

AN ORDINANCE CLASSIFYING, REGULATING AND RESTRICTING
THE LOCATION, HEIGHT, AREA, BULK, AND USE OF BUILDINGS
AND STRUCTURES AND THE USE OF LAND IN THE UNINCORPORATED
TERRITORY OF FLOYD COUNTY, INDIANA.

TITLE I-PURPOSE

Section 1.01

The zoning regulations as herein set forth are made with regard to a comprehensive Master Plan now being made and its compilation being included within this ordinance by way of amendment to these regulations in order that adequate light, air, convenience of access, and safety from fire, flood and other danger may be secured; that congestion in public streets may be lessened or avoided; and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted.

TITLE II- GENERAL PROVISIONS

Section 2.01

SHORT TITLE. This ordinance shall be known and may be cited as "THE FLOYD COUNTY, INDIANA, ZONING ORDINANCE."

Section 2.02

DEFINITIONS

For the purpose of this ordinance, certain terms and words used herein shall be interpreted and defined as follows:

Words in the present tense include the future and vice-versa; words in the singular number include the plural number and vice-versa; the word "building" includes the word "structure" and vice-versa; the word "shall" is mandatory and not directory.

1. ACCESSORY BUILDING AND USE-

(a) A building or use subordinate to another structure or use located on the same lot and which does not change or alter the character of the premises and which is not used for human occupancy.

(b) Public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment.

2. ALLEY- a right-of-way other than a street, road, crosswalk or easement, designed to provide a secondary means of access for the special accommodation of the property it reaches.

3. BLOCK- Property having frontage on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersection or intercepting street and railroad right-of-way, waterway, or other barrier.

4. BLOCK, RESIDENTIAL- A block in which business or industrial uses are not permitted.

5. BOARDING HOUSE- A building not open to transients, where lodging and/ or meals are provided for three (3) or more, but not over 30 persons regularly; a lodging house.

6. BUILDING- A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels or property. When separated by party walls, without opening through such walls, each portion of such a building shall be considered a separate structure.

7. BUILDING, DETACHED- A building having no structural connection with another building.

8. BUILDING, ACCESSORY- A subordinate building, or a portion of a main building the use of which is incidental to that of the main building.

9. BUILDING, FRONT LINE OF- The line of the face of the building nearest the front lot line.

10. BUILDING, HEIGHT OF- The vertical distance measured from the lot ground level to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

11. BUILDING PRINCIPAL - A building in which is conducted the main or principal use of the lot on which said building is situated. Where a substantial part of an accessory building is attached to the main building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

12. BUILDING AREA- The maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces, unenclosed porches not exceeding one story in height, or architectural appurtenances projecting not more than two (2) feet.

13. BUILDING LINE- The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way.

14. BUSINESS OR COMMERCIAL- The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

15. CAMP, PUBLIC- Any area or tract of land used or designed to accommodate two (2) or more automobile house trailers, mobile homes, or two (2) or more camping parties, including cabins, tents, or other camping outfits.

16. CEMETERY- Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

17. CERTIFICATE OF OCCUPANCY- A Certificate stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this ordinance.

18. CLINIC OR MEDICAL HEALTH CENTER- An establishment where patients are admitted for special study and treatment by two or more licensed physicians and their professional associates, practicing medicine together.

19. DWELLING- A building or portion thereof, used primarily as a place of abode for one or more human beings but not including hotels, lodging or boarding houses or tourist homes.

20. DWELLING UNIT- A dwelling or a portion of a dwelling or of an apartment hotel used by one family for cooking, living and sleeping purposes.

21. FAMILY- One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nurses home, fraternity or sorority house.

22. FARM- A tract of land comprising an area which is devoted to agricultural operations, such as forestry; the growing of crops; pasturage; the production of livestock and poultry, the growing of trees, shrubs and plants; and other recognized agricultural pursuits, and including accessory buildings essential to the operation of the farm.

23. GARAGE, PRIVATE- An accessory building with capacity for not more than ~~three (3)~~ (2) motor vehicles per family, no more than one (1) of which may be a commercial vehicle of not more than ~~three (3)~~ tons capacity. A garage designed to house two (2) motor vehicles for each family housed in an apartment shall be classed as a private garage.

24. GARAGE, PUBLIC- Any building, or premises, except those defined herein as a private garage, used for the storage, or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

25. GROUND FLOOR AREA- The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breeze-ways, terraces, garages, exterior and interior stairways.

26. HOME OCCUPATION - Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no commodity sold upon the premises except that which is produced therein, provided, however, in no event shall a barber shop, beauty parlor, tea room or animal hospital be construed as a home occupation.

27. HOTEL OR MOTEL - A building or group of buildings in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding or lodging house.

28. IMPROVEMENT LOCATION PERMIT- A permit stating that the proposed erection, construction, enlargement or moving of a building or structure referred to therein complies with the provisions of the proposed master plan.

29. JUNKYARD, INCLUDING AUTOMOBILE WRECKING- A lot or a part thereof used for the storage, keeping, dismantling, abandonment or sale of junk, scrap metal, scrap vehicles or scrap machinery or parts thereof.

30. KENNEL - Any lot or premises on which four (4) or more dogs, or small animals, at least four (4) months of age, are kept.

31. LOADING AND UNLOADING BERTHS- The off-street area required for the receipt or distribution of vehicles of material or merchandise, which in this ordinance is held to be twelve (12) foot by thirty-five (35) foot loading space with a fourteen (14) foot height clearance.

32. LOT- A parcel, tract or area of land that fronts on a street or place, it may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder, or it may include parts of, or a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines no part thereof within the limits of a street shall be included.

33. LOT, CORNER- A lot at the junction of and abutting two or more intersecting streets or roads.

34. LOT, INTERIOR- A lot other than a Corner Lot or Through Lot.

35. LOT, THROUGH- A lot having frontage on two parallel or approximately parallel streets.

36. LOT COVERAGE- The percentage of the lot area covered by the building area.

37. LOT WIDTH- The dimension of a lot, measured between side lot lines on the building line.

38. LOT LINE, FRONT- In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot a line separating the narrowest street frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the front lot line.

39. LOT LINE, REAR- A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

40. LOT LINE, SIDE- Any lot boundary line not a front line or a rear lot line.

41. PARKING AREA, PUBLIC- An open area, other than a street or alley designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, as an accommodation, for clients or customers.

42. PARKING SPACE (OFF-STREET, ONE)- A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than nine (9) feet wide and twenty (20) feet long exclusive of passageways.

43. PERSON- A corporation, firm partnership, association, organization or any other group acting as a unit, as well as a natural being.

44. PLACE- An open, unoccupied space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

45. PRIVATE SCHOOL- Private preprimary, primary, grade, high or preparatory school or academy.

46. PROFESSIONAL OFFICE- Office of members of recognized professions, such as an architect, artist, dentist, engineer, musician, physician, surgeon, or other professional person.

47. SIGNS- Any board, devise or structure or part thereof used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or regulations for other governmental purposes shall not be included herein.

48. STREET- A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of law.

49. STRUCTURE- Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

50. STRUCTURAL ALTERATION- Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls or the roof.

51. SUBDIVISION - A division or re-division of a lot, tract or parcel of land into 2 or more lots or other divisions of land for the purpose whether immediate or future, of building development, including all changes in street or lot lines, provided, however, that division of land for agriculture purposes in parcels of more than ten (10) acres, not involving any new street or easement access, shall not be considered a subdivision under the terms of this ordinance.

52. TOURIST HOME- A building in which one but not more than five guest rooms are used to provide or offer overnight accommodations to transient guests for compensation.

53. TRADE OR BUSINESS SCHOOL- Secretarial or Business School or College when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for teaching industrial or technical arts.

54. USE- The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

55. USE, NONCONFORMING- An existing use of land or building which fails to comply with the requirements set forth in this ordinance.

56. USE, OPEN- The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to five (5) percent or less of the area of the lot.

57. VARIANCE- A modification of the specific requirements of this ordinance granted by the Board in accordance with the terms of this ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

58. VISION CLEARANCE ON CORNER LOTS- A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of 3 and 12 feet above established grade, determined by a diagonal line connecting two points measured 15 feet equidistant from the street corner along each property line.

59. YARD- A space on the same lot with a main building, open, unoccupied and unobstructed by structures, except as otherwise provided in this ordinance.

60. YARD, FRONT- A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the street right-of-way line and the building line.

61. YARD, REAR- A yard extending across the full width of the lot between the rear of the main building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than 30 percent of the required space, the depth of which is the least distance between the rear lot line and the rear of such main building.

62. YARD, SIDE- A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90° with the side lot line, from the nearest part of the main building.

Section 2.03- GENERAL USE PROVISIONS

1. The zoning classification for the unincorporated territory of Floyd County will be henceforth Agricultural and/or Residential.

2. USE- No building or land shall be used and no building shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than an existing use on which such building or land is located.

3. HEIGHT- No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the use.

4. YARD, LOT AREA AND SIZE OF BUILDING- No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, ground floor area of residential buildings, or lot coverage regulations, established and specified for the use on which such building is located.

5. LOTS- Every building hereafter erected shall be located on a lot which fronts on a street or place unless as provided in 12 hereafter.

6. PRIMARY BUILDINGS- Not more than one primary building may be erected on a lot, a seconded building could be erected at any time provided the County Plan Commission is given a detailed sketch indicating (1) the boundaries of the land that will go with said second building if ever sold, and (2) the boundary line of a roadway, if said boundary lines of said tract do not front on a street or place, of fifty (50) feet in width which will be placed on record in the office of the County Plan Commission and said roadway indicated in said "detailed sketch" shall not be sold without approval of said Plan Commission, and only then with the providing to the Plan Commission of an alternative roadway of the same feet in width.

Nothing in this section shall be construed to permit more than one (1) primary building on the minimum lot size as enumerated in Figure 1 of this ordinance.

Any person not complying with said requirements shall be guilty of a misdemeanor and fined Three Hundred Dollars (\$300.00).

7. VEHICLE PARKING SPACE: LOADING AND UNLOADING BERTHS- Every building hereafter, erected shall provide off-street parking space for motorvehicles and loading and unloading berths as specified hereinafter for the use to which such building is to be devoted.

8. RESIDENTIAL USES & REQUIREMENTS-

A. The residential uses defined below are permitted in the district indicated in Figure I when complying with the requirements listed therein.

(1) A single-family dwelling is a detached building designed for or occupied by one family exclusively.

(2) A two-family dwelling is a detached building designed for or occupied by two families. A duplex dwelling has one family unit above the other and a double dwelling has one-family unit beside the other.

(3) A multi-family dwelling, is a building designed for or occupied by three or more families, exclusively for dwelling purposes.

B. Provisions and Exceptions for Residential Uses:

(1) Area and Width

A single-family dwelling may be located on any lot in which single family dwellings are permitted if the lot was in single ownership or included in a subdivision which was of record in the office of the County Recorder at the time of passage of this ordinance even though the lot does not have the minimum lot width or the minimum lot area specified for the district.

(2) Rear Yard

One-half of an alley abutting the rear lot may be included in the required rear yard.

(3) Accessory Buildings and Uses

(a) Accessory Buildings are permitted

(b) No accessory building shall be located closer to a side lot line than 3 feet nor exceed 18 feet in height and, if detached from the principal building, shall be set back at least 75 feet from the front line of the lot.

(c) Accessory Uses such as walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, bird baths, and structures of a like nature are permitted in any required front, side or rear yard. Fences, lattice-work screens, hedges or walls, not more than 7 feet high, may be located in the required side or rear yard, and a hedge or ornamental fence so as not to exceed 3 feet in height may be located in any front yard. Provided, however, that nothing contained in this ordinance shall be deemed to prohibit the construction and maintenance of a fence of any height in connection with an agricultural use. Trees, shrubs, flowers, or plants shall be permitted in any required front, side or rear yard.

(4) Front Yard

(a) Where 25% or more of the lots in the block are occupied by buildings, the average set back of such buildings determines the dimension of the front yard in the block.

(b) Front yard or set back lines established in a recorded subdivision shall establish the dimension of front yards in such subdivisions, except when such set back lines may be less restrictive as provided in Section 3 of this ordinance.

(c) No through lots shall be permitted.

(5) Tapered Yard

Where a reversed interior lot abuts a corner lot, or an alley separating such lots, an accessory building located on the rear lot line of a corner lot shall set back from the side street as far as the dwelling on the reversed interior lot. For each foot that such accessory building is placed from the rear line toward the front line of the corner lot, the accessory building may be set 4 inches closer to the side street line, but in no case closer than five (5) feet.

(6) Height

In the district limiting height to 20 feet, a multi-family dwelling may be increased in height not to exceed 35 feet provided the required side yards are increased an additional foot for each 3 feet such structure exceeds 20 feet in height.

(7) No residential structure nor structure intended for residential use may be moved without a building permit.

Section 2.04 CONTINGENT USES AND REQUIREMENTS.

A. Certain contingent uses as enumerated in figure II will be permitted in the jurisdictional area

(1) A Contingent Use is one which is likely or liable, but not certain to occur, and which is not inappropriate to the principal use of the district in which it may be located. When so located, it shall conform to the requirements of the district in which the Contingent Use is permitted except that the number of parking spaces to be provided shall conform to the requirements of figure 2. The required number of parking spaces shall be provided on the same lot with the use, or within 300 feet thereof on a site approved by the Board.

(2) The maximum building height for Contingent Uses shall be as provided in Figure 3.

(3) Provisions and Exceptions for Contingent Uses:

(a) The maximum height requirement in Figure 3 may be increased if buildings are set back, from front and rear property lines, one foot for each two feet of additional height above the maximum requirement.

(b) In this area, spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery, lofts, and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(c) A church or temple requiring parking area at times when nearby uses do not need their parking facilities, may by agreement approved by the Board utilize such facilities in lieu of providing their own parking facilities.

(d) Open parking area shall be paved with dust-proof or hard hard surface.

Section 2.05 CONDITIONAL USES AND PROCEDURES

1. USES PERMITTED.- The Conditional Uses listed in Figure 4 and their accessory buildings and uses, may be permitted by the Board in accordance with the procedures set forth in this section.

2. PROCEDURE- Upon the receipt of an application for a Conditional Use by the Board, it shall be referred to the Commission for investigation as to the manner in which the proposed location and character of the Conditional Use will affect the proposed Master Plan. The Commission shall report the results of its study of the proposal to the Board and, if the report is favorable to the proposal, the Board, may, after public notice and hearing according to law, grant the permit, including the imposition of conditions of use, which the Board deems essential to insure that the Conditional Use is consistent with the spirit, purpose and intent of this ordinance and will not substantially and permanently injure the appropriate use of neighboring property, and will substantially serve the public convenience and welfare.

3. REQUIREMENT STANDARDS

(1) Industrial Parks, which may include all permitted Light Industrial Uses:

(a) The tract of land involved shall be of not less than forty acres.

(b) The owner or owners of such tract of land shall have:

(I) Prepared a plat for a subdivision of the entire tract:

(II) Prepared a development plan for such entire tract:

(III) Obtained Commission approval of both the plat for the subdivision and the development plan according to the requirements of the Subdivision Control Ordinance and this ordinance.

(c) There shall be one principal entrance to the Industrial Park from any major thoroughfare (frontal highway) bordering the tract, which shall be designed so that traffic at its intersection with the frontal highway may be controlled and so that there will be adequate storage space for traffic destined to enter the frontal highway or to leave the Industrial Park.

(d) There shall be no direct entrances or exists from parking areas or structures into the frontal highway, (or highways) but a service drive parallel to the main trafficway may be provided for such access. Traffic on the service drive shall enter the main trafficway via the principal entry.

(e) Wherever the Industrial Park and adjacent residential districts have a common or joint boundary, an area with a width of at least twenty-five (25) feet shall be provided for the full length of such boundary for a planting screen, planted with scrubs and trees so as to provide a tight screen effective at all seasons of the year.

(f) The owner or owners shall provide a plan for the installation of adequate facilities for the disposal of human and industrial wastes meeting the approval of the State Department of Health.

(g) The owner or owners of the district shall establish in the restrictions which are a part of the plat for the subdivision a perpetuating organization for the maintenance of the Industrial Park property, such as roads and planting areas, the approval of building plans and other improvements, and the future maintenance of the Park.

(h) The development plan shall indicate the arrangement of the interior roads to provide a unified, self-contained arrangement of industrial sites. The basic concept of the interior road plan shall be subject to the approval of the Commission and any modification or alterations in the basic plan shall likewise be subject to such approval.

(i) The development plan shall show building lines established so that no building or structure shall be erected on any tract within the Park nearer to the center line of any interior road than eighty-five (85) feet nor nearer than one hundred (100) feet to the property line of any bordering highway, and no building shall be erected closer to the side line of a tract than thirty-five (35) feet and not closer to an adjoining residential district than seventy-five (75) feet.

(j) No loading docks may be erected or used fronting on a bordering highway. Provisions for loading or unloading operations and any handling of freight or materials outside of buildings shall be located so as not to face on bordering highways.

(k) No part of a parking area for passenger vehicles shall be closer than twenty-five (25) feet and no part of a loading and unloading area or parking area for trucks shall be closer than one hundred (100) feet to an adjoining residential district. All parking, loading and unloading areas shall be paved with concrete or black top surface.

(l) The areas in front and on the sides of buildings shall be developed in accordance with a well-designed landscape plan, and such areas shall be perpetually maintained to the satisfaction of the Park organization.

2. Shopping Center- In determining its approval or disapproval of a proposed Development Plan, the Commission shall be governed by the following:

(a) The Tract of land involved shall be an area of not less than five (5) acres.

(b) The owner or owners of such tract of land shall have

(1) Prepared a plat for a subdivision of the entire tract.

(2) Prepared a development plan for such entire tract.

(3) Obtained Commission approval of both the plat for the subdivision and the development plan according to the requirements of the subdivision control ordinance.

(c) The area to be occupied by buildings shall be twenty-five (25) percent or less of the net area of the tract.

(d) The location of the shopping center shall be on property which has an acceptable relationship to major thoroughfares. The Commission shall satisfy itself as to the adequacy of the thoroughfares to carry the additional traffic engendered by the development.

(e) The plan for the proposed shopping center must present a unified and organized arrangement of buildings and service facilities which shall have a functional relationship to the properties comprising the planned development, and to the uses of properties immediately adjacent to the proposed development.

(f) The location, size and use of all buildings and structures; the nature and intensity of the operations involved in or conducted in connection with the center; its site layout, including the location, size, arrangement, and capacity of all areas to be used for vehicular access, parking, loading and unloading, and its relation to streets giving access to it so that vehicular traffic to and from the center will not create undue hazards to the normal traffic of the vicinity.

(g) The location, size and arrangement of areas to be devoted to planting lawns, trees, or other purposes so that the center will be harmonious to the neighborhood in which it is situated.

Section 2.06 NONCONFORMING USE, SPECIFICATIONS

The lawful use of a building or premises, existing at the time of passage of this ordinance, may be continued although such use does not conform to all the provisions of this ordinance, except as hereinafter provided.

(1) A nonconforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law.

(2) A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in the district of greater restrictions, it shall not thereafter be changed to a nonconforming use of a less restricted one.

(3) No building shall be erected upon any premises devoted to a nonconforming use, except in conformance with regulations of this ordinance.

(4) The Board may authorize, by written permit, for a period of not more than one (1) year from the date of such permit, a temporary building for commercial or industrial use incidental to the residential construction and development.

(5) In the event that a nonconforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the uses permitted in the district in which it is located.

(6) These provisions apply in the same manner to a use which may become a nonconforming use due to a later amendment to this ordinance.

TITLE III- ADMINISTRATION, ENFORCEMENT & REMEDIES

Section 3.01 - ADMINISTRATION

The County Building Commissioner is hereby designated and authorized to enforce this ordinance.

1. Any person, persons, firms, or corporations which shall make application for an Improvement Location Permit shall, at the time of making such application furnish the Building Commissioner with a site plan of the real estate upon which said application for an Improvement Location Permit is made at least five (5) days prior to the issuance of said Improvement Location Permit, which five (5) days period may be waived by the Commissioner. Said site plan shall be drawn to scale showing the following items:

- (a) Legal or site description of the real estate involved.
- (b) Location and size of all buildings and structures.
- (c) Width and length of all entrances and exists to and from said real estate.
- (d) All Adjacent and adjoining roads or highways.

2. Site plans so furnished to the commissioner shall be filed by the Commissioner and shall become a permanent record.

3. The Commissioner may require the relocation of any proposed building or structure or exit or entrance shown on said site plan and/or the location of now exists or entrances now shown on said site plan before issuing an Improvement Location Permit when such action is necessary to carry out the purpose and intent of this ordinance.

4. The Commissioner shall issue an Improvement Location Permit for a Conditional Use only following receipt of notice from the Board that the application therefore has been approved by the Board.

5. Any person, to whom is issued an Improvement Location Permit pursuant to subsection D, above, who fails to commence construction of an authorized Industrial Park or Shopping Center within twenty-four (24) months after such permit is issued or who fails to carry to completion thirty percent (30%) of the total Development Plan thereof within three years after such permit is issued or within one year after such construction is begun, whichever is later, or who fails to conform to the provisions of the Development Plan and supporting data finally approved by the Board and upon the basis of which such Improvement Location Permit was issued, may be required by the Board upon its own motion, and shall be required by the Board upon written petition of any person deeming himself aggrieved, to show cause why such approval should not be withdrawn and such permit revoked; provided, however, that no such order to show cause shall be issued for failure to commence construction within 24 months, after such construction has in fact commenced even though commenced after the expiration of such 24 period.

(a) Upon the determination by the Board of a petition by such person to require the holder of such permit to show cause pursuant to the provisions of subsection (1) hereof, the Board shall set the same for public hearing, and cause written notice thereof to be sent by registered mail to the permit holder and to be published according to law. Such notice shall name a day not less than ten days after the date such notice is mailed and after the second of such publications upon which such hearing will be held.

(b) If after such hearing, upon evidence publicly presented to the Board by members of the public or officers or employees of the County, including members of the Board, present in person at such hearing, the Board shall find that the holder of the permit in question has failed to commence construction of the Industrial Park or Shopping Center within twenty-four (24) months from the date the Improvement Location Permit was issued, has failed to carry to completion thirty percent (30%) of the total Development Plan within three years after said date or has failed materially to conform to the provisions of the Development Plan and supporting data finally approved by the Board and upon the basis of which such Improvement Location Permit was issued, the Board shall withdraw its approval of such Development Location Plan and order such permit revoked; provided, however, that the Board may, if it deems such failure correctible within a period of six (6) months, extend the time within which such permit holder may purge himself of such failure for not longer than such period, during which period such hearing, shall be continued to a day certain at the end thereof.

6. Not more than one Improvement Location Permit for the same piece of property may be issued and outstanding at any one time.

7. In the event the Board shall revoke an Improvement Location Permit under the authority of subsection E (2) hereof, it may thereafter grant approval for another shopping center development on the same property subject to all of the provisions and requirements of this ordinance.

8. The holder of an Improvement Location Permit for an Industrial Park or Shopping Center may apply to the Board at any time for an alteration, change, amendment or extension of the Development Plan upon which such permit is based.

(a) Upon receipt of such application, the Board shall proceed as in the case of original applications for Conditional Uses.

(b) In the event the Board shall approve and order such Development Plan changed, altered, amended or extended it shall so notify the County Building Commissioner who shall issue an Amended Improvement Location Permit accordingly.

9. No land shall be occupied or used and no building hereafter erected, reconstructed or structurally altered which shall be occupied or used, in whole or in part, for any purpose whatsoever, until a Certificate of Occupancy shall have been issued by the Building Commissioner stating that the building and use comply with all of the provisions of this ordinance applicable, to the building or premises or the use in the district in which it is to be located.

10. No change in use shall be made in any building or part thereof, now or hereafter erected, reconstructed or structurally altered, without a Certificate of Occupancy having been issued by the Building Commissioner, and such permit shall be issued to make such change unless it is in conformity with the provisions of this ordinance.

11. A Certificate of Occupancy shall be applied for coincidentally with the application for an Improvement Location Permit and shall be issued within ten (10) days after the lawful erection, reconstruction or structural alteration of such building shall have been completed.

12. A record of all Certificates of Occupancy shall be kept on file in the office of the Building Commissioner and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

13. No Improvement Location Permit shall be issued for excavation for or the erection, reconstruction or structural alteration, of any building, before application has been made for a Certificate of Occupancy.

Section 3.02 BOARD OF ZONING APPEALS

A Board of Zoning Appeals is hereby established with membership and appointment provided in accordance with § 66 through 69 inclusive of Chapter 174 of the Acts of Indiana General Assembly of 1947 and all acts now or hereafter amendatory thereto.

1. At the first meeting of each year, the Board shall elect a Chairman and a Vice-Chairman from among its members, and it may appoint and fix the compensation of a secretary and such employees as are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensation theretofore fixed by the legislative authority.

2. The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this ordinance.

3. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be a public record.

4. Any decision of the County Building Commissioner in enforcement of this ordinance may be appealed to the Board by any person claiming to be adversely affected by such decision.

5. The Board shall have the following powers and it shall be its duty to:

(a) Hear and determine appeals from and review any order, requirement, decision or determination made by the Building Commissioner in the enforcement of this ordinance.

(b) Hear and decide on permits for conditional uses, development plans or other uses upon which the Board is required to act under this ordinance.

(c) Authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done.

6. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the County Building Commissioner from whom the appeal is taken.

7. Every decision of the Board shall be subject to review by certiorari.

8. No variance in the application of the provisions of this ordinance shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Board shall find:

(a) That there are exceptional or extraordinary circumstances of conditions applicable to the property or to the intended use that do not apply generally to the other property or class of use in the same vicinity and district.

(b) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and district but which is denied to the property in question.

(c) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and district in which the property is located.

(d) That the granting of such variance will not alter the land use Characteristics of the vicinity and district, diminish the marketable value of adjacent land and improvements or increase the congestion in the public streets.

Section 3.03- FEES

Applications and petitions filed pursuant to the provisions of this ordinance shall be accompanied by the filing fees hereinafter specified:

1. For each application for a Certificate of Occupancy, the sum of One Dollar-- to be paid to and collected by the County Building Commissioner.

2. For each petition for an appeal from the decision of the County Building Commissioner to the Board, a fee of Twenty-five (\$25.00)--to be paid to and collected by the Building Commissioner, the receipt for which shall accompany the petition.

3. For each application for the approval by the Board of a Conditional Use, a fee of Twenty-five Dollars (\$25.00)--to be paid to and collected by the County Building Commissioner, the receipt for which shall accompany the petition.

4. For each petition for an amendment to this ordinance, a fee of Twenty-five Dollars (\$25.00) --to be paid to and collected by the County Building Commissioner the receipt for which shall accompany the petition.

5. No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner.

Section 3.04- REMEDIES

1. The Commission, the Board, the Building Commissioner, or any designated enforcement official, or any person or persons, firm or corporation jointly or severally aggrieved, may institute a suit for injunction in the Circuit Court of the County to restrain an individual or a governmental unit from violating the provisions of this ordinance.

2. The Commission or the Board may also institute a suit for mandatory injunction directing any individual, a corporation or a governmental unit to remove a structure erected in violation of the provisions of this ordinance.

3. Any building, erected, raised or converted, or land or premises used in violation of any provisions of this ordinance or the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

TITLE IV--AMENDMENTS TO ORDINANCE

Section 4.01- AMENDMENTS

All amendments to this ordinance shall be in conformance with Sections 63 and 64 and 37 to 40 inclusive of Chapter 174 of the Acts of the Indiana General Assembly of 1947 as amended.

TITLE V--VALIDITY, ADOPTION AND REPEALER

Section 5.01- SEVERANCE CLAUSE

If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this ordinance.

Section 5.02- EFFECTIVE DATE

This ordinance shall take effect upon its passage by approval of the Board of County Commissioners.

Section 5.03- REPEALER

All ordinances or parts thereof that are in conflict with the terms and conditions of this ordinance are hereby repealed.

FIGURE I

RESIDENTIAL USES AND REQUIREMENTS

Requirements	Single-Family Dwelling	Two-Family Dwelling
Minimum lot size in square feet per dwelling unit	18,000 Sanitary Sewer Available and Connected	18,000 Sanitary Sewer Available and Connected
Minimum lot width in feet	100	100
Maximum Building Height	2 Stories	2 Stories
Minimum front yard in feet	Abutting: Arterial Streets 60 Feeder Streets 40 Residential Streets 25	Same as for Single Family
Minimum Side Yard (one) in percent of lot width	10, but not less than 5 feet	10, but not less than 5 feet
Minimum Side Yards (both or two) in percent of lot width	20	20
Minimum rear yard in feet	20	20
Minimum ground floor building size in square feet	*750	1,250
Number of vehicle parking space to be provided on the lot	2	4
Maximum lot coverage in percent of lot	35	35
Vision Clearance on corner lot	yes	yes

* Exception will be granted for use of a mobile home if the following conditions are met:

- (1) An occupancy permit is purchased each year.
- (2) All such mobile homes are under-pinned and permanent type skirting is placed around base of said mobile home.

FIGURE 2

CONTINGENT USE AND REQUIREMENTS FOR THE DISTRICT

<u>TYPE OF USE</u>	<u>NUMBER OF PARKING SPACES TO BE PROVIDED</u>
<u>Farming Use & Farm Buildings **</u>	<u>Not Applicable</u>
<u>Bulletin Board for a Church or Public Building</u>	<u>Not Applicable</u>
<u>Church or Temple</u>	<u>One for each 6 seats in main auditorium</u>
<u>College Or University</u>	<u>One for each 3 students & Staff</u>
<u>Housing for tenant & seasonal workers engaged in agricultural operations **</u>	<u>Not Applicable</u>
<u>Municipal or governmental Building</u>	<u>One for each 125 square feet ground floor area of building</u>
<u>Professional Office in residence of practicing professional person</u>	<u>5 Additional</u>
<u>Plant Nursery</u>	<u>None Required</u>
<u>Public Library or Museum</u>	<u>One for each 125 square feet ground floor area of building</u>
<u>School, Public or Parochial</u>	<u>One for each 3 members of staff plus one for each 8 seats in auditorium and/or gym</u>

* No Maximum Building Heights
** Building Permit not required

FIGURE 3

CONTINGENT USES

For Lot size, width, height, yard requirements, lot coverage, and vision clearance, use Single Family Requirements in Figure 1.

FIGURE 4

CONDITIONAL USE & PROCEDURES IN THE DISTRICT

The procedure for accepting, reviewing and approving Conditional Uses shall be as outlined in "Conditional Uses & Procedures" shall be reviewed in relation to the Master Plan now in preparation to make certain that the proposed use will not adversely affect said Master Plan, and further, that each such application shall be accompanied by a reasonably accurate sketch plan showing the proposed use, its location on the site in question, and the surrounding area; and finally, if Commission action is favorable, a detailed site plan shall be prepared for presentation to the Board of Zoning Appeals as required in § 301 "Administration."

<u>TYPE OF USE</u>	<u>TYPE OF USE</u>
<u>Airport or Heliport</u>	<u>Outdoor Commerical Recreational</u>
<u>Apartments</u>	<u>Enterprise</u>
<u>Artificial Lake or Public of</u>	<u>Penal or Correctional Institution</u>
<u>Semi-Public Swimming</u>	<u>Practice Golf Driving Range</u>
<u>Pool</u>	<u>Private Recreational Development</u>
<u>Amusement Park</u>	<u>Professional Office Building</u>
<u>Baseball Park</u>	<u>Public or Commerical Sewage or</u>
<u>Boarding or Lodging House</u>	<u>Salvage Disposal Plant</u>
<u>Cometary or Crematory</u>	<u>Public Utilities- Transmission</u>
<u>Clinic or Medical Health Center</u>	<u>Lines, Substations and</u>
<u>Country Club or Golf Course</u>	<u>Equipment Storage</u>
<u>Fire Station or Police Station</u>	<u>Radio or Television Transmitting</u>
<u>Fraternity, Sorority and Student</u>	<u>Tower or Receiving Tower</u>
<u>Cooperatives</u>	<u>Raising and Breeding of non-farm,</u>
<u>Hospital</u>	<u>fowl, fish and animals,</u>
<u>Industrial Park</u>	<u>commercially, including</u>
<u>Jump Yard (Use must be enclosed by</u>	<u>kennels</u>
<u>building or solid wall</u>	<u>Railroad Right-of-way & Uses</u>
<u>or fence 8 feet high &</u>	<u>Essential to operation of</u>
<u>properly screened)</u>	<u>Railroad</u>
<u>Kindergarten or Day Nursery</u>	<u>Riding Stable and Show Ring</u>
<u>Local Business, General Business,</u>	<u>Sales Barns for Livestock Resale</u>
<u>Light Industrial, and</u>	<u>Sanitary Fill or Refuse Dump</u>
<u>Industrial</u>	<u>Seasonal Fishing & Hunting Lodge</u>
<u>Lodge or Private Club (which is of</u>	<u>& Seasonal Camps or</u>
<u>a non-commercial</u>	<u>Campgrounds</u>
<u>character)</u>	<u>Sewage or Garbage Disposal Plant</u>
<u>Mineral Extraction, Borrow Pit,</u>	<u>Shopping Center</u>
<u>Top Soil Removal and</u>	<u>Stadium or Coliseum</u>
<u>their Storage Areas</u>	<u>Tourist Home</u>
<u>Mortuary</u>	<u>Trade or Business School</u>
<u>Nursing Home or Homes for Aged</u>	<u>Trailer Park or Public Camp</u>
<u>Outdoor Theater</u>	<u>Truck Freight Terminal</u>
	<u>Vehicle Parking Lot</u>