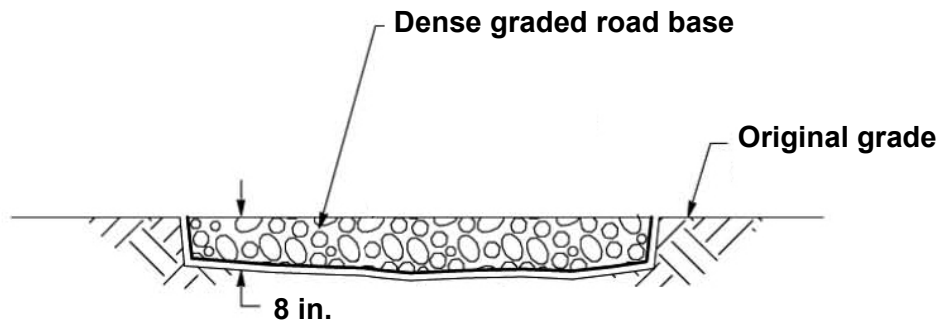
Where necessary for the safe and efficient movement of traffic, the Plan Commission may require access points to provide for only limited turning movements (see **Figure 24.2**). Access points with restricted turning movements must still meet requirements for number and location of access points as specified in these regulations.



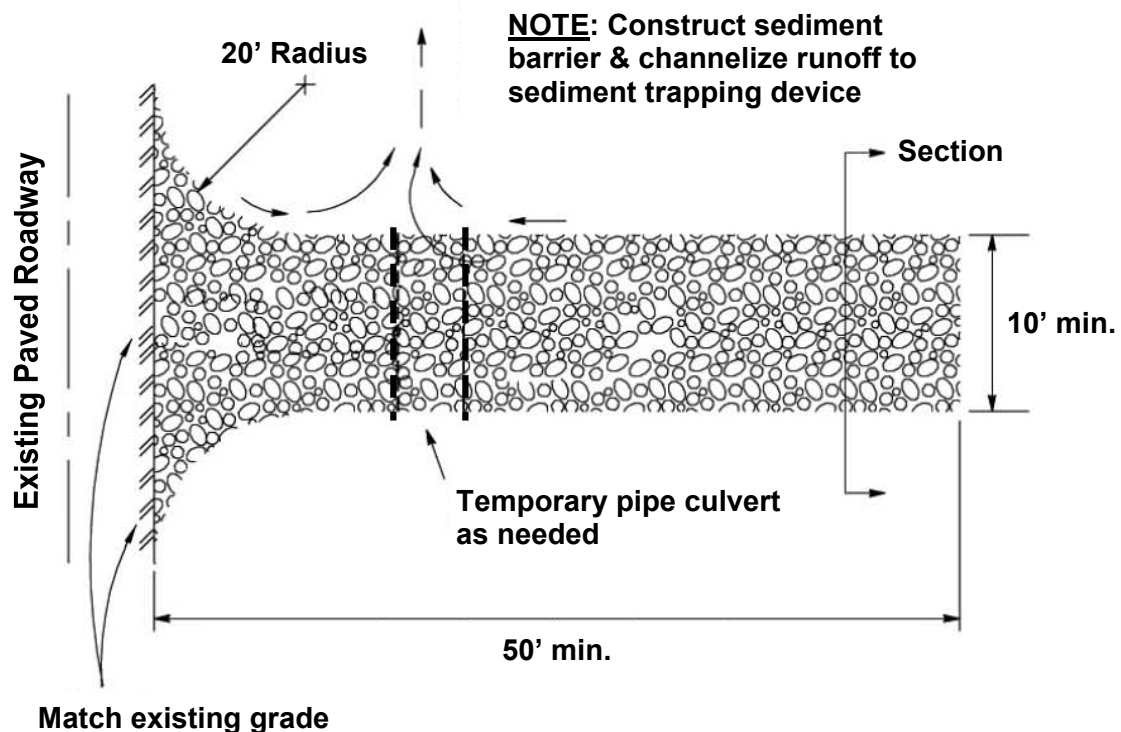
### **SECTION 2428 - Construction Access Point**

Construction access may be granted to undeveloped property prior to development of a site plan if access is needed for construction or preliminary site access. Construction access points must be approved by the County Engineer or his designee and must generally conform to the standards depicted in Figures 24.3 and 24.4. These entrances are subject to removal, relocation, or redesign after final zoning permit approval.

**FIGURE 24.3: TYPICAL SECTION**



**FIGURE 24.4: TYPICAL PLAN VIEW**

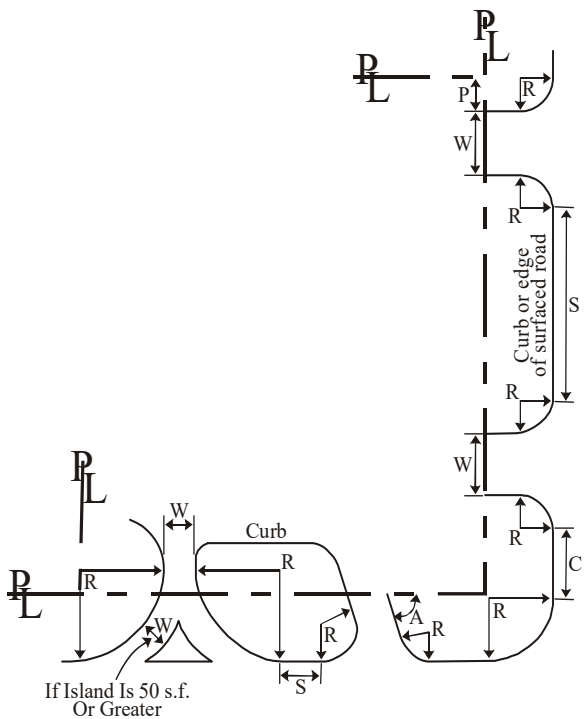


## SECTION 2430 - Driveway Design

The design of driveway width, angle, grade, curb radii shall comply with the provisions of this section, **Figure 24.5** and **Figure 24.6** presents the required dimensions and detail for driveway design based on rural or urban conditions. The Technical Review Committee can grant (up to) a 20% variance of the dimensional requirements in certain situations, such as to accommodate certain design vehicles or where the street is located on a dead-end street, or contains little or no development, etc. If center-channelizing islands are used in a 2-way driveway, clearance widths of 1.5 to 2 feet should be added on both sides of the center island.

**Figure 24.5 - Recommended Basic Driveway Dimension Guidelines**

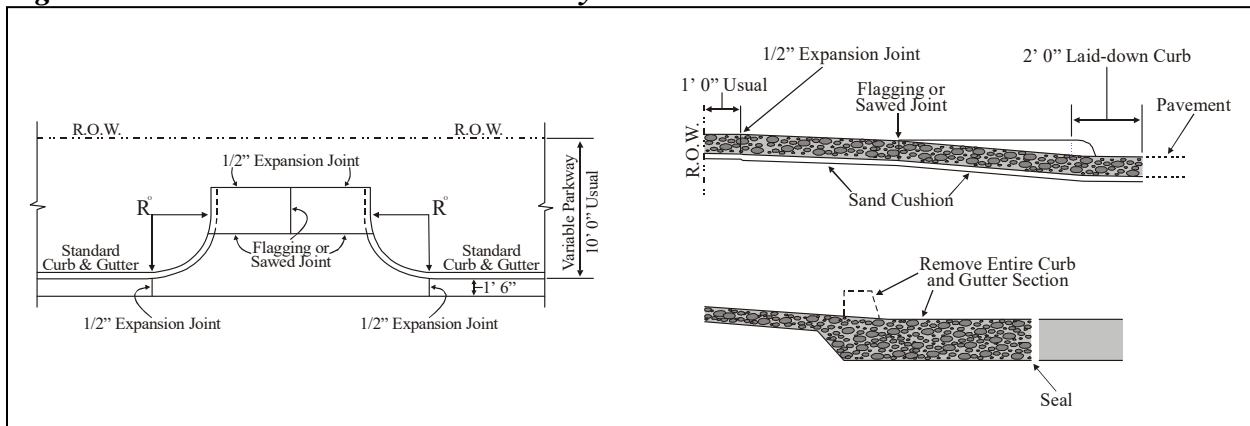
DIMENSION		URBAN			RURAL		
		Res.	Bus.*	Manuf.	Res.	Bus.*	Manuf.
Width (W) <sup>1</sup>	Minimum	10 ft.	15 ft.	20 ft.	10 ft.	15 ft.	20 ft.
	Maximum	30 ft.	35 ft.	40 ft.	30 ft.	40 ft.	40 ft.
Right Turn Radius (R) <sup>2</sup>	Minimum	5 ft.	10 ft.	15 ft.	10 ft.	15 ft.	25 ft.
	Maximum	15 ft.	20 ft.	25 ft.	25 ft.	50 ft.	50 ft.
Angle (A) <sup>3</sup>		45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	45 ft.



1. The minimum width of commercial driveways is intended to apply to one-way operation. In high pedestrian areas, the maximum basic width should be 30 feet.
2. On the side of a driveway exposed to entry or exit by right-turning vehicles. In high pedestrian areas, the radii should be half the values shown. The maximum radii for major generator driveways can be higher than the values shown.
3. Minimum acute angle measured from edge of pavement, and generally based on one-way operation. For two-way driveways, and in high pedestrian areas, the minimum angle should be 70 degrees.

\*For the purposes of this Section, driveways for agricultural uses will be considered as corresponding business uses—based on urban or rural locations.

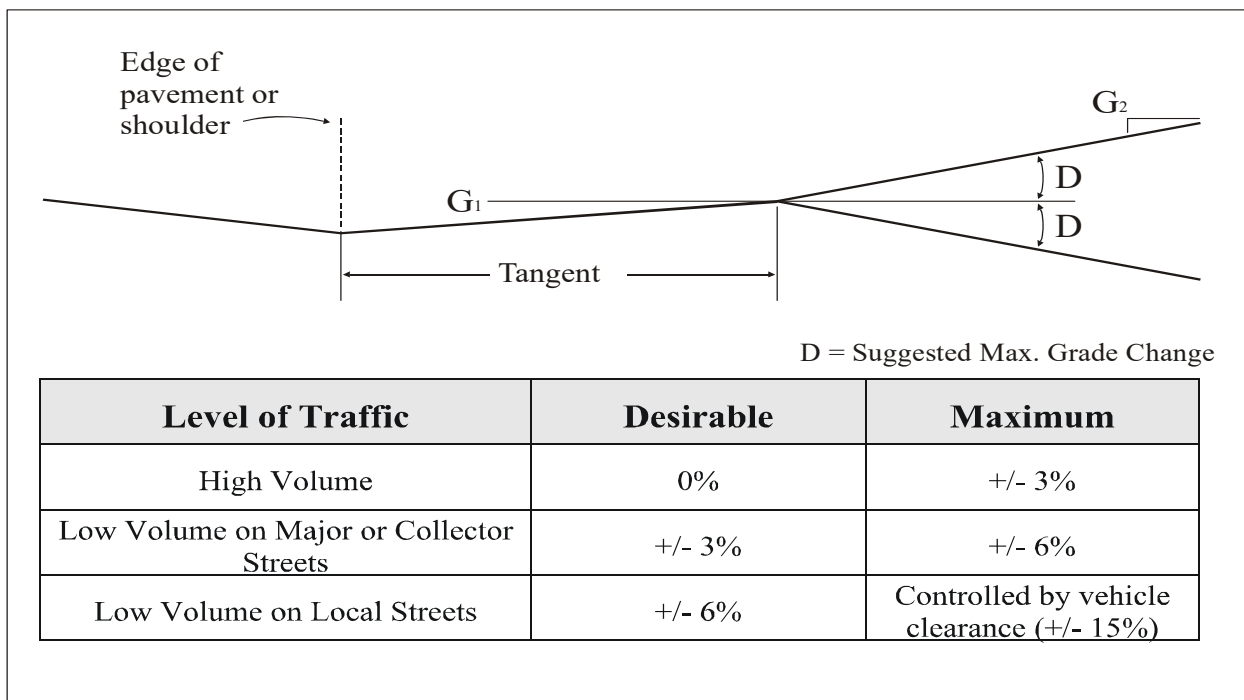
**Figure 24.6 - Recommended Basic Driveway Dimension Guidelines**



## SECTION 2432 - Driveway Grades

In high traffic areas the grade of a driveway should reflect the design illustrated in Figure 24.4. Existing curbing should be completely removed to insure a safe and efficient access to the development. Where drainage of water flowing onto a roadway is anticipated, a trench drain shall be installed as part of the driveway, **Figure 24.5** indicates recommended driveway grades. The value of  $G_1$  is limited by shoulder slopes and the presence of a sidewalk. In general,  $G_1$  should not exceed 8% and the change in grade between the driveway grade and street cross-slope should not exceed 10%. Driveway grades,  $G_2$  should not exceed 15% for residential driveways and 8% for commercial or industrial driveways. A level "landing" area should be provided at the approach to the roadway. However, the effect of a vertical curve on sight distances should also be considered. Concrete sidewalk sections are to be provided through curbcuts where existing sidewalks exist or are required.

**Figure 24.5 - Recommended Driveway Grades**





#### **SECTION 2434 - Vehicle Storage/Circulation**

No access will be approved for parking or loading areas that require backing maneuvers in a public street right-of-way except for single-family, duplex or townhouse residential uses on local streets. Any parking facility must have full internal vehicular circulation and storage. Vehicular circulation must be located completely within the property. In addition, each portion of the development must have access to all other portions without using the adjacent street system. Where a proposed development includes a truck loading operation, adequate space must be provided such that all truck maneuvering is performed off street, except as permitted by Article 21 Section 2170.

Adequate stacking capacity must be provided for both inbound and outbound vehicles to facilitate safe movement. Inbound vehicle storage areas must be of sufficient size to ensure that vehicles will not obstruct the adjacent street, sidewalk, or circulation within the development. Outbound vehicle storage areas must be provided to eliminate backup and delay of vehicles within the development.

#### **SECTION 2436 - Spacing Restrictions for Signalized Access Points**

Access points shall be designed such that those which will warrant signalization shall be spaced a minimum distance of one quarter mile apart. The location and design of the signalized access points shall be determined by a traffic engineering study, as detailed in Section 2448, prepared by the developer and subject to the approval of the Planning Department. If the installation of a traffic signal is approved, the developer may be responsible for the cost of purchasing, installing, operating, and maintaining the signal equipment.

#### **SECTION 2438 - Provision of Exclusive Turning Lanes and Deceleration Lanes**

At those access points where vehicles turning to and from the roadway will affect the capacity of the roadway, the developer shall dedicate sufficient right-of-way and construct turning lanes or deceleration lanes as necessary to maintain the capacity of the roadway. If the roadway in question has bike lanes, the developer shall also include adequate right-of-way for the bike lane and continue the bike lane through the access point.

#### **SECTION 2440 - Provision of Frontage Roads**

The Plan Commission may require the use of frontage roads to provide access to property adjacent to arterial and collector roadways. The landowner/developer may be required to construct the frontage road to the side and/or rear property lines or reserve sufficient right-of-way to allow future construction of such road.

As adjacent property develops, the landowner/developer shall be required to interconnect the individual portions of frontage roads as appropriate. Access to the roadway via an intersecting street or a common driveway may be required if the use of a frontage road is not feasible, as may the interconnecting of parking lots.

## **SECTION 2442 - Approval of Access Points Along State-Maintained Routes**

A copy of the plans for all access points to be constructed along a state-maintained or controlled route shall be submitted to the Indiana Department of Transportation (INDOT) for review and approval at the same time as plans are submitted to the Plan Commission. Permission for the construction of access points along state-maintained roadways is subject to the approval of plans by both the local and state agencies, as set forth in Section 2444 of this Order (and Article 3, Section 305 D of the Dearborn County Subdivision Control Ordinance). Any requirements within this Article that may be less restrictive or in conflict with INDOT requirements shall follow the INDOT standards. In situations where the requirements of this Article or Ordinance are more restrictive than INDOT requirements the more restrictive standards shall apply if permitted by State Law.

## **SECTION 2444 - Approval of Access Points**

All new access points to roadways and / or any access points involving a change in use or an increased intensity of an existing use shall require a permit from the State or County Department of Transportation, depending on the responsible authority for maintenance and issuance of permits. Projects involving either three (3) or more residential units or thirty (30) vehicle trips per day (or more, regardless of the proposed use) shall not be permitted access to Arterial roadways—or to an existing or proposed Collector roadway that exceeds 1000 vehicle trips per day—without approval of the Plan Commission. All other projects involving access to either to a Category I Collector roadway or access to a proposed use that generates more than ten (10) but less than thirty (30) vehicle trips per day—on all other types of Arterial and Collector roadways—shall require approval of a majority decision of the County Engineer, the County Surveyor, and the Planning Director and / or their respective designees—as Executive Committee members of the Technical Review Committee. Direct access to an arterial or collector roadway shall only be permitted if the other access scenarios such as local street access, frontage roads, shared driveways and other forms of access control are unacceptable, unsafe or inappropriate. All shared driveway accesses shall be identified on land division plats, where applicable, along with the appropriate covenants and restrictions that will also be placed on each affected tract's deed. All proposed driveway and road / street accesses in a Subdivision must also meet the other applicable rules and procedures set forth in this Article of the Zoning Ordinance, as well as those set forth in Article 3 of the Dearborn County Subdivision Control Ordinance.

## **SECTION 2446 – Waiver of Requirements**

The Technical Review Committee may reasonably waive or modify, with conditions, up to twenty percent (20%) of the technical the requirements of this Article, if it is determined that such action is warranted given the nature of an individual project and such action will serve to preserve the purpose and intent of these regulations.

## **SECTION 2448 - Traffic Studies**

Traffic studies may be required by the Plan Commission in order to assess the impact of a development proposal on the existing and/or planned street system. The primary responsibility for assessing the traffic impacts associated with a proposed development will rest with the developer, while the Plan Commission serves in a review capacity.

The traffic study will be the responsibility of the applicant and must be prepared by a professional individual or firm with adequate experience in Transportation Engineering and Planning. Upon submission of a draft traffic study, the Plan Commission will review the study data sources, methods, and findings. Comments will be provided in a written form. The applicant/developer will then have an opportunity to incorporate necessary revisions prior to submitting a final report. All studies must be approved by the Plan Commission before acceptance.

The applicant should be notified at the pre-application stage whether a traffic study will be required provided adequate information is available to the Plan Commission. If the proposed development appears to generate significant impact on the infrastructure, the applicant will be informed that a traffic study is required.

Transportation consultants are required to discuss projects with the Plan Commission prior to starting the study. Topics for possible discussion at such meetings will include trip generation, directional distribution of traffic, trip assignment, definition of the study area, intersections requiring critical lane analysis, methods for projecting build-out volume, and needs analysis of pedestrian/bicycle facilities. Specific requirements will vary dependent upon the specific site location being reviewed. No traffic study will be accepted unless the traffic study requirements of this regulation are met, and the applicant has a pre-application meeting with the Plan Commission.

### **Traffic Study Format**

In order to provide consistency and to facilitate Staff review of traffic studies, the format that is described in **Table 24.6**, shall be followed by transportation consultants in the preparation of such studies. The analysis shall be presented in a logical sequence with footnotes where appropriate. A detailed description of the content of a study is detailed in Traffic Access and Impact Studies for Site Development, published by the Institute of Transportation Engineers. The outline in **Table 24.6** was taken from that document, and indicates the information that shall be included in a transportation study.

***Table 24.6 - Sample Table of Contents-Site Traffic Access Impact Study Report***

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#### **I. Introduction and Summary**

- A. Purpose of Report and Study Objectives
- B. Executive Summary
  - 1. Site location and study area
  - 2. Development description
  - 3. Principal findings
  - 4. Conclusions

5. Recommendations

- C. Qualifications and experience of firm or individual(s) who prepared the study.

## **Development (Site and Nearby)**

- A. Off-site development
- B. Description of on-site development
  1. Land use and intensity
  2. Location
  3. Site plan
  4. Zoning
  5. Phasing and timing

## **III. Area Conditions**

- A. Study Area
  1. Area of influence
  2. Area of significant traffic impact (may also be part of Chapter IV)
- B. Study Area Land Use
  1. Existing land uses
  2. Existing zoning
  3. Anticipated future development
- C. Site Accessibility
  1. Area roadway system (a. Existing; b. Future)
  2. Traffic volumes and conditions
  3. Transit service and Pedestrian/Bicycle facilities
  4. Existing relevant transportation system management programs
  5. Other as applicable

## **IV. Projected Traffic**

- A. Site Traffic (each horizon year)
  1. Trip generation
  2. Trip distribution
  3. Modal split
  4. Trip assignment
- B. Through Traffic (each horizon year)
  1. Method of projections
  2. Trip generation
  3. Trip distribution
  4. Modal split
  5. Trip Assignment
- C. Total Traffic (each horizon year)

## **V. Traffic Analysis**

- A. Site Access
- B. Capacity and Level of Service
- C. Critical Lane Analysis
- D. Traffic Safety

- E. Traffic Signals
- F. Vehicle-Bicycle-Pedestrian Circulation and Parking

## **VI. Improvement Analysis**

- A. Improvements to accommodate base traffic
- B. Additional improvements to accommodate site traffic
- C. Alternative improvements
- D. Status of improvements already funded programmed, or planned
- E. Evaluation

## **VII. Findings**

- A. Site accessibility
- B. Traffic impacts
- C. Need for any improvements
- D. Compliance with applicable local codes

## **VIII. Recommendations**

- A. Site access/circulation plan
- B. Roadway improvements
  - 1. on-site
  - 2. off-site
  - 3. phasing, if appropriate
- C. Transportation System Management Actions
  - 1. off-site
  - 2. on-site operational
  - 3. on-site
- D. Other

## **IX. Conclusions**

The executive summary should be a one or two-page synopsis that concisely summarizes the study purpose, conclusions, and recommendations. Throughout the study, assumptions must be detailed and described. The study should also specify which transportation improvements will be the responsibility of the developer to complete.

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## ARTICLE 25

### GENERAL STANDARDS

#### **SECTION 2500 – Intent**

The purpose of this article is to set forth the physical, environmental, operational, and other performance or design standards which must be met in each and all districts, uses, buildings, structures, or alterations of lands, and to clarify situations where problems are frequently encountered. The following regulations shall govern height, density, setbacks, location of accessory structures, and other aspects pertinent to the administration and enforcement of this ordinance.

#### **SECTION 2502 – Dimensional Table for all Zoning Districts**

*Table 25.1* lists the required dimensional standards, which are applicable to all zoning districts within this Ordinance.

#### **SECTION 2504 - Exceptions to Height Regulations**

Height limitations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other structures usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport. The height of radio/t.v., telecommunication or other similar towers shall be regulated by the applicable zoning district, Article 15 and the required permit process.

#### **SECTION 2506 – Lot Frontage Requirements**

All parcels of land to be created or altered must comply within the road frontage requirements identified in *Table 25.1* or as outlined in the Dearborn County Subdivision Regulations. Each lot is required to have a minimum lot frontage, which is measured along the roadway. For lots that have irregular geometric shapes the minimum lot frontage shall be measured at the building line.

#### **SECTION 2508 - Setback Requirements for Corner Lots**

On a corner lot, the front yard shall be determined by the orientation of the front of the principal building as located on the site. The side yard setback measured from the side yard right-of-way shall be required to have the same setback as the front yard. This side yard setback requirement regulates the location of the principal building and any associated accessory structures. (See *Figure 25.1*).

**Table 25.1 - Dimensional Standards**

Zoning District	Maximum Density	Minimum Size of District	Minimum Lot Size*	Minimum Frontage	Max Building Height, Primary Use	Max Building Height, Accessory Use ^^All heights measured to eaves	Minimum Yard Setbacks**		
							Front ***	Rear	Side
A^	1 d.u. per acre	30 acres	1 acres	150 feet	45 feet	36 feet for Non-Ag Uses <b>60' for Ag Uses+</b>	100 feet	30 feet	30 feet
R^	4 d.u. per/acre	5 acres	Single-family 9,000 sq. ft Duplex 18,000 sq. ft	65 feet 75 feet	45 feet	25 feet	<b>55 feet</b>	30 feet	10 feet
	See Section 2562 for Multi-Family Requirements								
^All single-family homes / types, built onsite or built or assembled in part or whole offsite, shall be a minimum of 950 sq. ft. in size (living space, not including a garage). All duplex residential units shall be a minimum of 1500 sq. ft. in size (living space, not including a garage).									
B-1	8,000 - 10,000 sq. ft per/acres	N.A.	N.A.	50 feet	50 feet	30 feet	50 feet	20 feet (50 feet)	5 feet (50 feet)
B-2	10,000 – 15,000 sq. ft per/acre	3 acres	5,000 sq. ft	50 feet	50 feet	30 feet	55 feet	20 feet (50)	10 feet (50)
I-1	25,000 sq. ft per/acres	5 Acres	.75 Acres	150 feet	50 feet	30 feet	65 feet (75 feet)	30 feet (100 feet)	10 feet (75 feet)
I-2	25,000 sq. ft per/acre	10 Acres	2 Acres	250 feet	100 feet	50 feet	75 feet (100 feet)	40 feet (125 feet)	30 feet (100 feet)
I-3	N. A.	50 Acres	5 Acres	250 feet	100 feet	50 feet	100 feet (125 feet)	50 feet (150 feet)	50 feet (150 feet)
Manufactured Home Park	7 d.u per/acre	N.A	5 acres	50 feet	45 feet	45 feet	55 feet	25 feet	5 feet min. 15 feet total

**ABBREVIATIONS:**      d. u. = Dwelling Unit                      N. A. = Not Applicable                      sq. ft. = Square Feet                      ROW = Right-of-way

\*The Dearborn County Health Department requires a lot size that allows for two viable individual sewage disposal system sites to be situated on a buildable tract. Therefore, if the Zoning Ordinance minimum lot size is not sufficient to provide two viable individual sewage disposal sites on a given land tract, additional acreage will be required to meet the Health Department's regulations.

\*\*All side and rear setbacks are measured from the property line.

^^See Section 2516 for Accessory Uses and Structures, including applicable setback information (where primary structures exist on the same property).

**+Grain elevators, grain storage bins, or other similar agricultural handling structures or processing equipment are exempt from height requirements up to 60 ft.**

\*\*\* All front yard setbacks along public/private roadways are measured from the centerline of the road. All uses which front along an arterial road, as determined in Section 2404, shall be required to have a minimum setback of 100 feet from the centerline of the roadway if the roadway has less than 80 feet right-of-way. All uses which front along U.S. 50, shall be required to have a minimum setback of 100' from the centerline of the nearest 2 lanes of traffic.

( ) Setback when a use adjoins and Agricultural or Residential Zoning District

## **SECTION 2510 - Buildings Located on Multiple Lots**

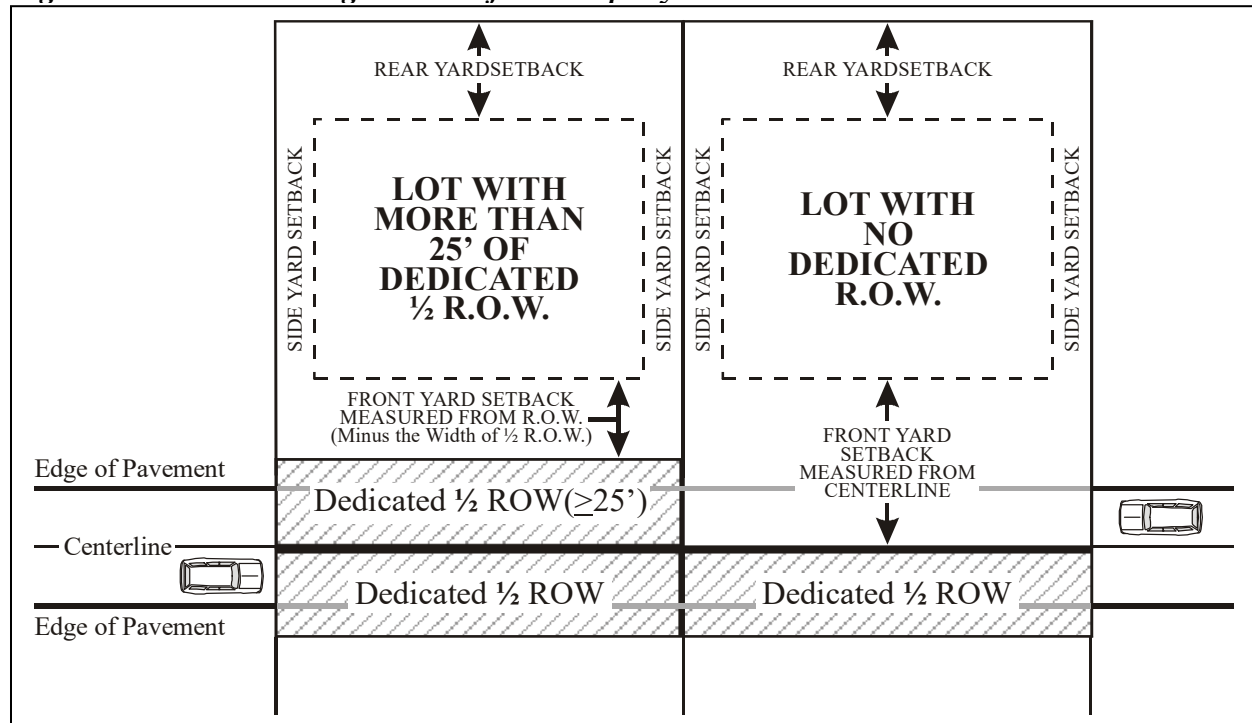
Homes, buildings, or accessory structures are permitted to be constructed on more than one lot of record as long as the lots are under common ownership. The setbacks and location requirements for the home, building or accessory structure shall be the same as if the lot were combined as one lot of record. Homes, buildings or accessory structures located on multiple lots shall be required to file a Declaration of Contiguous Lots with the County Recorders Office, which indicates the following:

For planning and zoning purposes, the lot described herein shall be considered as part and parcel of the adjacent lot(s) owned by [insert owner's name] pursuant to a deed/s recorded at Deed Record [#s], page [#s], in the office of the Dearborn County Recorder, Indiana. The real estate described herein shall not be considered to be a separate parcel of real estate for land use, development, conveyance or transfer of ownership, without having first obtained the expressed approval of the Dearborn County Plan Commission. This restriction shall be a covenant running with the land.

## **SECTION 2512 - Determining Setbacks from Property Lines**

In many instances, property lines run to the center of the public roadway because there is no dedicated public right-of-way. Due to this situation, setbacks have been determined by adding 25 feet from the centerline of the road to the required setback for the property. The purpose of adding 25 feet to the setback is to establish a minimum standard right-of-way of fifty (50) feet for all public roadways. (See *Figure 25.1*)

***Figure 25.1 - Determining Setbacks from Property Lines***





All uses which front along an arterial road, as determined in Section 2404, shall be required to have a minimum setback of 100 feet from the centerline of the roadway if the roadway has less than 100 feet right-of-way. All uses which front along U.S. 50, an arterial road as determined in Section 2404, shall be required to have a minimum setback of 100 feet from the centerline of the nearest two lanes of traffic.

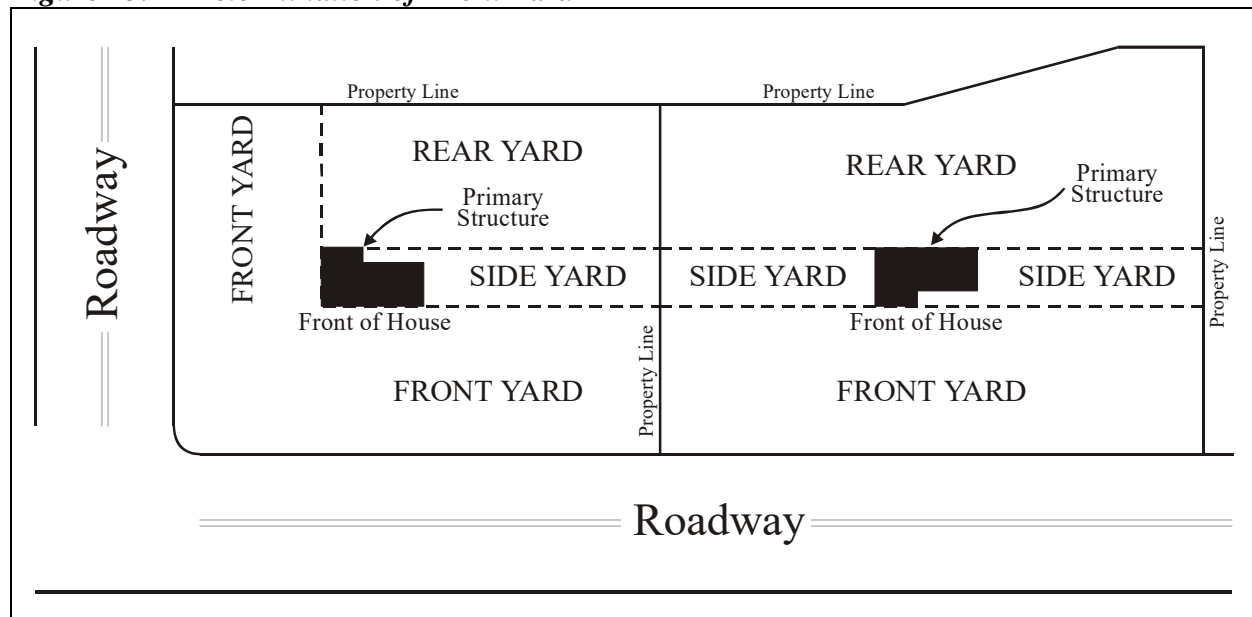
Within Residential (R) zoning districts the front yard setback shall be 70 feet for single-family homes or duplexes that are not part of a subdivision or that are located within a subdivision in which public roads are not developed.

In situations where the setbacks required by this Article are out of character with established setbacks of existing buildings in older neighborhoods, (such as Guilford, New Alsace) or nonconforming lots, setback reductions can be made by the Planning Director or designee. The purpose is to allow the proposed use to conform with the established setbacks of structures on either side and in the area.

### **SECTION 2514 – Determination of Front Yard**

In most cases the part of the home that faces the roadway and which contains the main entrance of the home is considered the front of the home. This orientation determines the front, side and

***Figure 25.2 - Determination of Front Yard***



rear yards for setback and accessory use location purposes. (See **Figure 25.2**) However, in some situations the front of the home does not face the road, but rather faces a side or rear property line for views, design reasons, irregular lot shapes or multiple road frontages. In these cases, the Planning Director or designee shall determine the front yard location based on the orientation of the home and of other homes in the vicinity.

## **SECTION 2516 – Accessory Uses and Structures**

Accessory uses and structures, not including accessory dwelling units, are permitted in all zoning districts in accordance with the provisions of this Section. Accessory use and structures shall be incidental and clearly subordinate to the principle (or primary) structure of the property—in terms of size and purpose, except as specified herein.

Accessory uses and structures that are typically accessory in nature, and are not being used (or are intended to be used) as a primary use or structure, shall also be subject to additional location and size requirements that include:

- 1) An accessory structure may be situated in the front yard of a property provided: a) it is located 110% behind the front-yard building setback requirement for the zoning district in which it is located; b) it can meet the minimum side and rear setbacks set forth in this Section; and c) there is not a more restrictive covenant or restriction in place and there are no utility, drainage or other easements in existence. Accessory structures that do not meet the aforementioned requirement must otherwise be located behind the front wall of the principle structure of the property—in the side or rear yard of the site.
- 2) An accessory structure may be located within 5 feet of a side or rear property line in any zoning district, provided that it does not exceed 15' in height to its eaves—or for non-traditional buildings an overall height of 20'—provided that there is not a more restrictive covenant or restriction in place and that there are no utility, drainage or other easements in existence.
- 3) An accessory structure may be located within 10 feet of a side or rear property line in all zoning districts, provided that it does not exceed 30' in height to its eaves—or for non-traditional buildings an overall height of 35'—provided that there is not a more restrictive covenant or restriction in place and that there are no utility, drainage or other easements in place. For accessory structures that are greater than 30 feet in height to the eaves, there shall be a minimum 15-foot side setback.
- 4) Accessory structures that do not meet the same setback as primary structures or principle structures cannot be used for primary residential, institutional, commercial, or industrial uses unless one or more Variances are granted by the Board of Zoning Appeals.

Gas pumps, canopies, automatic teller machines and photo service facilities are permitted in the front yard, but shall be located a sufficient distance from the property line in order to have safe internal traffic flow and meet the requirements set forth in this Order. All setbacks still apply. In addition, uses which are permitted outside display of products for sale, can locate these products within the front yard. These display areas shall be organized and not cluttered in appearance and shall not obstruct traffic flow.

The following are considered incidental accessory uses that do not require zoning permits (Building Permit may be required) and can be located within in all yards. They include walks, driveways, curbs, retaining walls, lattice work screens, trees, shrubs, flowers, plants, mail boxes, name plates, lamp posts, basketball poles, bird baths, benches, and structures of a like nature. In addition, direct television satellite dishes, which are less than 26 inches in diameter and ground mounted, are permitted within the front yard. Playground equipment and similar uses do not require a zoning permit (Building Permit may be required) but are required to be located in the side or rear yards.

#### **SECTION 2518 - Architectural Projections**

Open structures such as covered porches, decks, canopies, balconies, platforms, carports, covered patios, and similar architectural projections which occupy space three (3) or more feet above the general ground level of the yard shall be considered parts of the building to which attached and shall not project into the required minimum front, side, or rear yard. Chimneys, overhangs, gutters, bay windows and similar items may extend up to two and one-half (2.5) feet into a required front, side, or rear yard.

#### **SECTION 2520 - Single Family/Duplex Dwelling Units on a Single Recorded Parcel**

Only one single family detached dwelling unit or duplex shall be permitted on a single lot of record unless additional dwelling unit/s are permitted as accessory uses by this Ordinance.

#### **SECTION 2522 - Exemptions for Agricultural Purposes**

Nothing in this ordinance shall interfere with the right to farm pre-existing agricultural operations as defined in Article 27 of this ordinance.

#### **SECTION 2524 - Access Management**

Where a frontage road (public or private) is provided as a part of a development, the setback requirements may be adjusted by the Planning Director, to take the width of the frontage (and associated easements, right-of-ways, etc.) into consideration. Additional Access Management Regulations are noted in Article 24.

#### **SECTION 2526 – Septic System Requirements**

All newly created lots recorded by Subdivision Review or Certified Survey that use a septic system shall be required to provide a dedicated and reserved Primary and Secondary site for the location of the septic system on the plat for each lot to be recorded. Each site shall be able to accommodate a typical three-bedroom home and shall be inspected by a licensed professional according to the specification established by the Dearborn County Health Department. All reviews of and permits for each septic site and system shall still be under the authority of the Dearborn County Health Department.

## **SECTION 2528 - Vibration**

No operation or activity shall be carried out in any district which causes or creates levels of vibration that are determined to be a nuisance to the surrounding areas. If necessary, the levels of vibration may be measured on any property line of the tract on which the operation is located. Vibration shall be expressed as displacement in inches and shall be measured with a three-component measuring device that is approved by the Planning Director. The specific type of vibration shall not exceed the designated displacement in inches as defined in **Table 25.2**, based on the frequency. Vibrations that exist outside of the tract on which the operation is located and is not directly related to the operation, such as vibration from motor vehicles or other transportation facilities, may be excluded from these regulations and may be compensated for in the measurement of the vibration.

***Table 25.2 – Standards for Vibration***

<b><i>FREQUENCY</i></b> <i>(Cycles per Second)</i>	<b><i>VIBRATION DISPLACEMENT IN INCHES</i></b>	
	<b><i>Steady-state Vibrations</i></b>	<b><i>Impact Vibrations</i></b>
Under 10	.0055	.0010
10-19	.0044	.0008
20-29	.0033	.0006
30-39	.0002	.0004
40 and over	.0001	.0002

## **SECTION 2530 – Glare**

No operation or activity shall be carried out in any district which causes or creates an amount of glare that is determined to be a nuisance to the surrounding areas, and may not be of such an intensity or brilliance as to cause glare or to impair the vision of drivers, pedestrians, employees or neighbors. All outdoor lighting shall be located, screened, or shielded so that adjacent lots are not directly illuminated. If necessary, the levels of glare may be measured on any property line of the tract on which the operation is located, to determine the amount of glare. The levels of glare shall be measured in foot-candles. No operation or activity shall produce a level of illumination that exceeds 0.5 foot-candles at any adjoining property line of the tract on which the activity is located.

## **SECTION 2532 – Noise**

No Commercial or Industrial operation or activity shall be carried out in any district which causes or creates noise levels that are determined to be a nuisance to the surrounding areas. If necessary, noise levels may be measured on any property line of the tract on which the operation is located, to determine the level of decibels. At the property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the values described in **Table 25.3** of any octave band frequency. The sound pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association. Octave band analyzers shall be calibrated in Preferred Frequencies for Acoustical Measurements. These regulations are intended to regulate noises associated with business activities and not noises generated from individuals such as a loud stereo, car alarm, etc. Noises that are associated with temporary construction, or other similar activities, are exempt from these regulations.

***Table 25.3 – Standards for Noise***

<b><i>OCTAVE BAND FREQUENCY (Cycles per Second)</i></b>	<b><i>MAXIMUM PERMITTED SOUND LEVELS IN DECIBELS</i></b>	
	<b><i>Along Residential District Boundaries</i></b>	<b><i>Along Business District Boundaries</i></b>
0 to 75	67	73
76 to 150	62	68
151 to 300	58	64
301 to 600	54	60
601 to 1200	49	55
1201 to 2400	45	51
2401 to 4800	41	47
Over 4800	37	43

If the noise is not smooth and continuous, one of the corrections described in **Table 25.4** may be added to or subtracted from each of the decibel levels given in **Table 25.3**. Only one of these corrections may be applied.

***Table 25.4 - Permitted Decibel Corrections***

<b>Type of Operation or Character of Noise</b>	<b>Correction in Decibels</b>
Noise source operates less than 20% of any one hour period	Plus 5
Noise source operates less than 5% of any one hour period	Plus 10
Noise source operates less than 1% of any one hour period	Plus 15
Noise of impulsive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screech, etc.)	Minus 5

### **SECTION 2534 – Smoke**

No operation or activity shall be carried out in any district which causes or creates levels of smoke that are determined to be a nuisance to the surrounding areas. The levels of smoke may be measured from any point of emission, and shall use the Ringelmann Smoke Chart published by the United States Bureau of Mines. Smoke not darker or more opaque than No. 0 on the described chart may be emitted except that smoke not darker or more opaque than No. 1 on the described chart may be emitted for periods not longer than four (4) minutes in any thirty (30) minute period. These provisions, applicable to visible grey smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

### **SECTION 2536 – Heat**

No operation or activity shall be carried out in any district which causes or creates levels of heat that are determined to be a nuisance to the surrounding areas. The level of heat shall be determined at any adjoining property line of the tract on which the operation is located. No activity shall be permitted to cause a temperature change of more than 1 degree Fahrenheit as measured at any adjoining property line.

### **SECTION 2538 - Home Owner Association**

When Home Owner Associations or similar associations are to be employed for a development, the association documents shall be included with the plans and application for the development.

### **SECTION 2540 - Required Trash Areas**

All uses other than single family residential or duplex developments that provide trash and/or garbage collection areas shall be completely enclosed or otherwise screened or located in such areas to minimize their visual impact from public streets, internal circulation areas, and adjoining properties. (See Section 2255 for Screening Requirements) Provisions for adequate vehicular access to and from trash collection areas shall be required as determined by the Plan Commission. Additional requirements are located in Article 23.

### **SECTION 2542 - Public Right-of-Way**

Nothing in this order shall permit the placement of any structure or use in any public right-of-way except publicly owned uses or structures and mailboxes, which are of a breakaway type construction, unless a permit is obtained from the owner of said right-of-way.

## **SECTION 2544 - Temporary Buildings**

Temporary buildings, construction trailers, equipment, and materials used in conjunction with construction work may be permitted in any district during the period construction work is in progress. Such temporary facilities shall be removed upon completion of the construction work. Continued placement, use or storage of such facilities or equipment on site beyond the completion date of the project shall require a zoning permit authorized by the Planning Director. These temporary buildings cannot be used for advertisement of any kind except that the temporary building may display the builder's and/or developer's names.

## **SECTION 2546 - Private or Resident Swimming Pools**

A private or resident swimming pool, except portable swimming pools with a diameter less than twelve (12) feet or with an area of less than one hundred (100) square feet, must comply with the following conditions and requirements:

1. The pool is intended and is to be used primarily for the enjoyment of the occupants of the principal use of the property on which it is located;
2. It may not be located closer than (5) feet to any property line;
3. Access to residential pools shall be restricted by one (1) of the following means:
  - (a) Walls or fencing not less than four (4) feet high and completely surrounding the pool and deck area with the exception of self-closing and latching gates and doors, both capable of being locked
  - (b) Other means not less than four (4) feet high and deemed impenetrable by the Building Department at the time of construction and completely surrounding the pool and deck area when the pool is not in use.
  - (c) A power safety pool cover which shall: i) provide a continuous connection between the cover and the deck, so as to prohibit access to the pool when the cover is completely drawn over the pool; ii) be mechanically operated by a key or key and switch such that the cover cannot be drawn open or retracted without the use of a key or a key and switch or touch pad with a personal access code; iii) be capable of supporting a four hundred (400) pound imposed load upon a completely drawn cover; iv) is installed with a track, rollers, rails, guides, or other accessories necessary to accomplish the other items in this section; v) bear an identification tag indicating the name of the manufacturer, name of the installer, installation date, and applicable safety standards, if any.

### **SECTION 2548 - Community or Club Swimming Pools**

Community and club swimming pools shall comply with the following conditions and requirements:

1. The pool is intended solely for the enjoyment of the members, families of members, and guests of members of the association or club;
2. The swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access. Said fence or wall shall not be less than six (6) feet in height and maintained in good condition.

### **SECTION 2550 - Recycling Collection Points and Garment/Furniture Drop-off Centers**

Recycling collection points and drop-off centers will be permitted in any Business or Industrial zoning district if it meets all of the following performance standards.

1. The recycling collection point or drop-off center shall be placed only in the side or rear yard of the Principally Permitted Use and may be no closer than ten (10) feet to any property line.
2. The area must be enclosed or otherwise screened to minimize its visual impact.
3. The Planning Director may make exceptions to these requirements.

### **SECTION 2552 - Temporary Certificate of Occupancy**

In situations where a property has a permanent principally permitted single family dwelling unit which is destroyed or damaged to the point where it is not livable, a zoning permit allowing temporary occupancy may be issued. (The requirements of Article 4 still apply.) However, it will still be necessary to obtain a Building Permit from the Building Department for the placement of a temporary residence. The zoning permit shall be limited to six (6) months, but can be renewed for a period of six (6) additional months by the Planning Director. The purpose of the temporary permit is to allow the residents of the damaged or destroyed home time to rebuild or locate a new permanent living arrangement. A zoning permit is required and all applicable setback standards and health permits apply. No fee will be assessed for the application. Extension beyond the time indicated above will require approval from the Board of Zoning Appeals.

In addition, temporary occupancy may be given for a temporary residence for an applicant who is constructing a single family home and must or desires to move from their existing residence before their new residence is completed. The applicant must obtain the appropriate zoning permit for their proposed single family residence and indicate the location of their temporary residence on the zoning permit. All health and building code requirements must be met for the temporary dwelling. Before the temporary dwelling can be located and occupied, the following items must be completed:



1. The foundation for the approved home shall be installed;
2. The water source, septic/public sewer, phone and electric shall be installed and inspected as necessary by the Dearborn County Building Department before a temporary occupancy permit can be issued;
3. The temporary dwelling shall be located in the side or rear of the home being constructed and shall comply with all setback of primary structures;
4. The temporary occupancy shall be permitted for only six months but can be renewed for a period of six (6) additional months by the Planning Director;
5. The temporary residence must be removed from the property at the end of the approved period. If the temporary residence is a recreational vehicle it can remain on the property in the appropriate location as required by this Article, but cannot continue as a residence.

#### **SECTION 2554 – Pond and Lake Requirements**

The construction of ponds or dams within Dearborn County is permitted as long as the following requirements are met and a Zoning Permit or Site Plan is issued. Retention and detention ponds installed to comply with the stormwater requirements of this Ordinance and the Dearborn County Subdivision Ordinance are exempt from the requirements listed below and shall not be considered a pond, lake or dam. The following requirements are not intended to supersede or contradict any State or Federal regulations pertaining to construction of a pond, lake, dam or watercourse. The more restrictive requirements shall be followed and the issuance of a permit from the Plan Commission does not relieve the applicant of any State or Federal permits, which may be required.

1. Ponds or lakes are permitted to be constructed on property that is five (5) or more contiguous acres in size;
2. No part of the pond or lake shall be constructed closer than 150 feet from any public right-of-way, or public/private easement. If the width of an easement containing a public roadway cannot be determined, 30 feet shall be added to the 150 foot setback, and shall be measured from the centerline of the roadway;
3. Ponds or lakes shall not be constructed closer than 30 feet from a property line, but at no time shall be closer than 150 feet to an existing residence on an adjoining parcel;
4. The pond or lake shall have a spillway constructed, which allows the overflow to follow the natural drainage course, and it shall be constructed so as to prevent soil erosion at the outflow of the dam;
5. Ponds or lakes, which have more than a one square mile area of drainage from upstream or contain more than 30 acres of water, shall be required to follow Site Plan Review as detailed in this ordinance. The plan must be prepared and stamped by a registered Indiana Engineer or Surveyor;
6. Ponds or lakes which have a depth greater than twenty (20) feet measured from crest of emergency spillway to flow line of original ground shall be required to follow Site Plan Review and have the plan prepared and stamped by a registered Indiana Engineer or Surveyor;

7. Any pond or lake constructed closer than 150 feet to a public or private roadway and the enclosure/water impounding area of the pond or lake is located below, or at the same grade, as the roadway, a guardrail shall be required to prevent vehicle entry from the road. A guardrail may not be necessary if vegetation exists between the pond or lake and the roadway, which would reasonably prevent vehicle entry from the road. If the pond or lake is located closer than 150 feet to the roadway, and is at a grade above the roadway, a guardrail may be required if vehicle entry from the roadway is possible. The Dearborn County Engineer, or Highway Department, shall determine if a guardrail is required, and the guardrail shall be constructed according to the requirements and specifications of the Dearborn County Subdivision Ordinance. All ponds or lakes constructed closer than 150 feet to any public roadway shall require a permit from the Dearborn County Highway Department.

### **SECTION 2556 - Home Occupations**

Occupations of personal services, professional office, studios or crafts, which are maintained or conducted solely within a dwelling, will be permitted only if they meet all of the following performance standards and obtain the necessary permit:

1. The use is clearly incidental to the principal residential use;
2. The use is conducted entirely within a dwelling or an accessory building, provided the use does not occupy more than 250 square feet;
3. Only members of the household residing on the premises may be the primary owners/operators of such operation. No more than one (1) person, other than members of the household residing on the premises, shall be engaged in such operations;
4. No commodity shall be sold on the premises in connection with such home occupation;
5. There shall be no change in the exterior appearance of the building or premises, to evidence that such property is used for a non-residential use;
6. No traffic shall be generated by such home occupation in greater volumes than would be expected in the residential neighborhood;
7. No home occupation shall result in exterior evidence of such use being conducted by reason of atmospheric pollution, light flashes, glare, odors, noise, parking or vibration discernible from abutting properties;
8. Properties with approved home occupations may be permitted to have one (1) sign of up to eight (8) square feet of area for property that has less than one hundred (100) feet of road frontage—or one (1) sign of up to twenty (20) square feet of sign area for property with greater than one hundred (100) feet of road frontage. Signage may not exceed six (6) feet in height and must meet all other applicable requirements set forth in Article 20 of this Order;
9. Any home occupation conducted under this section shall not be a nuisance to any abutting properties or to the general neighborhood.

## **SECTION 2558 - Parking and Storage of Certain Vehicles**

Within residential subdivisions in Dearborn County or when located in established towns or named communities on the Dearborn County map, where the average lot size is one acre or less the following provisions shall apply.

1. Unlicensed or non-operable vehicles shall be stored inside an enclosed building or structure or may be fenced if determined by the Planning Director or designee;
2. Automotive vehicles larger than a full size pickup or van, boats, trailers, campers and the like shall be stored inside a structure or parked or stored on a paved or gravel surface in the side or rear of the property and located at least five feet from the property line;
3. One vehicle larger than a full size pickup or van, which is used for business or employment by the resident of the property, may be permitted as per item 2 above;
4. In no situation shall vehicles not driven or owned by the residents of the property be permitted to be stored on the property unless permitted by the zoning district or by a Conditional Use from the Board of Zoning Appeals.

For property located within Dearborn County that is not located within a residential subdivision or located in an established towns or named communities on the Dearborn County map and the average lot size is greater than one acre the following provisions shall apply.

1. Unlicensed or non-operable vehicles shall be stored inside an enclosed building or structure or may be fenced if determined by the Planning Director or designee. In situations where the vehicles are not visible from an adjoining property or public roadway it will not be required to fence or store the vehicles within a structure. However, this does not allow the creation of a junkyard as defined by Article 27.
2. Operational automotive vehicles larger than a full size pickup or van, boats, trailers, campers and the like shall be stored inside a structure or parked or stored on a paved or gravel surface in the side or rear of the property and located at least five feet from the property line. In situations where the vehicles are not visible from an adjoining property or public roadway they can be located within the front yard.
3. In no situation shall vehicles not driven or owned by the residents of the property be permitted to be stored on the property unless permitted by the zoning district or by a Conditional Use permit from the Board of Zoning Appeals.

In multi-family, manufactured home parks, or townhouse developments, the storage of recreational vehicles or boats shall be in designated areas only. These designated areas shall be illustrated on the appropriate zoning permit or site plan. In business districts, recreational vehicles or boats shall be placed in designated storage areas only, which are indicated on the approved Site Plan and not in any designated parking area.

## **SECTION 2560 - Temporary Uses of Land or Structures**

Temporary uses such as carnivals, revival meetings, concerts and uses of a similar nature can be permitted under the following conditions with a zoning permit:

1. A Zoning Permit will be required with a detailed site plan which indicates the location of the activity on the site, the location of parking, location of sanitary facilities, etc., and a written explanation of the event proposed, purpose, the specific hours and dates of the event and when the event will terminate;
2. The proposed site is of adequate size to accommodate the use without creating congestion in the streets or inadequate circulation for fire or other emergency vehicles. All parking for the event will be located on site or at other secured locations within 1000 feet of the event. Parking for the event shall not be permitted along public roadways;
3. Written confirmation is received from the appropriate police and fire department to alert them to the event;
4. Outdoor lighting will be shielded or directed away from adjoining residential property and streets;
5. All signs used to advertise the event shall be removed the following day after the event has ended;
6. Sanitary conditions are to be approved by the Dearborn County Board of Health if necessary;
7. Permits from the appropriate highway departments for access into and out of parking areas if necessary;
8. Letter of credit or bond as needed to repair any damage that may be created as a result of the event to public roadways as determined by the Dearborn County Highway Department if necessary;
9. Provide the names and addresses of the adjoining property owner for notification of the event;
10. Submit the application at least 30 days prior to the event;
11. The event shall not create a nuisance or hazard to the public health, safety, or welfare and the event will not create objectionable dust, noise, light or odors to adjoining properties. The Planning Director or designee shall have discretion to limit the permitted times or scope of the event;
12. The applicant shall be responsible for all clean up to remove and properly dispose of all debris and to restore the site.

## **SECTION 2562 - Residential Townhouse and Multi-Family Design Standards**

The purpose of this section is to provide requirements for the density, height, lot size, setbacks, and infrastructure requirements governing the development of townhouses and multi-family dwellings permitted in this order. In addition to the following standards, all townhouse and multi-family developments shall be designed in accordance with sound engineering principles particularly with regard to vehicular access, interior site circulation, and surface drainage. In addition, the development of townhouse and multi-family dwellings must comply with Article 23, Site Plan Review. The following are the minimum requirements.

1. All townhouses and multi-family developments must be served by public sanitary sewer and water;
2. No townhouse or multi-family dwelling shall exceed 5 stories or 55 feet in height. (See limitations below);
3. No building may be constructed within thirty (30) feet of a public right-of-way. All townhouse and accessory structures must maintain a minimum thirty (30) feet setback from all property lines of adjacent property not included as part of the development and must comply with all bufferyard requirements found in Article 22. Exceptions to the setbacks above and bufferyard requirement can be made for uses located within established towns where existing setbacks may be closer. Setbacks in these instances will be reviewed at Site Plan Review to conform to the existing setbacks if less;
4. Density and height requirements shall be determined by the parcel size of the property as indicated below.
  - a. Two (2) acres or less, eight (8) dwelling units per acre and 35 feet in height;
  - b. Ten (10) or less acres, 16 units per acre and 45 feet in height;
  - c. Greater than ten (10) acres 24 units per acre and 55 feet in height;
  - d. In situations where townhouses or multi-family dwellings are located within 100 feet of an existing single-family residence, the height of the building shall not exceed 35 feet.

### **SECTION 2564 - Manufactured and Mobile Homes**

Pursuant to 42 U.S.C. 5403(d), manufactured homes (formerly "mobile homes") shall be permitted in any area zoned for single family or duplex homes if the home was designed and built in a factory and was built in compliance with 24 C.F.R. Part 3280, Subparts A through J which may be amended from time to time. Pursuant to 24 C.F.R. Part 3280, Subpart A, said manufactured home must include a Data Plate (§ 3280.5), Serial Number (§ 3280.6), and Certification Label (§ 3280.11). In addition, the following limitations shall apply:

1. The manufactured home must be constructed after January 1, 1981 and be a minimum of 950 square feet of occupied space;
2. Manufactured homes not meeting the terms above shall be permitted only after receiving a Conditional Use Permit and / or Variance by the Board of Zoning Appeals.
  - a. A mobile home, which exists at a particular location at the time of the passage of this Ordinance, shall be allowed to remain at such location. The mobile home may be replaced at the same location with a newer mobile home of equal or better condition and of equal or greater size. Normal permitting procedures shall apply.

### **SECTION 2566 - Manufactured Home Park**

Manufactured home parks, which will not have individual lots of record for each housing unit, will required a Conditional Use Permit from the Board of Zoning Appeals and shall meet the requirements listed below as well as the requirements of a Conditional Use. Manufactured home parks, which have individual lots of record, will not require a conditional use and shall be handled the same as a conventional subdivision.

1. The minimum area of a manufactured home park shall be five (5) acres;
2. The park shall be required to follow Site Plan Review;
3. Landscaping guidelines shall be created which establish landscaping requirements for each unit, the entrance/s to the park and any common area. Additional perimeter buffering may be required;
4. Each park shall provide an active recreational area or areas equal in size to at least eight percent (8%) of the area of the park. Streets, parking areas and drainage facilities shall not be included in the required recreational area. At a minimum, the recreational area should include playground equipment, outdoor fields, basketball/tennis courts or the like, and similar recreation uses. Parks designed for retirees can substitute passive recreation uses for active uses;
5. Laundry facilities shall be provided for the park if not provided within each residential unit;
6. Commercial convenience establishments are permitted provided they are accessory to the park and draw their primary trade area from the park and not the surrounding area;

7. Storage for individual residential units shall be handled with written guidelines established for the entire park;
8. Home sites shall be a minimum of five thousand (5000) square feet in area and shall be indicated as lease lots on the appropriate Site Plan. In no case shall the density exceed seven (7) units per acre;
9. Setbacks and lot frontage shall be as established in Table 25.1 for each individual lease lot within the park. Setbacks around the perimeter of the development shall be a minimum of thirty (30) feet;
10. Foundation skirting shall be required around each mobile home completely enclosing the undercarriage;
11. Each residential unit shall be provided with two (2) parking spaces on the lease lot. Additional parking shall be provided as needed or required by this Ordinance;
12. Sidewalks shall be required as identified within the Dearborn County Subdivision Ordinance;
13. Street construction shall be as identified within Dearborn County Subdivision Ordinance.

#### **SECTION 2568 – Hillside Development Guidelines**

The purpose of these environmental standards is to provide information for the development of hillside sites so that development is compatible with the environment and to protect those characteristics of the environment that have significant public value and which are vulnerable to damage by development. The guidelines listed below can be used as requirements for reviewing Zoning Map Amendments as defined in Article 5 if applicable but are informational guidelines only for property being developed under the permitted zoning.

Hillsides where these standards apply have the following characteristics:

1. Slopes of 20% or greater; and,
2. Soil types identified in the Dearborn County Comprehensive Plan or Soil Survey of Dearborn and Ohio Counties as having development limitations; or,

These hillsides may also have the following characteristics:

1. Existence of geologic formations which limit development;
2. Prominent hillsides which are readily viewable from a public thoroughfare, from a significant historical site, or from an established nature preserve or park;
3. Hillsides which provide views of a major stream or valley;
4. Hillsides which function as community separators or boundaries by their location or vegetation;
5. Hillsides which support a substantial natural wooded cover.

The Dearborn County Plan Commission and prospective developers should utilize the following development guidelines for the construction of any type of structure on hillsides. The Plan Commission should use these guidelines as general parameters for reviewing applicable development proposals subject to major subdivision, site plan, and zoning map amendment, or concept development plan reviews. The information listed below is not intended to be used as requirements for developing hillsides within the County.

1. Use irregular architectural edges to inter-lock buildings with hillside vegetation. Emphasize attachment with plantings which overlaps building edges, especially at the foundation;
2. Cluster new development, retaining surrounding tree cover and minimizing changes in topography;
3. Match scale of buildings to scale of terrain;
4. Retain the natural slope lines as seen in profile. Restore the vegetation lines which convey the slope lines;
5. Plan buildings to fit into hillside rather than altering the hillside to fit the buildings;
6. Maintain a clear sense of the hillside brow by siting buildings back from it;
7. Maintain the natural appearance of the brow by retaining existing trees, planting new indigenous trees, and other landscape measures;
8. Stagger or step building units according to the topography;
9. Use narrow lanes, one-way streets and split-level roads to avoid excessive earth moving and locate roadway stream crossings where grading is minimized;
10. Site buildings not only to provide views, but also to provide a variety of community and private viewing places;
11. Plan buildings, drives and parking areas to acknowledge the natural contour line of the site;
12. Meet large parking requirements with multiple small parking areas, and screen with planting, berms, and terraces;
13. Respect the site's conditions of steepness, soil, bedrock, and hydrology so as to insure hillside stability both during and after development. Utilize erosion control measures during and after grading activity;
14. Replant all cuts, fills and any other earth modification;
15. Respect and retain natural site features such as streams, slopes, ridge lines, wildlife habitat, plant communities, and trees,
16. Employ sufficient, and in some cases, additional stormwater runoff systems that control the amount and rate of flow of stormwater leaving the post-development site that could affect adjacent steep slopes. Use natural drainage courses wherever possible;
17. Designate disturbed limits clearly on the plan and in the field before site work begins.

Additional guidelines may be considered at the discretion of the developer and are considered to be advisory. These additional guidelines are listed in Development Guidelines for Greater Cincinnati Hillsides.



## **SECTION 2570 – Cemeteries**

If a cemetery exists on a parcel of land and the exact location of gravesites is not known or determined, a developer or property owner is advised to contact the appropriate State agencies for assistance and requirements. **Waivers of this Section of this order may be reviewed by the Technical Review Committee; however, no State or Federal standards shall be lessened or adjusted by an agent or agency of Dearborn County.**

1. No new structure or building addition shall be built within 100 feet of an existing cemetery regardless of adjoining property lines or land ownership—unless a development plan is submitted to, and approved by, the Indiana Department of Natural Resources—Division of Historic Preservation and Archeology. This one hundred (100) foot building limitation is required regardless of whether the cemetery is part of a building lot or is being conveyed as a separate lot. This one hundred (100) foot building limitation shall be preserved by exclusive cemetery easement. (Please refer to IC 14-21-1)
2. Cemetery boundaries shall be determined by a registered archaeologist arranged by the applicant. The Technical Review Committee shall review the work and information of the registered archaeologist. The professional archaeologist shall be responsible for determining the approximate boundaries of the cemetery and to providing information with respect to the history of the cemetery;
3. Existing cemetery fences and walls shall be maintained and repaired for security purposes;
4. If a cemetery exists and a property owner or developer wishes to build on the lot where the cemetery is located, or if proposed to be a separate lot, the property owner or developer is required to erect a new fence (if one does not exist) surrounding the cemetery. The new fence shall be made of a material which is compatible and fits in with the character of the existing cemetery and surrounding residences or buildings. If a portion of an original fence or wall remains and cannot be replaced or repaired with the same material a compatible material shall be used. If the existing fence is an inappropriate material (barbed wire fence or the like), it should be replaced with a new fence made of an appropriate material;
5. Weeds shall be removed from a cemetery and the grass shall be kept mowed;
6. All ironwork and stonework shall be inspected for damage and repairs shall be made by the owner of the property;
7. Other planting or foliage shall be pruned and be generally left in its natural state and all other debris or trash shall be removed from the cemetery;
8. A statement by the property owner, applicant or developer shall be made on the site plan or subdivision plan regarding cemetery ownership and maintenance;
9. A Certificate of Land Use Restriction and a deed restriction shall be recorded in the Dearborn County Recorder's Office acknowledging the location, size, ownership and maintenance of the cemetery. The bottom of the owner's deed must specifically acknowledge that the site contains a burial ground by referencing 'CEMETERY' in bold, capital letters on the bottom of the deed document. (Please refer to IC 14-21-3) This information shall also be recorded on a Final Plat for a subdivision that has not yet been recorded;

10. A minimum of ten (10) feet of public access shall be provided and recorded to the existing cemetery for ingress/egress. Public and private streets shall be designed or located to provide access to an existing cemetery;
11. With cemetery relocation or the relocation of graves, the Plan Commission and County Cemetery Commission shall be notified in writing by the property owner or developer by supplying to the Board and its staff copies of all necessary permits from the appropriate agencies for the relocation procedure

#### **SECTION 2572 - Environmental Provisions**

No use, building, structure, alteration, or improvement of land shall cause hazard or degradation, or otherwise abuse the environment of its own land or adjacent land or the value or benefit of the environment to the public at large. The following provisions are detailed in the Dearborn County Subdivision Regulations and will be used to determine the capability, suitability, or general compliance of a proposed use, building, structure, alteration, or improvement of land with the environmental objectives of this order.

1. Storm Water Management, Drainage and Lot Grading;
2. Basic Design Criteria for a Storm Drainage System;
3. Basic Design Criteria for Storm Water Drainage Channels, Water Courses, and Erosion Control;
4. Basic Design Criteria for Stormwater Runoff Control Facilities;
5. Detention Basins Standards and Specifications;
6. Residential Lot Grading and Drainage;
7. Steep Slopes and Erosion Hazards

#### **SECTION 2574 - Maintenance of Retention/Detention Areas**

Storm sewer systems are designed to collect and convey stormwater runoff from street inlets, runoff control structures, and other locations where the accumulation of stormwater is undesirable. The objective is to remove runoff from an area fast enough to avoid unacceptable amounts of ponding damage and inconvenience. No storm sewer shall be permitted to run into a sanitary sewer system. In general, the amount of stormwater runoff should be equal, in terms of pre-development and post-development, given the design of the stormwater system. Stormwater runoff from a site or subdivision shall not adversely impact natural drainage from an uphill drainage basin or to a downhill drainage basin or adjacent properties. The property owner shall be responsible for stormwater drainage facilities located on private property where runoff will be principally collected within that property and be minimally discharged over a larger area before the stormwater naturally drains on adjacent properties, unless a large drainage basin exists or is being planned. Stormwater drainage easements shall be required if stormwater is discharging directly from a pipe to an adjoining property and not being dispersed on the subject property.

### **SECTION 2576 - Water Supply and Sewage Disposal**

No new use or structure, which would require water supply and sewage disposal, shall be conducted or constructed without the infrastructure to ensure that there is sufficient water supply and a sewage disposal system, which is capable of meeting the needs of a particular user's site.

Proposed improvements that do not affect existing private individual sewage disposal systems do not need to be inspected by the Dearborn County Health Department. At the time of the *Application for a Zoning Permit*, the property owner must attest that the application form and the accompanying site plan are complete and accurate, and that any and all proposed improvements will not: 1) interfere with an existing sewage disposal system; and 2) be situated within fifty (50) feet of an existing sewage disposal system on the downhill side. Proposed improvements that do not meet these criteria will be subject to an inspection at the discretion of the Dearborn County Health Department.

### **SECTION 2578 – Outside Storage**

Outside storage of materials, vehicles, products, parts or other similar items shall be prohibited unless approved through Site Plan Review (See Article 23) and permitted within the zoning district. In situations where outside storage exists or is proposed, the Planning Director or designee shall have the authority to determine the appropriate screening if necessary or required.

### **SECTION 2580 – Exempt Uses**

The extension of public utilities that are not part of a site plan or subdivision review, such as water and sewer lines, pump stations, and well heads, shall be permitted in all zoning districts within the county and will not require a permit from the Plan Commission for the construction of the facility. However, this section applies to zoning approval only as outlined within this Ordinance and does not eliminate the requirements of any permit that may be necessary from other federal, state or local agencies and departments.

## **ARTICLE 26**

### **ADDRESS & ROAD NAME ASSIGNMENTS**

#### **SECTION 2600 – Intent**

The purpose of this article is to protect the safety and welfare of the general public by establishing and maintaining an effective system of numbering, for properties that have been developed into uses that are permitted by this ordinance. Such a system shall allow the 911 Emergency Service to identify properties that are in need of immediate assistance. A uniform numbering system shall also enhance the delivery of mail by the U.S. Postal Service, as well as the delivery of additional goods and services.

#### **SECTION 2605 – Administration**

The Planning Director or designee shall issue numbers to all primary structures that are located in unincorporated areas of Dearborn County. A number shall be assigned to a primary structure when a Zoning Permit is approved for that structure, and the number shall be assigned in a manner that is in conformance with this article. A list of all numbers that have been issued shall be maintained in a format that is easily accessible and categorized by the post office that is responsible for the mail delivery of that structure.

#### **SECTION 2610 – System of Numbering**

##### **1. Grid System**

The method of numbering shall be based on the Purdue Grid System, which classifies the direction of roadways as being North-South, and East-West. The North-South grid shall be represented by horizontal lines, and the East-West grid shall be represented by vertical lines. Grid lines shall be separated at one (1) mile intervals creating a block, or “section,” that will be used to determine the range of numbers. The point at which the North-South grid begins at zero (0) is at the Ohio-Switzerland County Line; and the point at which the East-West grid begins at zero (0) is at the Indiana-Ohio State Line.

##### **2. Range of Numbers**

The blocks that have been defined by the grid system shall represent intervals of 1000 numbers and shall be used to determine a range of numbers to be used when issuing addresses. The grid shall begin at the point defined as “zero” and increase by 1000 for each interval throughout the county.

### 3. Classifying the Roadway

The road, on which the number shall be assigned, is dependent upon the location of the driveway, or main access point. If there is more than one main access point, the address shall be assigned at the access point that is nearest the front of the property, based on the positioning of the structure. The road that the address will be assigned on shall be classified as North-South, or East-West depending on the overall direction of the street. Measure the road's distance horizontally and vertically from the point at which the road begins to the point at which the road ends. The road shall be classified as North-South, if the vertical distance is greater than the horizontal distance; and the road shall be classified as East-West, if the horizontal distance is greater than the vertical distance.

### 4. Assigning Numbers

Specific numbers shall be assigned based on the direction of the street, and the location of the structure within the defined grid. Each section of the grid shall have a defined minimum and maximum that each address must fall within. Within the range of numbers, the address shall correspond to its distance from the minimum and maximum. The specific number that is assigned shall be odd or even, depending on the direction of the road, and the side of the road that the structure is on. The determination of the type of number to be issued shall use the following requirements:

- a. If the address is being issued on the East side of a North-South road, the address shall be an Even number;
- b. If the address is being issued on the West side of a North-South road, the address shall be an Odd number;
- c. If the address is being issued on the North side of a East-West road, the address shall be an Even number;
- d. If the address is being issued on the South side of a East-West road, the address shall be an Odd number.

## **SECTION 2612 – Road Names / Private Access Names**

Names for new roads, both public and private, and private lanes shall be reviewed in accordance with this Section. Unique road names shall be required in all cases. Names which refer to local history, landmarks, locations / places, and natural features will be considered preferential—and in cases where County officials must make a road name determination shall be used wherever possible and practical. In no case shall any proposed road or lane name contain any punctuation marks, be abbreviated, or be phonetically similar to an existing road or private land name. **Lengthy road names shall be avoided; the length of all road names and their associated signage must be approved by the Dearborn County Technical Review Committee.** Once a road name has been approved for use by the appropriate authorities, it shall be added to the County's administrative records and be included in 911's Master Street Address Guide (MSAG).

For the purpose of providing consistent road name assignment and management of County records, suffixes for road and private lane names shall be displayed on transportation signage and for the purposes of data entry for public records **only** as indicated herein:

- **Road; Abbreviated Form – RD**
- **Lane; Abbreviated Form – LN**
- **Avenue; Abbreviated Form – AVE**
- **Drive; Abbreviated Form – DR**
- **Street; Abbreviated Form – ST**
- **Court; Abbreviated Form – CT**
- **Way; Abbreviated Form – WAY**
- **Ridge; Abbreviated Form – RDG**
- **Circle; Abbreviated Form – CIR**
- **Boulevard; Abbreviated Form – BLVD**
- **Point; Abbreviated Form – PT**
- **Parkway; Abbreviated Form – PKWY**
- **Place; Abbreviated Form – PL**
- **Trail; Abbreviated Form – TR**
- **Pike; Abbreviated Form – PK**
- **State Route; Abbreviated Form – SR**
- **State Road; Abbreviated Form – SR**
- **U.S.; Abbreviated Form – US**
- **Interstate; Abbreviated Form – I**

*Planned Development & Subdivisions: New Road Names*

Road names for planned developments or subdivisions shall be submitted to the Plan Commission by the developer for review and approval through the appropriate, prescribed process. The acceptability of proposed road names shall be evaluated by referencing the County's 911 MSAG, the County roadway inventory through the Department of Transportation and Engineering, and the Plan Commission's address database. If the proposed name(s) meet the provisions set forth in this Article, the proposed names will be utilized when final plans for a development are approved.

### *Road Name Changes*

In the event that a road name or private lane name is identified to be problematic for the purposes of providing adequate emergency services, postal delivery, or another concern or threat to the health, safety, and / or general welfare of the public, the Planning Director or designee will forward a recommendation regarding a change to the Board of County Commissioners—to be reviewed at a public hearing. Proposed road or private lane name change recommendations shall be made *only after* consultation and coordination with the following Dearborn County entities: 911, the Department of Transportation & Engineering, the Department of Planning & Zoning, the Assessor's Office, the Surveyor's Office, the Auditor's Office, the GIS Coordinator, the affected post office, and a representative of the County Commissioners. The Plan Commission will notify any property owner directly impacted or affected by a proposed road name change of the date, time, and place of the County Commissioner meeting where the recommended name change will be discussed—at least 10 days prior to the date of the public hearing. If a road name change is approved by the Board of Commissioners, it shall be added to the County's records and be included in 911's Master Street Address Guide (MSAG).

### **SECTION 2615 – Private Lanes**

A common driveway that is used to access two (2) or more primary structures which are located more than 100 feet from, or are not visible from, the county maintained roadway that is used to access the structures, shall be assigned a lane name that is approved by the Planning Director, or designee. Landowners that use the private lane shall have the option of proposing a lane name that will be used by the county. If a name cannot be decided upon, the Planning Director, or designee, shall assign an appropriate name. All private lanes shall use the suffix of "Lane." No private lane name shall be permitted which uses a first, personal name; and, no private lane name shall be the same as, or similar to, an existing lane name.

Private lane names may be given to any common driveway that is used to access two (2) or more primary structures, if the Planning Director, or designee, considers it necessary to avoid confusion.

## **SECTION 2618 – Private Street and Private Lane Sign Standards**

All private street and private lane signs must adhere to the standards set forth in this Section, unless specified otherwise by the County Engineer or designee:

1. The sign must be 8” in height;
2. The sign must have a brown background;
3. Roadway name lettering shall be series C or D, mixed lettering. The first letter shall be 6” uppercase in height followed by 4.5” lowercase height—all lettering white in color.
4. The sign background and lettering shall be retro reflective;
5. The length of the sign is to be determined by the approved road name;
6. The corners of the sign shall be rounded;
7. The sign must be made out of 0.8mm gauge aluminum;
8. The sign must be installed on the right side of the road and perpendicular to the road that is being intersected;
9. The sign must be installed on a breakaway post. The post can be type A or B u-channel post; with a maximum 2.5” round post with 12-gauge wall thickness and either a minimum 2.25” square post with 12-gauge wall thickness or 4” x 4” wood post.
10. Sign posts shall be imbedded into the ground a minimum of 42 inches;
11. The sign must be installed at a height of 5.5 to 7 feet (measured from the edge of pavement to the bottom of sign. If a road name sign is installed in conjunction with a stop sign, the bottom of the stop sign shall be installed at a height of 5 feet.
12. The lateral offset from both edges of pavement shall be a minimum of 6 feet. A 12-foot offset is recommended.
13. It is the property owner’s or site developer’s responsibility to ensure that private road or private lane signage is installed and maintained at all times. As the retroreflective elements of a sign deteriorates over time, all signs should be replaced approximately once every ten (10) years;
14. Signage that does not meet the specifications set forth in this Section, including “homemade” signs, will NOT be permitted.

\*These signage requirements are based on the 2009 Manual of Uniform Traffic Control Devices (MUTCD), Section 2D.43 and Indiana Department of Transportation (INDOT) standards.



## **SECTION 2620 – Display of Address**

### **1. Location**

All addresses that are issued by the Dearborn County Plan Commission shall be posted in a conspicuous location that can be identified from the county roadway that is used to access the structure. The number may be posted in any prominent place, including on the structure itself, an outside light post, or a similar location. It may be displayed on a mailbox if it is according to postal regulations.

All structures that are located more than 100 feet off the county roadway used to access the structure, not visible from the county roadway, or located on a private lane, shall display the number at the entrance of the driveway, or private lane, in addition to a prominent location on, or near, the structure.

### **2. Size**

Residential addresses shall be displayed with numbers that are a minimum of three (3) inches in height, made of a durable, weatherproof material, and shall contrast in color from their background for easy visibility. Addresses for commercial, institutional, and industrial uses shall be a minimum of six (6) inches in height and meet all other specifications set forth in this Section.

## **SECTION 2625 – Re-Numbering**

The Planning Director, or designee, has the authority to re-number any structure in order to comply with the Uniform Numbering System. The owner of any property that is re-numbered, shall be notified of the change and the reasons for the change. All changes must be reflected within **two (2) weeks**.

### **SECTION 2630 –Notification of Local Agencies**

All new and changed addresses shall be reported on a regular basis to local groups and agencies that are directly involved in the implementation of the Uniform Numbering System, including, but not limited: 911, the Department of Planning & Zoning, the Assessor's Office, the Auditor's Office, and the affected post office and phone company. The groups and agencies shall be notified in a timely manner, in order to prepare for any measures that may be necessary to reflect the changes. Upon request of the Dearborn County Commissioners, a current status report of the implementation of the Uniform Numbering System, shall be provided.

### **SECTION 2635 – Violation**

Any property owner that fails to display, or maintain, the assigned number as required by this article, shall be held responsible for violating the provisions of this ordinance. A fine of not less than \$10.00 and not more than \$25.00 shall be charged for each offense. Each day that the violation exists shall constitute a separate offense.

### **SECTION 2640 – Enforcement**

The Board of Commissioners may institute a suit for injunction in the courts of Dearborn County to restrain any person, firm, or corporation who shall remove, alter, deface, destroy or conceal any number assigned to, or place upon, any building in compliance with this ordinance. A suit for injunction may also be filed against any person who places, or permits to place, any improper number that is not in compliance with this ordinance. The Board of Commissioners may institute a suit for mandatory injunction directing a person, firm, or corporation to correct any violation of the provisions of this ordinance, or to bring about compliance with the provisions of this ordinance. If the Board of Commissioners is successful in any such suit, the defendant, or respondent, shall bear the cost of the action, including reasonable attorney's fees.



## **ARTICLE 27**

### **DEFINITIONS**

#### **SECTION 2700 - Interpretation of Terms or Words**

For the purpose of this order, certain terms or words used herein shall be interpreted as listed below. Definitions not found within this Article shall be defined as found in the current edition of *Webster's Dictionary*, and/or *A Glossary of Zoning, Development, and Planning Terms* as published by the American Planning Association.

1. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
3. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
4. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
5. The word "lot" includes the words "plot" or "parcel."

#### **AASHTO**

American Association of State Highway and Transportation Officials.

#### **Abandonment**

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods or vacation or seasonal closure, and also excluding lapses in between different owners or tenants who carry out the same use or activity.

#### **Abutting or Adjoining**

Having a common border with, or being separated from such common border by a right-of-way, alley, or easement.

#### **Acceleration Lane**

A speed change lane, including tapered areas, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can more safely merge with through traffic.

#### **Access**

Driveway or other point of access such as a street, road, or highway that connects to the general street system. Where two public roadways intersect, the secondary roadway will be the access.

**Accessory Building or Structure**

A building or structure, the use of which is customarily incidental and subordinate to the use of the principal building or principal use of the land on which the structure is located.

**Accessory Dwelling Unit**

An additional dwelling unit within a single-family residence, or within a structure accessory to a single family residence, that does not occupy more than thirty five (35) percent of the total floor area of the principle structure. Such a unit is created by partitioning or finishing a space within the primary residential structure or structure accessory to the primary residential structure. The primary dwelling unit and accessory dwelling unit together shall not exceed the maximum permitted density for the zone in question.

**Accessory Use of Structure**

A use or structure on the same lot as the principal use or structure and is subordinate in area, extent and purpose to the principal use or structure in which it serves. An accessory use or structure contributes to the comfort, convenience, and/or necessity for the occupants of the principal use or structure.

**Adjoining Property**

All property that touches the property line of the subject parcel on all sides. Properties separated by roadways (except interstates) or bodies of water (except the Ohio River) shall be considered adjoining property at the centerline of the road or body of water. The Dearborn County Assessor's Office shall be the official public record of property ownership in Dearborn County.

**Administrator**

The officer appointed by and/or delegated the responsibility for the administration of these regulations by the Commission. This term shall be construed to include those planning staff members working under the direction of the Director.

**Agricultural Use**

Agricultural Use means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract but not including residential building development for sale or lease to the public.

**Airport**

A defined public or private land area designed and set aside for the landing and taking-off of aircraft. An airport includes all necessary runways, taxiways, passenger terminals, parking areas, aircraft maintenance and storage buildings, and open spaces.

**Alley**

(See Street)

**Alterations, Structural**

A change or rearrangement in the supporting members of a building such as bearing walls, columns, beams, or girders.

**Amusement Park**

A permanent facility open to the public on a seasonal or year round basis that includes a combination of recreational and/or entertainment attractions. Attractions at an amusement park consist primarily of mechanized or non-mechanized rides and exhibits for viewing, but may also include attractions such as arcades, vendors offering food or games of chance, and/or live music, theater, or multi-media events.

**Apartment Dwelling Unit**

A residential structure used for occupancy by three or more families living independently of each other and which contains three or more dwelling units, but not including townhouse dwelling units.

**Applicant**

The owner of land, or his agent or legal representative, who seeks an approval, permit, certificate or determination from the Commission or Board, under the provisions of this ordinance.

**Architectural Feature**

A prominent or significant part of element of a building, structure, or site.

**As-Built Plan**

A plan that indicates the way the site and/or building were actually developed on the property as opposed to the way they were planned to be developed.

**Assisted Living Facility**

A facility which provide assistance with food preparation, medicine, cleaning, social functions and other daily needs for elderly individuals in separate dwelling units.

**Auto Parts and Accessories Store**

A retail establishment that sells parts, components and accessories for motor vehicles but that does not conduct automotive repair activities, pursuant to the definition of “automotive repair facility,” and that does not conduct wholesaling or warehousing and distribution activities.

**Automotive Repair Facility**

A business establishment that repairs, rebuilds, reconditions, or services automobiles or automotive parts, including but not limited to any of the following activities: body and paint work, engine repair or rebuilding; installation, repair, or reconditioning of tires, brakes, transmissions, mufflers, automotive electrical or air conditioning systems, automotive upholstery, or automotive glass, all on a individual vehicle basis; changing of oil, other fluids, and filters; emissions testing.

**Automotive Sales**

The sale or leasing of new and used motor vehicles, displayed, stored and sold or leased on site excluding repair work except incidental repair.

**Automotive Wrecking**

The dismantling or wrecking of used motor vehicles, mobile homes, or trailers; or the storage, sale, or dumping of dismantled, wrecked vehicles or their parts. The presence of two or more non-operational motor vehicles on a lot for a time period exceeding thirty (30) days shall constitute evidence regarding the establishment of an automobile wrecking yard. Also may be referred to as a junkyard.

**Average Daily Traffic (ADT)**

The total bi-directional volume of traffic passing through a given point during a given time period, divided by the number of days in that time period.

**Band Width**

The time in seconds or the percent of cycle between a pair of parallel lines which delineate progressive movement on a time-space diagram. It is a quantitative measurement of through traffic capacity provided by signal progression.

**Banner**

Any sign of lightweight fabric or similar material that is not designed or intended for use as a permanent sign for advertising purposes.

**Basement**

A story underground having at least one-half of its height below the average level of the adjoining grade.

**Bed and Breakfast Inn**

An operator occupied dwelling unit where short-term lodging rooms and meals are provided for compensation on a small scale.

**Berm**

An earthen mound designed to provide visual interest, screen undesirable views, and decrease noise.

**Bicycle Lane (Bike Lane)**

A portion of a roadway, or a lane adjacent to a roadway, which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

**Bicycle Route (Bike Route)**

A segment of a system of bikeways designated by the jurisdiction having authority with appropriate directional and informational markers, with or without a specific bicycle route number.

**Bikeway**

Any road, path, or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

**Board of Zoning Appeals (BZA)**

An appointed board responsible for hearing appeals of determinations made by Planning Director and considers requests for variances and conditional use permits as outlined in the zoning regulations.

**Bufferyard**

(See Landscaped Screening)

**Building**

A structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.

**Building Accessory**

A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the main building or use.

**Building Height**

The vertical distance measured from the average elevation of the proposed finished grade at the front of building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs.

**Building Setback Line**

A horizontal distance line which is generally parallel to the related front, rear or side lot line. The building setback line cannot encroach upon the required minimum yard dimensions for principally permitted and accessory uses or structures as specified in this order.

**Capacity**

The maximum number of vehicles that have a reasonable expectation of passing over a given roadway or section of roadway in one direction during a given time period under prevailing roadway and traffic conditions.

**Cemetery**

A land area used or intended to be used for the purposes of the human or animal burial. A cemetery includes, but is not limited to a burial park for earth interment, mausoleum for entombment, columbarium for inurement, burial ground consisting of one (1) or more marked or unmarked graves, and a burial mound or other burial facility.

**Centerline**

The mid-point in the width of a public right-of-way or the center of a roadway.

**Channel**

A natural or artificial water course, with bed and banks that transport continuous or intermittent water flow.



### **Children Care Home**

The definition of child care distinguishes among the following types of establishments:

1. Family Child Care Home: A private residence where care, protection, and supervision are provided, for a fee, at least twice a week to no more than six children at one time, including children of the adult provider.
2. Group Child Care Center, Class I: A building or structure where care, protection, and supervision are provided, on a regular schedule, at least twice a week to more than 7 children and no more than 12 children, including children of the adult provider.
3. Group Child Care Center, Class II: A building or structure where care, protection, and supervision are provided on a regular schedule, at least twice a week to more than 12 children, including the children of the adult provider.

### **Church**

A facility used primarily for religious worship services of an assembly nature that may secondarily provide social or community services such as counseling, child care, senior services, and educational programs. For the purposes of this order, synagogues, temples, and other places of religious assembly for worship, regardless of the terminology used by a specific faith or denomination, are considered churches pursuant to this definition.

### **Clinic**

A facility that offers care, diagnosis and treatment of sick or injured persons. A clinic may provide out patient surgical attention but does not include accommodations.

### **Club**

A facility owned or operated by persons for a social, literary, political, educational or recreational purpose for the exclusive use of members and their guests.

### **Commercial Recreation**

A privately owned and operated facility that offers activities related to fitness, purposeful relaxation and/or games.

### **Comprehensive Plan**

A plan or any portion thereof, adopted by the Plan Commission that establishes policies for public and private actions and decisions to safeguard the development of public and private property in the most appropriate manner. A comprehensive plan shall contain as a minimum, a statement of goals and objectives, principles, policies, and standards; a land use plan element; a transportation plan element; a community facilities plan element; and any additional elements.

### **Concept Development Plan**

A plan that generally illustrates, depicts, and/or describes a development proposal, in accordance with the requirements of this ordinance. A Concept Development Plan is reviewed in conjunction with Zoning Map Amendment requests and other public hearing requests as specified in this ordinance. A Concept Development Plan approval shall be binding upon the future development of the real property in question.

**Conditional Use**

A defined use permitted within a zoning district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals. A conditional use has some special characteristic inherent to its operation and is subject to special requirements to mitigate negative land use impacts.

**Conditional Use Permit**

A permit granted by the Board of Zoning Appeals permitting a defined use, other than a principally permitted use to be established within the zoning district and subject to the special requirements established by the Board.

**Condominium**

A single-family attached dwelling unit separately owned and valued for property tax purposes, with common areas under group ownership and property taxes paid by a homeowners association.

**Condominium Association**

The community association that administers and maintains the common property and common elements of a condominium.

**Confined Feeding**

The raising of animals for food, fur or recreation in lots, pens, ponds, sheds or buildings, where they are confined, fed and maintained for at least 45 days during any year, and where there is no ground cover or vegetation present over at least half of the animals' confinement area. Livestock markets and sale barns are generally excluded.

**Confined Feeding Operation**

Any livestock operation engaged in the confined feeding of at least 300 cattle, or 600 swine or sheep, or 30,000 fowl, such as chickens, ducks and other poultry.

**Convenience Store**

A small retail store that sells grocery and deli items, and other day-to-day goods, and stocks such goods on the premises, all on a limited basis. A convenience store may offer the retail sale of motor fuels as an accessory use if permitted in the particular zone, or if the particular zone allows gasoline filling stations as a principally permitted use.

**Corner Lot**

(See Lot Types)

**County Maintained Roadway**

(See Public Way)

**Cul-De-Sac**

(See Street)

**Critical Volume**

A volume (or combination of volumes) for a given street which produces the greatest utilization of capacity for that street in terms of passenger cars or mixed vehicles per hour.

**Cycle Time**

The time period in seconds required for one complete sequence of signal indications.

**Day Care Center**

(See Child Care Facility)

**Day-time Hours**

7:00 AM to 7:00 PM, local time.

**Dead-end Street**

(See Street)

**Deceleration Lane**

A speed change lane, including tapered areas, for the purpose of enabling a vehicle that is to make an exit turn from a roadway to slow to safe turning speed after it has left the main stream of faster moving traffic.

**Decibel**

A unit of measurement of the loudness, or intensity of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels."

**Delay**

Stopped time per approach vehicle, in second per vehicle.

**Density**

Defined as a unit of measurement involving a portion of an activity devoted to a specific use identified in acres, square footage, or number of dwelling units in relation to a site or portion thereof. For commercial and employment uses, density is typically expressed in this order as a ratio of square footage of building area per acre of land area. For residential uses, density is typically expressed in terms of the number of dwelling units per acre of land. For signage, density is expressed in terms of the number of a certain type of signs per wall, building, lot, or overall development or subdivision. The term "density" may be used interchangeably with the term "intensity" in this order.

**Design Hour Volume**

Hourly traffic volume used for street design and capacity analysis, usually one or more peak hours during a 24-hour period.

**Design Speed**

Five to ten miles per hour above the proposed or desired speed limit of the facility under design.

### **Design Vehicle**

1. Developments intended for public use must be designed for the following types of vehicles:

Residential Uses (excluding single family or duplex)	SU30
Commercial Uses	WB40
Industrial Uses	WB50

2. For public street, the following design vehicles must be used:

Commercial/Multi-family Locals and' Minor Collectors	SU30
Major Collectors	WB40
Arterials	WB50

Definitions for the above vehicle types are found in AASHTO Geometric Highway Design Standards.

### **Detention Basin**

A facility constructed or modified to restrict the flow of storm water through the facility's outlet to a prescribed maximum rate and, concurrently, to detain the excess waters that accumulate behind the facility's outlet.

### **DHV**

Design Hour Volume

### **Diameter at Breast Height (dbh)**

The diameter of a tree trunk as measured at the height of the chest of the individual making the measurement. For the purposes of this order and the landscaping requirements contained herein, dbh is 4.5 feet from grade.

### **Divided Highway**

A highway with separate roadways for traffic in opposite directions, such separation being indicated by depressed dividing strips, raised curbs, traffic islands, other physical separations, or by standard pavement markings and other traffic control devices.

### **Domesticated, Household Pets**

Animals typically smaller than one hundred and fifty pounds (150 lbs.) at maturity (by species and breed) that are customarily kept within a home or upon its immediate premises for the residents' personal use and enjoyment. These animals may not be raised for commercial purposes and must be appropriately confined to a dwelling unit, a private enclosure, or an enclosed area so as to not create a nuisance to adjoining property owners. Household pets can include, but are not limited to: domestic dogs, domestic cats, domestic birds, rabbits, lizards, snakes, spiders, fish, and domestic rodents.

### **Drive -In**

An establishment such as a restaurants or movie theater design and intended for patrons to be served or entertained within their automobiles.

**Drive –Thru**

A facility which provide a window in which the patron can purchase an item without leaving their automobiles.

**Drop-off centers**

A trailer or temporary structure used as a collection point for donated items for a specific non-profit organization.

**Duplex Dwelling Unit**

A single residential structure that contains two dwelling units for use by two separate families living independent of each other. The two dwelling units within a duplex dwelling unit structure are separated by a common wall, floor, and/or ceiling.

**Dwelling**

A building or structure, which is completely or partly used for residential purposes but does not include commercial hotels, motels or tourist cabins.

**Dwelling Unit**

An area within a dwelling, comprising of one housekeeping unit for occupancy by a family and household employees. A dwelling unit includes facilities such as bathrooms, a kitchen and bedrooms.

**Dwelling Modular Unit**

A factory-fabricated transportable building designed to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location on a permanent foundation.

**Easement**

A legally authorized use for a defined area by a property owner to the public, a corporation, another person, or an entity for a specified purpose.

**Employee**

Any person who works for an individual, group, or business, for compensation that is paid by the operator of the activity to the person providing the work.

**Enforcement Officer**

Individual(s) designated by the Planning Director to enforce the regulations within the zoning and subdivision ordinance.

**Erosion**

Detachment and movement of soil or rock fragments by water, wind, ice, temperature changes, and gravity.

**Essential Services**

The erection, construction, alteration, or maintenance, by public utility or governmental agency of underground gas, electrical, steam, water or other distribution systems, collection, communication, supply, disposal, or other transmission system. Includes, but is not limited to poles, wires, main drains, sewers, pipes, traffic signals, hydrants, or other similar equipment for the public's health, safety and general welfare.

**Family**

1. Any number of persons all of whom are related by blood, legal adoption, or marriage, occupying a common premises and living as one housekeeping unit using one kitchen; or
2. Five or fewer persons occupying a common premises and living as one housekeeping unit using one kitchen, provided that the premises is not a boarding house, lodging house, fraternity or sorority, club, hotel or a residence for social rehabilitation, or that admission to residency in or occupancy of the premises is not limited to or intended for persons in the custody of the criminal justice system or the juvenile justice system and persons engaged in the care, custody, nurturance, or supervision of such persons; or
3. More than five persons occupying a common premises and living as one housekeeping unit using one kitchen, provided that the premises is not a boarding house, home for the infirmed and aged, nursing home, lodging house, fraternity or sorority house, club, hotel, or other exceptional residential use, or a residence for social rehabilitation.

**Farm Implement and Machinery Sales**

The sale or leasing of new and used farm implements and machinery displayed, stored, and sold or leased on site excluding repair work except minor incidental repair.

**Fence**

A structure, other than a building, which is a barrier and used as a boundary or means of security or confinement.

**Fire Trucks**

Must be considered as a WB4O truck with a minimum of 45 ft. radius for design purposes.

**Findings of Fact**

The information that a board uses when making a recommendation or decision on an application.

**Flag Lot**

(See Lot Types and refer to the *Dearborn County Subdivision Regulations* for requirements.)

**Foot-candle**

A unit of measurement that is used to gauge the brightness or illumination of a projected light source, which is equal to the light flux falling on one square foot of area one foot away from a light source of one candle power.

**Franchise Style Fast Food Establishment**

A restaurant that sells ready made food or readily prepared made to order food (hot or cold), from a typically limited menu, that is generally served in disposable containers or wrappers. A franchise style fast food establishment may include drive-in or drive-through service, although orders are generally not taken at the customer's table. A franchise style fast food establishment is typically characterized by the use of corporate trademarks in the design of on-site signage and by standardized corporate architecture in the design of the building.

**Frequency**

The number of oscillations per second.

**Frontage**

That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot. Lots shall not be considered to front on stub ends of streets and the case of corner lots will be considered to front on both intersecting streets.

**Garages, Private**

A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers and/or boats of the occupants of the premises and wherein:

1. Not more than one space is rented for parking to persons not resident on the premises;
2. No more than one commercial vehicle per dwelling unit is parked or stored;
3. The commercial vehicle permitted does not exceed two tones capacity.

**Garages, Public**

A facility designed and used for the temporary storage of operational automobiles.

**Gasoline Filling Station**

A facility that primarily offers the retail sale of gasoline and similar fuels. A gasoline filling station may offer automotive wash services if permitted in the particular zone as a principally permitted, accessory, or conditional use. Gasoline filling stations include the following activities that are accessory and incidental to the principle operation:

1. Sale of cold drinks, packaged food, and similar convenience goods.
2. Sale of road maps, other travel information material and provision of restroom facilities.

**Grading**

The process of moving or removing dirt, rock or vegetation from the property for the purpose of improving or developing the property. Grading can include removing material from the property to another site for the purpose of providing fill material to improve or develop the site. For the purpose of this Ordinance grading is not considered mining.

**Handicapped Person**

A person with a physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, deafness or hard of hearing, sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime. "Handicapped person" does not include persons with current, illegal use of or addiction to alcohol or any controlled substance.

**Home Occupation**

A home business that is clearly an incidental and secondary use of the principal dwelling unit and that is conducted in conformance with the home occupation requirements of this order. Examples of acceptable home occupations commonly include personal or consulting services, professional offices, or studios that do not necessitate clients coming to the business, and that do not necessitate either regular deliveries to the residence or the use of tractor-trailers for deliveries to the residence.

**Homeowners Association**

A private, nonprofit corporation of homeowners and/or residents of a defined area for the purpose of owning, operating, and maintaining various common properties.

**Hotel or Motel and Apartment Hotel**

A facility that offers transient lodging accommodations on a daily rate to the general public and provides additional services such as restaurants, conference rooms, and recreational facilities.

**Hourly Volume**

The number of (mixed) vehicles that pass over a given section of a lane of roadway during a time period of one hour.

**Household**

One or more individuals occupying a single dwelling unit.

**Household Pets**

Animals customarily kept within a home or upon the premises for the resident's personal use and enjoyment. They are not to be raised for commercial purposes and must be appropriately confined to a dwelling unit or a private boarding stable so as to not create a nuisance to adjoining property owners. Household pets include, but not limited to, domestic dogs, domestic cats, domestic birds, domestic fish, and domestic rodents.

**Impact Vibrations**

Earth-borne oscillations occurring in discrete pulses at or less than one hundred (100) per minute.

**Impervious Surface**

An area that has been compacted or covered by a layer of material that is highly resistant to infiltration by stormwater. Impervious surfaces include buildings, parking areas, driveways, sidewalks, and graveled areas.



**Individual Sewage Disposal System**

A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device approved by the Health Department to serve the disposal needs of one single-family residential dwelling. In individual sewage disposal system is a private sewage disposal system

**Industrial Park**

A defined geographic area planned and coordinated for the development of various industrial uses and associated activities. An industrial park is designed, constructed, and managed on an integrated basis with particular attention given to vehicular circulation, parking, utilities, stormwater management, building design, signage, and landscaping.

**Industry, Heavy**

A use engaged in the basic processing and manufacture of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

**Industry, Light**

A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and warehousing and distribution of such products, but excluding basic industrial processing.

**Infrastructure**

The total composition of public, semi-public and private utilities, facilities and services which make urban areas possible. The infrastructure includes roads, rail, transit, sewage, water, storm drainage, education, fire, police, recreation, general public health, general public administration and revenue.

**Institution**

A facility designed and used to aid individuals in need of mental, therapeutic, rehabilitation counseling, or other correctional services.

**Intensity**

(See Density)

**Junkyard**

A junkyard is an open area where junk, waste, scrap, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, papers, rags, rubber tires, bottles, and inoperable equipment or machines or motor vehicles. A junkyard includes automobile wrecking or salvage yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment, but does not included uses established entirely within enclosed buildings or composting operations. The presence of two or more non-operational motor vehicles on a lot for a time period exceeding thirty (30) days shall constitute evidence regarding the establishment of a junkyard. An automobile wrecking yard is considered as a junkyard.

**Kennel**

A lot or a facility in which five (5) or more domesticated animals greater than four (4) months of age are maintained, boarded, bred, trained or cared for, in return for remuneration, or are kept for the purpose of sale.

**Keeping of Animals**

The keeping of animals refers to the presence or caring of animals for any length of time.

**Landfill**

A facility designed and used for the disposal of solid wastes in an appropriate manner that minimizes potential environmental degradation. Hazardous, toxic, or radioactive waste disposal is not permitted in a landfill.

**Landonium**

A single family attached dwelling unit separately owned and valued for property tax purposes which includes land under the unit along with common areas under group ownership and paid by a homeowners association.

**Landscape Island**

An area that contains plantings or other landscape material and that is surrounded on all sides by paved areas such as vehicular parking and circulation areas, loading/unloading areas, outside storage and outside display areas, ingress/egress lanes, etc.

**Landscape Peninsulas**

An area that contains plantings or other landscape material and that is surrounded on two sides if in a corner of a paved area, or three sides in other instances, by paved areas such as vehicular parking and circulation areas, loading/unloading areas, outside storage and outside display areas, ingress/egress lanes, etc.

**Landscape Screen or Bufferyard**

A defined area composed of vegetation and/or structures located between different and/or conflicting types or intensities of land uses or activities. A landscape screen or bufferyard may include a combination of trees, shrubs, earthen berms, landscaping fences, and/or open space qualities. The purpose of a landscape screen or bufferyard is to minimize the potential negative impacts of noise, light, dust, dirt pollution, and differing visual effects of one use or activity upon another.

**Landscaping**

The preservation, addition, and maintenance of trees, bushes, plants, and/or other natural features for an area to produce an aesthetic appearance for socio-environmental reasons.

**Level of Service (LOS)**

A measure of the mobility characteristics of an intersection as determined by vehicle delay and secondary factor, the volume/capacity ratio.

**Legislative Unit**

The elected governmental body such as city council, town board or county commissioners for a given incorporated or unincorporated jurisdiction that has legislative authority within that jurisdiction.

**Loading Space Off-Street**

Parking lot area designed and exclusively designated for the purpose of bulk pickups and deliveries. A loading area must be appropriately scaled to delivery vehicles expected to be used and accessible to vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

**Location Map**

(See Vicinity Map)

**Lot**

A lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such setbacks and other open spaces as on an improved public street, or on an approved private street, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. A combination of complete lots of record, of complete lots or of portions of lots of records.

**Lot Coverage**

The ratio of enclosed ground floor area of all buildings on a lot, expressed as a percentage.

**Lot Measurements**

A lot shall be measured as follows:

1. Area: The geometric, horizontal area contained within a lot of record exclusive of any portion of the right-of-way of any public or private street or alley.
2. Frontage: The distance between the side property lines as measured across the required minimum front yard setback line.

**Lot of Record**

A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded in the office of the County Recorder.

**Lot Types**

(See *Dearborn County Subdivision Regulations*)

### **Manufactured and Mobile Homes**

Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. This term includes all structures that meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to §3282.13 of this chapter and complies with HUD's Manufactured Home Construction and Safety Standards (the Standards, covering Body and Frame Requirements, Thermal Protection, Plumbing, Electrical, Fire Safety and other aspects of the home, published under 24 CFR Part 3280). The term does not include any self-propelled recreational vehicle. Calculations used to determine the number of square feet in a structure include the total of square feet for each transportable section comprising the completed structure and are based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. Nothing in this definition should be interpreted to mean that a manufactured home necessarily meets the requirements of HUD's Minimum Property Standards (HUD Handbook 4900.1) or that it is automatically eligible for financing under 12 U.S.C. 1709(b). Mobile homes do not include modular homes, dwelling units with automotive capabilities, or recreational vehicles. (Also see Mobile Home and Modular Home)

### **Marina**

A facility designed and used for storing, fueling, berthing, and launching of private pleasure watercraft.

### **Mining**

Mining to include the extraction from the subsurface or surface of sand, gravel, rock, clay, silt, shale, stone, and other mineral or material **subject to IC 36-7-4-1103** (Site Plan Review Required);

### **Mobile Home**

(See Manufactured and Mobile Homes)

### **Model Home**

A residential structure or series of structures built with the purpose of displaying the craftsmanship of the builder/developer of that unit. The unit primarily serves as a marketing tool to sell future, similar units on other lots.

### **Modular Home**

A dwelling unit composed of two or more components substantially assembled in a manufacturing plant and transported to a building site by truck for final assembly on a permanent foundation. A modular home must be constructed in accordance with the standards established in the state and local building codes that are applicable to site-built homes. Modular homes do not include mobile homes. For the purposes of this order, a modular home is considered to be a single-family dwelling unit.

**Mobile Home or Travel Trailer Sales**

The sale or leasing of new and used mobile homes and travel trailers displayed, stored, and sold or leased on site excluding repair work except minor incidental repair.

**Motel**

A facility that offers overnight sleeping accommodations primarily for automobile travelers

**Multi-Family Dwelling Unit**

A residential building designed, arranged, and occupied exclusively by three (3) or more families living independent of each other.

**Multi-Modal Transportation**

Facilities, or a system of facilities, that accommodate more than one mode of transportation such as motor vehicles, bicycles, pedestrians, buses, light rail, etc. Such facilities may include but are not limited to, car pooling lots, bus stops, transit stations, bike ways or lanes, bike racks, pedestrian paths, etc.

**M.U.T.C.D.**

Manual on Uniform Traffic Control Devices

**Nonconforming Use or Structure**

A structure which lawfully existed at the time of adoption or amendment of the zoning regulations, which does not conform to the regulations of the zoning district in which it is situated.

**Nuisance**

Something that is considered harmful to health and well-being, annoying, obnoxious, and unpleasant.

**Nursing Home**

A health care facility designed and used for the care and/or treatment of invalids, or elderly persons.

**Occupancy**

The use of a structure for the purpose of a residence, or other use whether such structure is ordinarily designated for such use.

**Office Park**

A defined geographic area planned and coordinated for the development of various office/business uses and associated activities. An office park is designed, constructed, and managed on an integrated basis with particular attention given to vehicular circulation, parking utilities, stormwater management, building design, signage, and landscaping.

**Open Space**

A land area designated for recreation, resource protection, and/or buffering purposes. Open space may include, but is not limited to lawns, decorative plantings, walkways, trails, playgrounds, fountains, swimming pools, woods, natural drainage features, and any other passive or active recreational facilities that the Plan Commission deems appropriate. Open space is not defined as existing or future road right-of-ways, streets, driveways, parking areas, or buildings.

**Operator**

The owner, permit holder, custodian, manager, operator or any person in charge of any permitted or licensed activity.

**Owner**

The person, persons, or other entity having legal title to particular real estate, or such other person, persons, or entity acting on behalf of and with the written permission and authority of the legal title holder, such as a holder of an option or contract to purchase the real estate, or a lessee. In the context of this order, "owner" means the person, persons, or entity bearing responsibility for a development review application or proposal, and the term "owner" may be used interchangeably with terms such as applicant, developer, owner by option, etc.

**Parking Space, Off-Street**

Parking lot area designed and exclusively designated for the purpose of automobile parking. Must be adequate for parking an automobile with room for opening doors on both sides, properly related access to a public street or alley and maneuvering room. All off-street parking spaces shall be located totally outside of any street or alley right-of-way.

**Pawn Shop**

A business establishment that provides loans, usually short-term, using personal property as collateral and that retains the personal property, or legal title thereof, until the loan is repaid; if the loan is not repaid, such personal property provided as collateral is offered for sale to the public, primarily in an on-premise retail environment. A business establishment that primarily buys personal property for resale to the general public in a retail environment, without the provision of a loan, is also considered to be a pawnshop pursuant to this definition unless it is of a consignment nature. A pawn shop differs from a bank, savings and loan, credit union, or similar establishment in that a pawn shop does not offer routine banking services such as checking, savings, escrow, or similar accounts, nor the sale of certificate of deposits or similar investment instruments, nor credit services other than loans where personal property is used for collateral.

**Pets**

(See Domesticated, Household Pets and / or Undomesticated, Non-Household Animals)

**Plan Commission**

Public agency in the county empowered to prepare a comprehensive plan, zoning regulations, subdivision regulations, special regulations, and corridor or special area studies. The planning commission is responsible for evaluating proposed land use changes and their conformance with any applicable plans or regulations as well as reviewing subdivisions, zoning permits, site plan review and other applications outlined within the Zoning or Subdivision Ordinance. Within this

Ordinance the term Plan Commission shall refer to the agency as a whole and may include the staff, director and board members.

### **Plan Commission Staff**

Individuals employed by the Plan Commission or related boards under direct employment or by a contractual agreement.

### **Planned Unit Development**

A defined land area to be planned and developed as a single development or an ordered series of developments. A planned development may include a variety of land use types and densities that are characterized by imaginative designs. A planned development's imaginative design shall creatively address architectural design, location of structures, integration of differing land uses, access management, interior vehicular and pedestrian access, stormwater management, landscaping, signage, and the preservation of natural topography, drainage, and vegetation.

### **Planning Director**

The individual appointed by the Plan Commission to administer, interpret, and enforce the provisions of the zoning regulations and subdivision ordinance pursuant to the provisions of this order.

### **Pond**

Any inland body of water that in its natural state has a surface area of 500 square feet or more with a depth no less than 3.5 feet, and body of water artificially formed or increased that has a surface area of 500 square feet or more with a depth no less than 3.5 feet. For purposes of measuring pond setbacks under this Ordinance, ponds shall include any man made supporting structure containing such body of water.

### **Postal Services**

A business establishment that offers private post office boxes for rent, and/or that offers drop-off, pick-up, or packing and crating services for the delivery of letters or packages, and that may include the sale of stamps, packaging materials, or other items necessary for the delivery of letters or packages, provided that the use is of a retail nature and not of a distribution, storage, or transfer nature that is more appropriate in a industrial district unless otherwise qualified by the text of a specific zoning district to allow such distribution, storage, or transfer activities.

### **Post Office, U.S.**

A facility operated and occupied by the United States Postal Service for the purpose of delivering, storing, and/or transferring mail, and for carrying out related governmental functions.

### **Pre-application Meeting**

Informal discussions between a developer or individual and the planning staff occurring prior to the submission of an application for action by the Plan Commission. The pre-application meeting allows the planning staff to acquaint the applicant with the applicable procedures and regulations, suggest improvements to a proposed design, encourage the applicant to contact appropriate authorities on the provision of public utility service, and provide the applicant with any pertinent information relating to the proposed application.

**Primary Use or Structure**

(See Principal Use or Structure)

**Principal Use or Structure**

Uses that are permitted by right on a given piece of property and are distinguished from an accessory use. The principal use or structure is the predominant purpose for which a lot is occupied or used.

**Project Review Committee**

The committee responsible for the technical evaluation of site plan applications required under this order. Membership may include, but is not limited to, a representative(s) from the Plan Commission, applicable public works department, applicable water and/or sewer district, applicable county or city engineer, applicable fire district or the Fire Chief's Association, and the Dearborn County Building Department. A different project review committee may be formed for any of the legislative bodies served by the Plan Commission.

**Protective Covenants**

Contracts entered into between private parties or subdivision restrictions recorded as a part of the final plat, and which constitute a restriction on the use of all private property within a subdivision for the benefit of property owners, and provide mutual protection against undesirable aspects of development which would tend to impair stability of values. The individual, or group, that initiate the protective covenants shall be responsible for the enforcement, it is not the responsibility of county staff.

**Public Way**

A publicly dedicated area in which a public entity or the general public have the legal right-of-passage regardless of improvements to the dedicated area. Public ways include, but are not limited to, an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel viaduct, walk, or bicycle path.

**Recreational Use**

A public or private use of a building, structure or property which involves either an active or passive activity conducted indoors or out for the purpose of pleasure, leisure, fellowship or exercise commonly involving a sporting activity, camping, hiking, jogging, hunting, bicycling, fishing, swimming, boating, and other related activities.

**Recreational Vehicle**

A wheeled vehicle designed primarily for the purpose of personal recreation, pleasure, or travel, but not for permanent habitation. Recreational vehicles include, but are not limited to, motor homes, camper trailers, boats, dune buggies, stock cars, and motorcycles that are not street legal. Such wheeled vehicles may also be considered to be a trailer pursuant to the definition in this article. Recreational Vehicles may be used for recreational purposes during seasonal periods of the year, but may not be used for more than 90 consecutive days or for more than 180 days of each calendar year.



**Recreational Vehicle Park**

An area of land used for the parking of two or more recreational vehicles.

**Recycling Center**

A completely enclosed facility that collects, sorts, and processes for shipment to a recycling plant, recoverable resources such as newspapers, glassware, plastics, and aluminum cans.

**Recycling Collection Point**

A neighborhood collection point for the temporary storage of recoverable resources. Does not include the processing of recoverable resources for shipment to a recycling plant.

**Recycling Plant**

A facility that is not a junkyard and in which recoverable resources are recycled, reprocessed, and treated in order to return such materials to a condition in which they may be used in the production of additional goods.

**Retail**

A use engaged in the sale of merchandise and/or services directly to the end purchaser or end user, and where sales to the general public are not restricted or prohibited as may occur in a wholesaling use. A retail use is generally not conducted in conjunction with warehousing or distribution functions, with the exception of factory outlet stores where the retail use is accessory to the warehousing or distribution use.

**Right-of-Way**

An area or strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges. For land platting purposes the term "right-of-way shall mean that every right-of-way established and shown on a plat is to be separated and distinct from the lot/s or parcel/s adjoining such right-of-way and not included within the dimensions or areas of such lot/s or parcel/s. Rights-of-way intended for streets, crosswalks, water lines, sanitary sewer, storm drains, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat such right-of-way is established.

**Right-of-Way Easement**

A legally authorized use for a defined area by a property owner to the County or other governmental jurisdiction for use as a public roadway and the maintenance of the roadway and/or other utilities as specified.

**Roadside Stand**

A temporary structure designed or used for the display or sale of agricultural and related products.

### **Satellite Dish**

A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based uses. This definition includes but is not limited to what is commonly referred as satellite earth stations, TVRO's (television reception only satellite dish antennas), and satellite microwave antennas.

### **School**

Any public or private educational facility, including but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. The term "School" includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

### **Sewers, Central or Group**

A central sewage treatment facility for a single development, community, or region with an accompanying collection network. Must be designed to properly provide for the safe treatment and disposal of the generated raw sewage. Subject to the approval by the appropriate local and state health officials.

### **Shopping Center**

A group of retail and/or service establishments planned, developed, and managed as a single site with common off street parking provided on the property.

### **Sidewalk**

A portion of the road right-of-way outside the roadway, or a pathway on private property which is improved for pedestrian traffic

### **Sight Distance**

The length of roadway that is visible in front of a driver. The minimum sight distance available should be sufficiently long to enable a vehicle traveling at or near the design speed to stop before reaching a stationary object in its path.

### **Sign**

A device designed to promote and identify an establishment or activity by any means including but not limited to words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

The following represents terminology associated with signs:

- Abandoned:* A sign on which the use has ceased or discontinued without the intent to resume. Abandoned signs have often fallen into a state of disrepair because of long periods of limited or no maintenance and/or use.
- Directional:* A low-rise sign of an incidental nature that is located near an exit or entrance to an office park or commercial shopping center, or within vehicular circulation areas, to convey directional information to motorists.

<i>Free-Standing:</i>	A sign which is attached to a self-supporting structure that is placed on, or anchored in, the ground and that is independent of any building.
<i>Illuminated:</i>	A sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.
<i>Lighting Device:</i>	A light, string of lights, or groups of lights located or arranged so as to cause illumination on a sign.
<i>Monument Style:</i>	A freestanding sign that is composed of a solid structure between finished grade and the top of the sign.
<i>Off-Premises:</i>	A sign advertising an attraction, facility, or product and the location of said attraction, facility, or product. The sign may or may not be located on the same property as the advertised item.
<i>On-Premises:</i>	A sign related to a business or professional conducted, or a commodity or service sold or offered upon the premises where such sign is located.
<i>Political:</i>	A temporary sign that advertises for the election of an individual or group, or the passage of an issue, or similar activity that is placed on a voting ballot.
<i>Portable:</i>	Any sign not permanently attached to the ground or to a permanent structure, or a sign designed to be transported, including but not limited to signs designed to be transported by means of wheels, including such signs originally designed to be transported by means of wheels but have had the wheels removed (regardless of whether they are mounted to a pole, building, or other permanent or temporary structure), and signs attached to or painted on parked vehicles that are visible from the public right-of-way, unless said vehicles are used in the normal day-to-day operations of the business.
<i>Projecting:</i>	A sign which projects from the exterior of a building, having a display area which is other than parallel to the face of the building.
<i>Real Estate:</i>	A sign that advertises the sale of land, structure, or related property.
<i>Temporary:</i>	A sign that is not intended to be a permanent method of advertising.
<i>Vehicle:</i>	An off-premise sign painted or otherwise affixed to a vehicle or vehicle trailer.
<i>Wall:</i>	A sign that is attached to an exterior wall of a building having a display area that is parallel to that wall.

### **Signal Progression**

Progressive movement of traffic at a planned rate of speed through adjacent signalized locations within a traffic control system without stopping.

### **Single Family Dwelling Unit**

A residential building or structure designed, constructed and occupied by persons living as one housekeeping unit using one kitchen facility. A single-family dwelling unit does include a residential care facility for handicapped persons.

**Site Plan**

A plan prepared to scale showing accurately and with complete dimensioning, the location of all proposed uses and all site development features for a specific site. A site plan addresses physical design, location of structures, access management, interior vehicular and pedestrian access, stormwater management, landscaping, signage, provisions of all required improvements, and the interrelationship of the various site plan components.

**Sound Level Meter**

An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

**Sound Pressure**

The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

**Specialized Amusement Facility**

An establishment that offers one or more separate, single purpose, recreational attractions such as skateboard parks; bungee, bicycle, or ski jumping; hang gliding; etc, but that does not include live entertainment such as live music performances, theater, or multi-media events.

**Speed Change Lane**

A separate lane for the purpose of enabling a vehicle entering or leaving a roadway to increase (acceleration lane) or decrease (deceleration lane) its speed to a rate at which it can more safely merge or diverge with through traffic.

**Steady-State Vibrations**

Continuous earth-borne oscillations occurring more than one hundred (100) times per minute.

**Stopping Sight Distance**

The distance traveled by the vehicle from the instant the driver of a vehicle sights an object necessitating a stop to the instant the brakes are applied, and the distance required to stop the vehicle from the instant brake application begins.

**Storage Lane**

Additional land footage added to a deceleration lane to store the maximum number of vehicles likely to accumulate during a critical period without interfering with the through lanes.

**Story**

The portion of a building between the surface of a floor and the ceiling immediately above.

**Structure**

Anything constructed or erected that requires the use to be located on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, satellite dishes and billboards.

**Street**

The full width between property lines bounding every public way or whatever nature, with a part thereof to be used for vehicular traffic and designated as a public or private roadway used, or intended to be used, for vehicular traffic.

**Street Types**

(See *Dearborn County Subdivision Regulations*)

**Subdivision**

(See *Dearborn County Subdivision Regulations*)

**Substantially Underway**

Any activity in which earth has been moved and/or removed and construction has begun on the site including but not limited to the digging and poring of the foundation or footers, raising of walls. May also include the laying of material for the construction of roads or parking areas.

**Swimming Pool**

A pool, pond, lake, or open tank containing a depth of at least 1.5 feet of water at any point and maintained by the owner or manager:

1. Private or Residential: Exclusively used without paying an additional charge for admission by the residents and guests of a single household, a multi-family development, or a community, the members and guests of a club, or the patrons of a motel or hotel; and accessory to the principal use.
2. Community: Operated with a charge for admission, and as a primary use.

**Three-Component Measuring Device**

A device for measuring the intensity of any vibration in three mutually perpendicular directions.

**Townhouse Dwelling Unit**

A single-family attached dwelling consisting of one dwelling from ground to roof, a separate entrance and having more than one floor or story, but sharing walls with another dwelling unit or an accessory structure of another dwelling unit, where three or more dwelling units attached.

**Trailer**

Any wheeled vehicle designed to be hauled, pulled, or towed by automobile, truck, tractor, or other vehicle, including but not limited to campers, utility wagons, construction and farm equipment. Such wheeled vehicle may also be considered to be a recreational vehicle pursuant to the definition in this article.

**Trips**

Generally referred to in this ordinance as one-way trips and not two-way round trips.

**Undomesticated, Non-Household Animals**

Animals typically larger than one hundred and fifty pounds (150 lbs.) at maturity (by species and breed) and / or species that are considered exotic, wild, or foreign to Dearborn County (as defined in Chapter 90, Sections 90.02 and 90.23 of the Dearborn County Animal Control Ordinance), which are not customarily kept within a home or upon its immediate premises and / or that may be used for production, commercial and / or recreational purposes.

**Use**

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

**Variance**

A variance is an exception granted from the literal enforcement of the zoning regulations where, by reason of particular physical surroundings, shape, topography, or some other extraordinary situation or condition of the property an applicant be deprived of reasonable capacity to make use of the land in a manner equivalent to those permitted to other landowners in the same zone district. It is a departure from the developmental standards of the zoning ordinance.

**Vibration**

(See *Steady-State Vibration & Impact Vibration*)

**Vehicular Use Area (VUA)**

All outside paved areas within the perimeter of the site that serve as vehicular parking and circulation areas, loading/unloading areas, outside storage and outside display areas, and ingress/egress lanes. VUA's are used to determine certain landscaping requirements as specified in Article 22.

**Veterinary Animal Hospital or Clinic**

A facility that offers care, diagnosis, and treatment of sick, or injured animals, which may include overnight accommodations on site for the treatment, observation and/or recuperation of animals. Also included, are boarding facilities that are incidental and subordinate to the principal activity.

**Vicinity Map**

A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and service within the general area in order to better locate and orient the area in question.

**Warehousing and Distribution**

A use engaged in storage, wholesale, transfer, and/or distribution of manufactured products, bulk materials, food and drink, supplies, and/or equipment.

### **Welfare and Charitable Services**

An office use with a soda service orientation that may also provide client services such as rehabilitation, personal development, counseling, outreach programs, or distribution of material goods for daily living needs. For the purposes of this order, welfare and charitable services does not include residential based or in-patient programs.

### **Wholesaling**

A use engaged in volume or on-going sales of manufactured goods, bulk materials, food and drink, supplies, and/or equipment to a retailer or other middle man, but not to the end purchaser or end user, and where sales to the general public is commonly restricted or prohibited. Wholesaling is typically conducted in, and considered a part of, a warehousing and distribution environment in contrast to a retail or commercial environment.

### **Yard**

A required open space unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward, provided accessories, ornaments, and furniture, may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

**Front Yard:** A yard extending between the side lot lines across the front of the lot and from the front lot line to the front of the principal building. For flag lots, the front yard is measured from the rear lot line of the adjoining lot that is between the flag lot in question and the street.

**Rear Yard:** A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

**Side Yard:** A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

### **Zone Change**

(See Zoning Map Amendment)

### **Zoning District**

A mapped area to which different land use controls are imposed. These controls specify the allowed uses of land and buildings, the density of such uses, the maximum height and minimum setbacks for any proposed structures, and other matters as specified in this order

### **Zoning Map Amendment**

A change to the existing zoning district boundaries. Commonly known as a zone change.

### **Zoning Map, Official**

The map officially adopted by the appropriate legislative unit that delineates the boundaries of all officially adopted zoning districts. The official zoning map may include geographic information, such as the location of streets, railroads, watercourses or bodies, and/or public facilities that are provided for benchmark or orientation purposes.

### **Zoning Permit**

A permit issued by the Plan Commission in accordance with Article 6 of this order authorizing the permitted use of lot and/or a structure and its accompanying characteristics.

**Zoning Regulations**

The minimum land use requirements for each zoning district, adopted for the promotion of the public health, safety, morals and general welfare. Whenever the requirements of these regulations conflict with the requirement of any other lawfully adopted rules, regulations, ordinances, orders or resolutions, the most restrictive, or that imposing the higher standards shall govern.