

FCR 2007 - XXIII

**Floyd County Board of Commissioners
Resolution Pertaining to Text Amendments to the Floyd County Zoning Ordinance 2006-6**

Whereas, the Floyd County Board of Commissioners met on December 4, 2007 on this matter pursuant to IC 36-7-4-607 and IC-36-7-4-701; and

Whereas, the Board received from the Floyd County Plan Commission a favorable recommendation of the proposed text amendments listed in Exhibit A.

Whereas, the Plan Commission held a public hearing on the matter and heard from both proponents and opponents of the text amendments to the zoning ordinance and subdivision control ordinance.


NOW, THEREFORE,

BE IT RESOLVED that Floyd County Zoning Ordinance is amended as indicated on Exhibit A.

SO RESOLVED this 4th day of December 2007.

BOARD OF COMMISSIONERS
COUNTY OF FLOYD


Stephen A. Bush, President


Mark Seabrook, Commissioner


Charles Freiberger, Commissioner


ATTEST:

Teresa Plaiss, County Auditor

Exhibit A
Changes # 1

Section 2.01 Definitions

ADULT MEDIA STORE means an establishment that rents and/or sells adult media and that meets any of the following tests: (1) more than 10 percent of the gross public floor area is devoted to adult media; or more than **10 percent** of the stock in trade consists of adult media; or (2) a media store which advertises or holds itself out in any forum as a **SEXUALLY ORIENTED BUSINESS** by use of such terms as "X-rated," "XXX," "adult," "sex," "nude," or otherwise advertises or holds itself out as a **SEXUALLY ORIENTED BUSINESS**.

Change percentage to 10 percent for continuity with adult novelty store definition.

AUTOMOBILE WRECKING AREA means any lot or structure or the use of any portion of a lot or structure for dismantling or wrecking automobiles or other motor vehicles, or for storing or keeping for sale parts and equipment resulting from such dismantling or wrecking, but not limited to, one or more unlicensed or inoperable motor vehicle or farm machinery or equipment of any kind.

Delete because it has no other reference in ordinance

BILLBOARD means all structures used as an outdoor display of any message or advertisement, unless the structure relates to operations conducted on the premises where the structure is located.

Delete- Off-premise signs definition describes term.

Confined Feed Operation or Confined Animal Feeding Operation means an agricultural livestock feeding operation as defined in Indiana Administrative Code.

Change to clarify definition.

DWELLING, TOWNHOUSE means a one-family dwelling in a row of at least three but not to exceed eight such units in which each unit has its own front, and rear access to the outside. No unit can be located over another unit and each unit is separated from any other unit by a one or more vertical fire-resistant walls.

(Added to address connectivity issues for patio-home style development.) Will be a permitted use in RU district and MF)

MONOPOLE means a single, freestanding pole-type structure supporting one or more antenna. ***For the purpose of this ordinance, a monopole is not a Tower.***

Delete For the purpose of this ordinance, a monopole is not a Tower. To reduce potential confusion with telecommunication language.))

POLLUTION means the presence of matter or energy whose nature, location or quantity produces undesired environmental effects.

POLLUTION means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent.

(Delete and replace with new definition)

RESIDENTIAL KENNEL means any structure or premises on which no more than four dogs or other domestic pets, are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

Delete (should have been deleted as part of Amendment 1)

SANITARY LANDFILL means a site for solid waste disposal in which a fee or compensation is taken in exchange for usage.

(Added to differentiate between refuse dump and sanitary land fill)

SIGNS mean 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.

SIGN, (OFF-PREMISES) means any commercial board, device or structure or part thereof used for advertising, display or publicity purposes that does not relate or direct attention to the activity or use is located on the premises.

(Added for continuity among all sign definitions)

SIGN, (ON-PREMISE) means any board, device or structure or part thereof used for advertising, display or publicity purposes that relates or directs attention to the activity or use on the premises where the sign is located.

(Added for continuity among all sign definitions)

SIGN, ROOF means a sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top edge or roof line of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof or the deck line of a building with a mansard roof.

(Added for new definition)

Change # 2

Section 3.05 Legal Non-Conforming Lots/Parcels

Parcels and/or lots that were in existence and in compliance with all land use and other laws on the date of the passage of this ordinance, and, further, that do not conform to the height, bulk, area and density regulations set forth in this ordinance, shall be deemed to be a legal non-conforming parcel/lot that may be occupied or used subject to the following:

- A. The legal non-conforming parcel may not be further developed until compliance with the ordinance and/or ***the legal non-conforming status*** is demonstrated or until a variance from the terms of the ordinance is obtained. A legal lot of record created before the effective date of this section may use an alternative sewage disposal system and water supply system provided the lot is capable of containing a water supply and the sewage disposal system meets the requirements and is acceptable to the Floyd County Health Department.

(Add for planning staff interpretation efforts)

Change # 3

Section 5.09 Buffer Yard Standards

Buffer yard plantings may be used ***to meet 50 percent of any landscaping tree planting requirements required by this section.***

(Addition - Provides allowance for tree plantings with landscaping)

Change # 4

Section 5.11 Performance Standards

All retention, detention, and pond edges must be maintained with a buffer of natural plantings within 20 feet of peak elevation. The use of engineered hard edges is not permitted except around inlets and outlets. The use of engineered hard edges may not exceed 5 percent of lineal feet of the total edge of any retention facility, detention facility, or pond. Rip-rap is permitted by approval of ***County Engineer's Office***.

(Request from County Engineer's Office)

Change # 5

Section 5.27 Permanent On-Premise Sign Standards

This Permanent Sign Standards section applies to the following districts

NC GC HS OB GI PR

The following sign regulations shall apply. All signs require a permit unless otherwise specified.

- A. 2.0 square foot of sign area shall be allowed for every 1 linear foot of the front façade of the building that is occupied by that use or for every 1 linear foot of lot frontage. (For example: If a use occupies a tenant space in a commercial building and that space includes 50 feet of the buildings frontage then 100 square feet of signage would be allowed for the use.) In no instance shall the amount of signage permitted per use exceed 200 square feet. Any combination of the following signs may be used as long as they do not exceed the total area allowed per use or are inconsistent with the other development standards listed in this section:
1. Wall signs,
 2. Awning signs,
 3. Projecting signs,
 4. Pole signs, **(Amended November 8, 2006)**
 5. Ground signs, **(Amended November 8, 2006)**
 6. Multi-Tenant Joint Entrance Signs.
 7. **Roof signs**
- B. Wall signs shall be located on the facade of the primary structure. No wall sign shall exceed 50 square feet in area and shall not exceed above the eaves of the façade of the building.
- C. Awning signs shall be printed on awnings mounted on the facade of the primary structure.
- D. No projecting sign shall, at its lowest point (except for the supporting building, structure, or column), be less than 8 feet above grade level. In no case shall it extend more than 4 feet beyond its supporting structure. Permission must be granted by the County Engineer if the proposed sign extends into the right-of-way. No projecting sign shall exceed 12 square feet in area. No more than 1 projecting sign shall be permitted per use.
- E. Free-standing signs shall be placed a minimum of 10 feet from the public right-of way. No pole sign may exceed 18 feet in height and 75 square feet in area. No ground signs may exceed 12 feet in height and 75 square feet in total area. Free-standing signs may be double-faced. **(Amended November 8, 2006)**
- F. Structures containing multiple uses shall establish 1 sign at each entrance for the joint use of all tenants for which the facility is designed. The use of individual free-standing signs for each tenant is prohibited. Each sign shall be setback a minimum of 10 feet from all public rights-of-way. No multi-tenant sign may exceed the primary building height for the base zoning district and exceed 32 square feet per tenant in area doubled faced. **(Amended November 8, 2006)**

- G. Commercial and industrial subdivision(s) lots shall establish 1 ground sign per subdivision lot. No pole signs are allowed. Each ground sign shall be setback a minimum 10 feet from all public right-of ways. No ground sign may exceed 12 feet in height and exceed 64 square feet. ***(Amended November 8, 2006)***
- H. Non-illuminated window signs not exceeding 25 percent of the window area are permitted. No permit is required and they shall not be counted toward the total area allowed per use. Illuminated window signs, and any exceeding 25 percent of the window area shall be counted toward the total sign area and shall require a sign permit.
- I. Directional signs must be no more than 4 feet in height and no more than 6 square feet in area. Directional signs shall be setback a minimum of 2 feet from all public rights-of-way. No permit is required and they shall not be counted toward the total area allowed per use.
- J. ***Roof Signs shall be located as per definition in ordinance. No roof sign shall exceed 50 square feet in sign area. (Additional – Definition added)***

Change # 6

Section 10.01 F (CFO and CAFO)

Confined Feed Operation or Concentrated Animal Feeding Operation shall have the same definition as the one defined in Indiana Administrative Code. An applicant shall meet the following conditions as set forth in this section below:

a. A proposed CFO or CAFO conditional application shall provide from the appropriate State or County agency all pertinent permitting information.

b. A CFO or CAFO must meet the following setbacks:

1. The CFO or CAFO waste management system shall not be within 300 feet from any county right of way.

2. The CFO or CAFO waste management system shall not be within 200 feet from any property line.

3. Maximum required separation distance for a CFO and CAFO will be 1000 feet from an existing residence excepting when the residence is related to the farm operation. The separation distance from a residence is measured from closest residential exterior wall to the closest exterior wall of the livestock housing structure

4. A reduction of the maximum separation distance for existing residences shall be allowed up to and not to exceed 250 feet of the following odor technologies are employed.

a. Diet formulation

b. Shelterbelts

c. Windbreaks Walls

d. Reducing manure loading rates for lagoon

e. Other strategies approved by the Purdue Agricultural Air Quality Laboratory

5. No conditional use permit shall be issued if the applicant has a current interest , or owned an interest at the time of violation, of a CFO or CAFO that incurred a final judgment in an administrative, civil, or criminal enforcement action if that violation:

a. Result in a discharge and release of manure that crossed a property;

b. was not corrected immediately or within a reasonable time frame as specified in a written notification of the violation by an Indiana Department of Environmental Management (IDEM) representative or comparable local, state, or federal regulatory agency; and

c. Occurred within the five years prior to the conditional application submittal

Change # 7

Section 14.04 Permitted Zoning District(s)

Sexually Oriented Business shall be permitted in the following zoning districts: (HS) Highway Service and (GI) – General Industrial. All sexually oriented businesses shall comply with the restrictions contained within this Ordinance.

- A. No sexually oriented business may be established or operated within 1500 feet of the following uses/activities. ***For the purpose of this subsection, measurement shall be made from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of any of the following activities/use listed below and following the routes of property lines along public rights-of-way (to approximate pedestrian distances).***

(Addition - Provides measurement standard for adult business and activities and uses.)

Change # 8

Section 15.05 Procedure for Violations

There shall be a two step procedure for violations of this Ordinance. These steps are as follows:

- A. The Planning Director and/or Building Commissioner shall issue a Notice of Violation to the person(s) who has committed in whole or part a violation. The Notice of Violation is a warning to the violator(s) that a violation has been determined and that it must be corrected within 15 calendar days of the mailing date or posting of notice.
- B. If the person(s) in violation refuses to pay, comply with the penalties, or correct the violation, after the notice has been given, the **Board of Zoning Appeals** may pursue court action. Fines and liens against the property may also be pursued until the matter is resolved.

(Change from Plan Commission to Board of Zoning Appeals)

Change #9

Section 15.14 Board of Zoning Appeals

E. The BZA shall have the following powers and it shall be its duty to:

- (1) Hear and determine appeals from and review any order, requirement, decision or determination made by the Building Commissioner and/or Planning Director in the enforcement of this ordinance.
- (2) Hear and decide on permits for conditional uses, special exceptions, variances or other uses upon which the BZA is required to act under this ordinance.
- (3) Authorize upon appeal in specific cases such variances from the terms of this ordinance shall be in accordance with the variance process set forth in this Ordinance.
- (4) Revoke any conditional use or special exception if such evidence is presented to the Board at a public meeting that condition(s) placed on the approval of the docket have not been met. Such revocation shall occur after the applicant has been notified by certified mail of the meeting date and has received notification through the violation process established in Section 15.05

(Change to allow for power of revocation for the Board of Zoning Appeals)

Change # 10

Land Use Matrix Changes

Automotive Repair and Service	Conditional Use	Neighborhood Commercial
Hotel/Motel Lodging	Conditional Use	General Commercial
Oil Change	Conditional Use	General Commercial
Dwelling, Townhouse	Permitted Use Permitted Use	Residential Urban Multi-Family