

ARTICLE FIVE  
DEVELOPMENT STANDARDS

- 501 PROCEDURE: The following specified uses must meet the development standards as listed in this Article in addition to the requirements of all other Articles of this Ordinance. In a district which the specified use is permitted, the Zoning Administrator shall ascertain that the specifications of the Article are met. In a district in which the specified use is allowed by special exception, the Board shall ascertain that the specifications of this Article are met prior to approval of the special exception.
- 502 CONFINED FEEDING OPERATIONS: All confined feeding operations [as defined by IC 13-1-5.7 (d)] must meet the following standards:
- 502.01 All structures shall be set back at least 250 feet from any road right-of-way and 200 feet from any side or rear lot line, provided the setbacks from structure to structure requirements are met.
- 502.02 The outer perimeter of the confined feeding operation structures, including housing for animals or manure storages shall not be located closer than:
- A. One mile to the nearest boundary of any incorporated city or town or public school (not including private school or home school).
  - B. 1,320 feet from any Rural Residential District line, residence, (other than the farm operator or residences owned by the confined feeding operation), any church, commercial use other than agriculturally related, public recreational area, or any public building.
  - C. The liquid edge of an uncovered storage basin(s) or treatment lagoon(s) that provide(s) more than 180 days manure storage for the entire operation either singly or combined must be located 2,640 feet from any Rural Residential District line, residence (other than the farm operator or residences owned by the confined feeding operation), any church, commercial use other than agriculturally related, public school, public recreational area, or any public building.
- 502.03 Any major or minor subdivision, or any new church, commercial use other than agriculturally related, public recreational area or public building shall not be located closer than 1320 feet from any confined feeding operation structure.
- A. New public schools shall not be located closer than 1 mile from an existing confined feeding operation structure.
  - B. Any new major or minor subdivision approved or any new residence permitted to be constructed on an existing lot of record, as defined, after the effective date of this ordinance will not have the effect of

establishing a new setback for an existing permitted confined feeding operation. If a confined feeding operation ceases for any reason for a period of more than 12 consecutive months, as per section 701.04, setbacks from the new major or minor subdivision or new residence on an existing lot of record will apply.

502.04 All confined feeding operations shall meet all applicable regulations of the Indiana Department of Environmental Management (IDEM) and US Environmental Protection Agency (EPA).

A. Anyone making application to IDEM for a confined feeding operation shall expand notice requirements to include all landowners within 1 mile of the confined feeding operation structures of the existing and proposed operation. Notification letter must be sent prior to or within 10 days of application to IDEM via certified mail. Copies of the receipts of delivery are required prior to issuance of an improvement location permit. Notice must meet IDEM requirements and include an aerial map showing the proposed location of the confined feeding structures, the animal capacity of the operation, the method of manure storage, the planned method of manure application and the potential frequency of land application.

502.05 An existing confined feeding operation may be expanded, extended, or enlarged at the same immediate location provided the following:

A. The expansion, extension, or enlargement does not encroach into any required setback to a greater extent than that which exists prior to the expansion, extension, or enlargement.

B. The expansion does not include an uncovered manure storage or treatment lagoon(s) with greater than 180 days storage capacity.

503 TEMPORARY USES: An Improvement Location Permit for a temporary use may be issued by the Zoning Administrator subject to the standards in Table H and after receipt of Board of Health approval, if applicable. Access and parking for all temporary uses shall be provided to the Zoning Administrator's satisfaction. All temporary use sites shall be adequately cleaned up at the conclusion of the event. Signs for temporary uses shall comply with Section 505 of the Ordinance. Any temporary use exceeding the standards of Table H shall be considered a special exception in the district in which it is located. Events which are reasonably expected to exceed an attendance level of 5,000 over an 18 hour period are required a mass gathering permit by the State Department Health of the State of Indiana.

503.01 Amusement and charitable activities, sponsored by public agencies, churches, civic and charity groups, schools and other non-profit organizations on a temporary basis, are permitted in any zoning district, provided it is on the site of said sponsor or on public property with the

approval of the appropriate governmental body. No permit is necessary. If an amusement or charitable activity does not meet the standards, it shall be considered under the appropriate use as listed in Table H.

503.02 The sale or offering for sale of goods or services from any vehicle, including trailers, buses, or vans, shall be deemed to be a commercial use and shall be subject to all the regulations prescribed for the zoning district in which the same is conducted, but this regulation shall not be deemed to prohibit any vending from vehicles on a public street that is not otherwise prohibited by law.

TABLE H  
Temporary Uses

USE	DISTRICT	MAXIMUM LENGTH OF TIME	PERMIT	CONDITIONS
1. Carnival, Circus, Fair, Festival, or Concert	B-2, B-3, and by special exception approval in B-4, AB, AG, I-1, I-2	15 days per year per site	Required	Lights, noise and traffic plans to be approved
2. Outdoor Promotional Attraction, Tent Sale, Auto Show, Farm Products Promotions, Farm Equipment Show	B-1, B-4, AB, AG, I-1, I-2	30 days per year per site	Required	Lights, noise, and traffic plans to be approved
3. Farm Tours, Hayrides (commercial), Pick-Your-Own Produce	B-1, B-4, AB, AG, I-1, I-2	4 months per year	Not Required	None
4. Farm Fair	AG, I-1, I-2	30 days per year per site	Not Required	None
5. Farmers Market	B-1, B-4, AB, AG	90 days per year per site	Required	Agricultural products only
6. Sawmills on Property Where Timber is Cut	AB, AG, I-1, I-2	6 month per year	Required	Must meet Section 309 if within 100qof off-property residence
7. Temporary Group Camp	B-1, B-4, AB, AG, I-1, I-2, OS	1 week per 6 months	Required	Lights and noise to be controlled
8. Contractor Office and Equipment Storage or Real Estate Sales Office	All districts if incidental to construction or development	Must be removed upon completion of construction or development	Not Required	Includes mobile homes but no cooking or sleeping facilities

9. Christmas Tree Sales	B-1, B-4, AB, AG, I-1, I-2	45 days per year	Required	Unsold merchandise must be removed by January 1 <sup>st</sup>
10. Fireworks, Sales and Display	B-1, B-4, AB	45 days per year	Required	All applicable State and Federal laws must be met. Unsold merchandise to be removed by July 10 <sup>th</sup>
11. Religious Tent Meeting	B-1, B-4, AB, AG, I-1, I-2	30 days per 6 months	Required	Off-street parking as required for churches
12. Basement Home	AG, R-1, RR,	Not to exceed 2 years from permit issuance	Required	Does not include permanent earth-sheltered home
13. Yard, Garage or Porch Sale	Any District	2 days twice per year per site	Not Required	Only normal household items. Multiple participants allowed
14. Sale of Personal Property at Place of Residence	Any District	3 months per year per item per site	Not Required	Items allowed such as automobiles, motorcycles, recreational vehicles, etc. May not be disabled vehicles (as defined). Must be titled to resident. Limit two items at a time.
15. Auction/Pre-priced Sale	Any District	3 days per year	Not Required	Parking to be controlled

**504 ACCESSORY USES AND STRUCTURES:** Accessory uses and structures, as defined, shall meet the following requirements:

504.01 An accessory structure shall not be erected or an accessory use located prior to the establishment or construction of the principal building or use to which it is accessory or to which it is intended to be accessory, except for agricultural structures.

504.02 An accessory structure or accessory use may be permitted on a parcel of land separated by a public right-of-way or easement from the parcel containing the principal structure but any accessory structure must meet principal structure yard requirements and Section 504.01 of this Ordinance.

504.03 The square footage of the footprint of an accessory structure located in a residential district may not exceed the square footage of the principal structure.

504.04 Swimming pools shall meet the following requirements:

- A. An in-ground swimming pool shall be entirely enclosed by buildings, fences, or walls or equipped with an electronic pool cover.
  - 1. Said fences or wall must be a minimum of 4 feet in height and must be equipped with self-latching gates or doors, with the latching device located not less than 4 feet above the ground.
  - 2. Electronic pool covers must meet the standards of 675 IAC 20-4-27, et sec, and be in working condition at all times.
  - 3. All fencing must be in place and approved by the Zoning Administrator before the water is put into the pool.
- B. Above-ground swimming pools, hot tubs, and saunas are considered accessory structures and are subject to setback regulations for accessory structures. They are not subject to any of the standards in Section 504.04 A above, provided they do not violate other sections of this Ordinance.
- C. In addition to the above regulations, commercial swimming pools are subject to the standards as set forth by the Indiana State Board of Health Rule 410 IAC 6-2.

504.05 No major recreational vehicle shall be parked or stored on any lot in any Residential District, except in a carport or enclosed building or behind the nearest portion of a structure to the street. This provision, however, does not restrict the parking of a recreational vehicle on a residential lot for a period not to exceed 48 hours during loading or unloading. No such vehicle shall be used for living or housekeeping purposes when parked or stored on a residential lot, or on any location not approved for such use.

504.06 Trucks or tractor-trailer combination vehicles in excess of one ton capacity shall not be parked or stored in any Rural Residential except in an enclosed building. Operating refrigeration units will be permitted in the General Business, Light Industrial, and General Industrial districts only.

504.07 In all zoning districts satellite dish antennae (satellite earth stations) of up to 12 feet in diameter are permitted as accessory structures. A satellite dish antenna may be either roof-mounted or ground-mounted and must meet the following standards:

- A. A roof-mounted antenna shall not extend above the required height of the zoning district in which it is located and shall not overhang within 2 feet of any side or rear lot line.
- B. A ground-mounted antenna may be located in a side or rear yard, or in the front yard if it is at least 100 feet back from the front property line.

The closest edge of any antenna may not be less than 2 feet to any side or rear lot line. Ground-mounted antenna may not extend above the accessory use height requirement.

- C. If any antenna cannot receive a usable satellite signal by complying with the above standards without substantial removal of mature trees or vegetation, a special exception may be requested from the Board of Zoning Appeals to locate the antenna in a front yard. A usable satellite signal is defined as a signal from a satellite which when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.
- D. All antennae shall meet manufacturers specifications, shall meet all applicable Building and Electrical Code requirements, shall be of non-combustible and corrosive-resistant material, shall be erected in a secure, wind-resistant manner and shall be adequately grounded for protection against a direct strike of lightning.

504.08 Outdoor display of merchandise, where permitted, and outdoor storage for any use, shall not extend into any street right-of-way, required parking area or bufferyard area and shall be maintained in a neat and orderly manner at all times. The following outdoor storage regulations shall also be met:

- A. Any article or material stored temporarily outside an enclosed structure as an incidental part of the primary commercial operation, shall be so screened by opaque ornamental fencing, walls, or evergreen planting, that it cannot be seen from adjoining public streets or adjacent lots, when viewed by a person standing on ground level during any season of the year. This section does not apply to any commercial or industrial use unless the storage area is located within 100 feet of a residence or residential district line.
- B. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, except tanks or drums of fuel connected directly with energy devises or heating appliances located and operated on the same lot as the tanks or drums of fuel and except for permitted agricultural uses and permitted uses in the Industrial District.
- C. All outdoor storage of raw materials, waste products, and similar materials shall be enclosed by an approved safety fence and shall be shielded from view of public streets and adjacent lots.
- D. All materials or wastes which might cause fumes or dust or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects, shall be stored outdoors only if enclosed in containers adequate to eliminate such hazards. This section does not apply to agriculture or agribusiness uses.

- 504.09 Fences are permitted as accessory structures in any district and do not require any permit. However, fences, excepting partition fences as defined by IC 32-10-9, must meet the following standards:
- A. Fences must be located entirely upon the lot which it serves, though it may be located immediately adjacent to the lot line.
  - B. All fences shall be constructed and maintained at a uniform height from the same construction material and of a uniform color scheme.
  - C. Fences in residential districts or abutting residential uses may not have a height greater than 36 inches in the front yard setback, with the exception of a fence that does not encroach into the front yard setback to a greater extent than the farthest point of the principal structure.
  - D. No fence in any district, except for those servicing agricultural uses, shall be constructed of or contain barbed wire, broken glass, spikes or sharp and dangerous objects, nor be electrically charged.
    - 1. Barbed wire may be used at the top portion of a permitted fence or wall in the AG, Agricultural, I-1, Light Industrial or I-2, General Industrial districts, provided that the fencing does not abut a residential district or residential use.
    - 2. Barbed wire, where permitted, must be located more than 7 feet above the adjacent ground level. Such permitted barbed wire shall be considered part of the fence and subject to the fence height restrictions.
  - E. All fences shall meet the requirements of IC 32-10.
  - F. No fence abutting a residential lot or district may exceed 6 feet in height. All fences constructed abutting a residential lot or district must be designed so as not to prohibit more than 50% of the light and/or ventilation to a residence.
- 504.10 A refuse disposal container (dumpster) and/or refuse storage area or corral for a commercial or industrial use shall not be located within any required front or side yard, parking area or bufferyard. Refuse disposal containers and areas shall be opaquely screened from public streets and adjacent properties. This screening may be achieved by walls, landscaping or the bufferyard, or by virtue of the location on the lot.
- 504.11 Collection stations for used merchandise or for recyclable items are permitted in the Agricultural, Convenience Business, General Business, Agribusiness, Light Industrial, and General Industrial districts and are not subject to side or rear setback regulations provided they are not located in a way to create a traffic hazard and do not violate other sections of this



Ordinance. The collection stations shall be routinely emptied and no outdoor storage of items is permitted.

504.12 Newspaper, soft drink and ice vending machines, and other similar devices are permitted in areas zoned commercial or industrial and are not subject to setback regulations provided they do not violate other sections of this Ordinance.

504.13 No mobile home or manufactured home shall be stored or parked, vacant or otherwise, in any zoning district, except in conformity with the provisions of the district in which it is located.

505 SIGNS: The purpose of this section is to regulate all exterior signs placed for exterior observance so as to protect property values, to protect the character of the various communities in the County to facilitate the creation of a convenient, attractive, and harmonious community, to protect against danger in travel and transportation, to improve and protect the public health, safety, convenience, and general welfare, and to further the stated purposes and intent of this Ordinance.

Any sign erected on a lot or building for the purpose of identification or for advertising a use conducted therein or thereon shall be an accessory structure to the principal use.

It is further intended that all signs within a given development be coordinated with the architecture of the principal use in such a manner that the overall appearance is harmonious in color, form, and proportion and that the signs shall be structurally sound so as to ensure the safety of the general public.

No sign shall be permitted in any district except as herein provided. No sign shall be permitted which creates a safety hazard. No sign shall be permitted between the street and the sidewalk. No sign, except as specified herein, shall hereafter be erected unless a sign permit has been issued by the Zoning Administrator.

Applications for sign permits shall include detailed drawings of the construction and design of the sign, and shall be accompanied by such fee as may be established by the Tipton County Commissioners.

505.01 The following operations shall not be considered as creating a sign and therefore shall not require a sign permit:

A. The changing of the advertised copy or message on an approved painted or printed sign or billboard or a theater marquee and similar approved signs which are specifically designed for the use of replaceable copy.

B. Painting, repainting, cleaning and other normal maintenance and repair of an approved sign or sign structure, unless a structural alteration is made.

505.02 Signs Permitted in All Districts: The following signs are permitted in all districts. No sign permit is required for these signs.

- A. One residential identification sign, not to exceed 2 square feet in area, for each residential dwelling, may be affixed to a fence or structure, or be freestanding. In addition, house numbers not to exceed 2 square feet depicting the address of the property are permitted. Also, a sign for an allowable home occupation is permitted as specified in Section 512.
- B. Signs for the purposes of identifying the name of schools, churches, community buildings, or other public or semi-public institutional buildings, residential subdivisions, apartments or townhouse developments, or mobile home parks, shall be permitted provided the following conditions are met:
  - 1. The sign shall not exceed 24 square feet.
  - 2. If freestanding, the sign shall be located not less than 15 feet from the road right-of-way. Freestanding signs may be double-faced, and such sign, including any structure to which it is attached, shall not exceed 5 feet in height.
  - 3. No sign mounted on a building shall project above the ridge line of a sloping roof nor above the eave line of a flat roof.
  - 4. The Zoning Administrator may authorize additional signs if a building fronts on more than one street.
- C. One bulletin board, not illuminated except by indirect light and not exceeding 24 square feet in surface area is permitted with any church, school, or other similar public or semi-public structure.
- D. Permanent off-site directional signs intended for the purpose of directing traffic to such civic or public facilities as churches, schools, or public parks, shall be permitted, provided such signs do not exceed 1 square foot in area and are not placed so as to create a traffic hazard.
- E. Signs erected by a duly constituted governing body or a public utility, such as traffic control and safety signs, handicapped parking signs, railroad signals, entrance and exit signs, signs indicating scenic or historical places, welcome signs, county facilities and public directional signs, and memorial plaques, are permitted.
- F. Show window displays, including displays of merchandise, photographs, drawings, prices, promotional statements, etc., designed and intended to be viewed by pedestrians passing in front of the show window.
- G. An exterior building directory, on a multiple tenancy structure, is not to exceed one sign and not to exceed 6 square feet in area.

- H. Any flags bearing the official design of the nation, state, city, community, organization, corporation, or school are permitted, and up to one decorative flag per property is permitted.
- I. On-site directional signs shall be permitted for the purpose of directing traffic and parking on the same lot as the sign(s). Such signs shall not exceed 5 square feet, shall not be located in any public right-of-way, and such sign, including any structure to which it is attached, shall not exceed 4 feet in height.
- J. Signs located on-site warning the public against hunting, fishing, dumping, trespassing, dangerous animals, swimming or the like, shall be permitted. Such signs may be freestanding or attached to a fence, and such signs shall be no more than 4 square feet in area.
- K. Names of buildings, dates of construction, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the building or structure.
- L. Signs accessory to an agricultural use located on a parcel of not less than 20 acres for the purpose of identifying such agricultural uses or advertising the products thereof. No such sign shall exceed 30 square feet in area, and all such signs on a given farm shall not exceed a total of 60 square feet in area. No such sign shall exceed 8 feet in height or be located closer than 10 feet to any street right-of-way.
- M. Signs erected by farm operators on their barns or other accessory buildings giving their name, the name of their farm and the year of the farm establishment.

505.03 Signs Permitted in Business and Industrial Districts: The following signs are permitted in business and industrial districts subject to the standards and restrictions set forth herein. A permit is required for these signs.

- A. One business sign mounted on the building occupied shall be permitted in connection with any legal business or industry, if the following requirements are met:
  - 1. No sign shall contain information or advertising for any product not sold on the premises.
  - 2. The business sign shall not have a surface area greater than 2 square feet for each foot of frontage of the building and shall not project above the ridge line of a sloping roof nor above the eave line of a flat roof.
  - 3. No sign shall project over any public sidewalk or right-of-way.

B. The Zoning Administrator may authorize additional business signs if one of the following conditions are met:

1. The business fronts on more than one thoroughfare.
2. More than one business is located in one building. In such instance, the combined total area of the business signs shall not exceed 2 square feet per linear foot of the front foot of the building.
3. The business has a rear parking lot, in which case one additional business sign may be permitted on the side or rear of the building occupied, provided such sign is constructed to the same standards as are required in the front of said premises.
4. The sign is part of a wall graphic, as defined in Article Two.

C. In addition to an attached business sign (or signs), one single or double-faced, freestanding sign may be erected on a business or industrial site, provided the following conditions are met:

1. The sign shall contain only the logotype, trademark, or name of the company, commercial, or industrial center on the property. Only one freestanding sign shall be permitted on each individual business site; however, within commercial or industrial centers, one freestanding sign shall be permitted for each principal structure within the center. In such instances where an individual business site or commercial or industrial center has access on more than one thoroughfare, the Zoning Administrator may authorize such additional signs as are warranted. Additional freestanding signs may be approved as a special exception by the Board of Zoning Appeals, where specific and special circumstances warrant.
2. Such sign, including any structure to which the sign is attached, shall not exceed 35 feet in height, shall be set back not less than 10 feet from the road right-of-way and shall not be located less than 10 feet from any adjacent property.
3. The logo sign shall not be larger in total surface area than 25 square feet per face for each half acre of lot area on the premises or 300 square feet, whichever area is less.
4. Businesses which require the frequent display of special prices and/or events shall be permitted, in addition to a logo sign, one permanent message sign which does not exceed 20 square feet per face for each half acre of lot area on the premises or 100 square feet whichever area is less. Where additional message logo signs have been allowed by Subsection (1) above, additional message signs shall be permitted

also. All such signs shall be mounted on the same pole or structure as the logo or signs.

D. In addition to other permitted signs, gasoline stations may have the following signs:

1. Signs on vending machines, provided that such machines are placed together in a single group against the building.
2. Wall signs, not exceeding 6 square feet in area for each sign, identifying the special functions of various service bays in the building facade, located above the doorways and containing no advertising.
3. Signs on pump islands and/or canopies relating to self-service or full-service locations, prices (the numerals of which shall be between 4 and 8 inches in height), promotions for products and services, displays of products, fuel availability, and so forth.
4. One sign stating hours of operation, in the form of a wall sign or window sign, not exceeding 4 square feet in area.
5. A single wall sign not exceeding 2 1/2 square feet, identifying the owner or manager, the address of the property and the telephone number.

E. Off-premise Signs: Off-premise signs (as defined) are permitted in the County. Off-premise signs shall be freestanding (as defined). For the purpose of this Ordinance, an off-premise sign shall be treated as a principal land use.

1. The following standards apply to freestanding off-premise signs:
  - a. Signs shall be permitted in the following zoning districts: B-4 General Business, AB Agribusiness, I-1 Light Industrial and I-2 General Industrial.
  - b. The maximum height of an off-premise sign above the road grade from which it is to be viewed shall not exceed 35 feet.
  - c. Lighting for off-premise signs shall be indirect and non-flashing in nature.
  - d. No off-premise sign shall be placed so as to obstruct the view of on-coming traffic or create any kind of traffic hazard.
  - e. All signs shall meet the Uniform Sign Code, 1979 Edition, as amended.

- f. Each sign face shall contain no more than 300 square feet and no sign structure shall contain more than two such faces facing in the same direction and shall not be separated by more than 12 inches. However, a freestanding sign not exceeding 700 square feet in area per side may be permitted by special exception by the Board of Zoning Appeals.
- g. Back-to-back freestanding signs may be separated in the shape of the letter "V" if the greatest point of separation between sign faces does not exceed 15 feet.
- h. The distance between legally erected freestanding off-premise sign structures shall be a linear measure taken along right-of-way lines along both sides of the street where the sign is to be located. Freestanding signs shall be at least:
  - (i) 1500 feet or more from one sign to another on either side of the street.
  - (ii) 1000 feet to any residential zone.
  - (iii) 1000 feet to a church, school, or health care institution.
- i. The distance measured at a right angle from the right-of-way line to the leading edge of an off-premise sign structure shall be no less than 15 feet.

3. Notwithstanding the provisions of Article Seven of this Ordinance, a nonconforming off-premise sign structure may be continued but may not be extended, expanded, replaced, or otherwise increased in nonconformity except as specified herein or as permitted by the Board of Zoning Appeals in accordance with the provisions of this Ordinance. Nonconforming off-premise sign structures may be maintained and repaired subject to the above restrictions.

505.04 Temporary Signs: Temporary signs are permitted within all districts within the County subject to the requirements listed below. No permit is required for these signs.

- A. Temporary real estate signs are permitted on any property being sold, leased, or developed if they are not illuminated, not in any required side or rear yard, and are no larger than 7 square feet in any residential, or agricultural district, nor 32 square feet in any commercial or industrial district. Such signs shall be promptly removed when the sale, lease, or development of the property has been completed.
- B. Temporary signs announcing such events such as "Grand Opening," "Under New Management" or "Going Out of Business." Such signs

may be freestanding, building-mounted, or a banner and shall be subject to the following standards:

1. A maximum of 20 square feet in area,
  2. If freestanding, not to exceed 8 feet in height or located closer than 10 feet to any lot line,
  3. For a period not to exceed 45 days,
  4. Only contain information and/or advertising pertaining to the special event,
  5. On a given property, such temporary sign may be displayed only one time by the same proprietor in a 12 month period.
- C. Any temporary construction sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building or development or announcing the character of a building enterprise or the purpose for which the building is intended. Such signs shall be located on the site of the construction work, not to exceed 4 square feet in any residential district or 32 square feet in any business or industrial district.
- D. Seasonal displays and decorations, for events such as religious holidays and the Fourth of July, not advertising a product, service, or entertainment.
- E. Freestanding, off-site directional sign(s) providing information as to the location of grand openings, private garage or yard sales, and other temporary uses or of real estate that is for sale or for rent. Such signs shall be subject to the following conditions:
1. No such sign shall exceed 3 square feet in area or 4 feet in height,
  2. Such signs shall not exceed 5 in number per use being advertised,
  3. Such signs shall not be located in any public right-of-way,
  4. Such signs shall not be situated so as to cause an obstruction or distraction to passing motorists,
  5. Such sign placement shall have the approval of the property owner,
  6. Such signs shall be removed promptly after the sale or temporary activity is over.

F. Temporary signs, announcing a campaign, drive, or event of a civic, charitable, educational, historical, or religious organization. Such signs may be either building-mounted or freestanding and shall not exceed 16 square feet in area. If freestanding, no such sign shall exceed 6 feet in height or be located closer than 10 feet to any street right-of-way. Such signs may be located on or off-site, and may be posted prior to the event for a period not to exceed 21 days and must be removed immediately after the completion of the event.

G. Political campaign signs erected on Election Day at officially designated polling places.

H. Temporary political campaign signs may be permitted on-site or off-site in any district subject to the following conditions:

1. No one such sign shall exceed 32 square feet in area, and no freestanding sign shall exceed 8 feet in height.
2. No signs shall be erected for more than 45 days prior to the nomination, election, or referendum which they advertise.
3. Political signs shall be permitted during local special events, such as fairs, carnivals, and festivals. Signs must be removed immediately after the completion of the event.
4. All signs shall be removed within 14 days after voting.
5. Nothing in this provision shall be construed to authorize the posting of political campaign signs upon trees, utility poles, traffic control signs, lights or devices, or in any place or manner prohibited by this Ordinance.
6. Any temporary political campaign signs placed on buildings or in building windows which are visible to the outside shall meet the above requirements.

505.05 Temporary Signs Permitted in all Districts: The following signs are permitted in all districts subject to the requirements listed below. A permit is required for these signs.

A. Temporary on-site signs advertising any temporary use specified in Section 503. Such signs may be freestanding or building-mounted, shall not exceed one in number per use, shall not exceed 32 square feet in area and, if freestanding, shall not exceed 8 feet in height. Such signs may be erected only for the duration of the temporary use and shall be located only as approved by the Zoning Administrator. In addition, there may be off-site directional signs as specified by Section 505.03 E.



505.06 Temporary Signs Permitted in Business and Industrial Districts: The following temporary signs are permitted in the business and industrial districts subject to the requirements listed below. A permit is required for these signs.

- A. Portable, mobile, or tow-in signs shall be permitted in business and industrial districts to substitute for a permanent sign prior to installation of the permanent sign, to announce grand openings, or to advertise special sales events providing the following requirements are met:
  - 1. These signs may be permitted on the premises for the period of time specified in conjunction with those uses listed in Table H or for 45 days if the use is not specified in Table H. Additional days may be permitted by the Administrator, if the sign is being used in lieu of a permanent sign.
  - 2. No more than 2 permits shall be issued in any 12 month period for the same enterprise.
  - 3. No sign shall contain information on any event not conducted on the premises nor advertising for any product not sold on the premises.
  - 4. In no instance shall such signs be permitted in the street right-of-way, nor shall they be placed so as to obstruct the view of on-coming traffic for cars exiting premises or intersecting street.
  - 5. No such sign shall be permitted to flash.
  - 6. All such signs shall be safely anchored to the ground.
  - 7. No more than one portable, mobile, or tow-in sign may be permitted per enterprise.
  - 8. When not in use, all portable, mobile, or tow-in signs shall be stored out of public view.
  - 9. Any portable, mobile, or tow-in sign exceeding the above standard would require a special exception approval by the Board of Zoning Appeals.
- B. Inflatable balloons used for the purpose of product or business advertising shall be permitted as temporary signs in any business or industrial district for a period not to exceed 7 days. The Zoning Administrator shall determine that no unsafe condition will exist due to the use of the device.
- C. Search lights with a vertical beam may be placed temporarily on the premises for grand openings and other similar special events. The Zoning

Administrator shall determine that no unsafe condition will exist due to the use of the device.

505.07 Signs Prohibited in All Districts: The following signs are specifically prohibited in all districts:

- A. Any sign which is in need of maintenance, or which is no longer functional or is abandoned. Signs shall be considered no longer functional and abandoned when such sign is materially obstructed from view, when its essential elements are no longer readable, when a sign has been left by a business or other use which has ceased to operate, or when a condition of deterioration or dilapidation of the sign face or structure is in evidence. All signs shall be repaired, removed or relocated in compliance with the regulations of this Ordinance within a reasonable period of time after official notification by the Zoning Administrator.
- B. Any sign which is constructed, altered, located, or illuminated in any manner which causes undue glare, distraction, confusion, nuisance, noise, or hazard to traffic or to other properties. No sign may be illuminated after 11:00 P.M. if it is located within or adjacent to any residential district, except those businesses remaining open beyond that time, in which case illumination shall cease upon closing.
- C. No sign which has a rotating beam, beacon, flashing or alternating illumination shall be permitted for advertising or identification purposes where no hazard or need for caution exists. This section shall not be construed as prohibiting:
  - 1. Time or temperature devices customarily identified with banks or lending institutions.
  - 2. Barber poles, provided such devices meet all other applicable provisions of this Ordinance.
- D. Any sign that is attached to a tree or other living vegetation, utility pole, rock, curbstone, sidewalk, lamppost, hydrant, bridge, highway marker, or other sign, except for public informational signs as provided for in Section 505.01 E.
- E. Any sign displayed on a stationary vehicle or trailer when said vehicle or trailer is used primarily for the purpose of and serving the function of an off-site sign.
- F. Any sign so placed that it obstructs any window, door, fire escape, stairway, ladder, opening, or access intended for light, air, ingress to, or egress from any building.

- G. Any portable, mobile, or tow-in sign unless otherwise permitted as a temporary sign as provided in Section 505.06.
- H. Signs advertising activities which are illegal under federal, state, or county laws or regulations.
- I. Any sign that violate any provision of IC 8-12-2.5-2 or IC 9-4-1-38.
- J. Any sign that is not expressly listed in this Ordinance.

506 **MOBILE HOME PARKS:** Mobile home parks shall meet the following requirements:

- 506.01 No mobile home park shall have an area of less than 5 acres.
- 506.02 Each home site within the park shall have an area of at least 4,000 square feet.
- 506.03 There shall be at least 25 feet between homes.
- 506.04 No mobile home shall be closer than 40 feet to an adjacent property.
- 506.05 Not less than 10% of the gross area of the park must be improved for recreational activity of the residents of the park.
- 506.06 The park shall be appropriately landscaped and screened (as defined) from adjacent properties in accordance with an approved site plan.
- 506.07 All streets, sidewalks, and driveways shall be privately maintained and shall be constructed in accordance with the applicable standards contained in the Article V of the Tipton County Subdivision Control Ordinance.
- 506.08 Applicable requirements of IC 13-1-7 shall be met.
- 506.09 Mobile home parks with 5 or more homes shall also meet Indiana State Board of Health Rule 410 IAC as amended.

507 **MOBILE HOME AS CARETAKER DWELLING:** A mobile home as a second principal structure may be allowed by special exception in the AG and RR zoning districts provided:

- 507.01 The mobile home is to provide living quarters for the purposes of a caretaker dwelling.
- 507.02 There is a minimum of two acres of land, and principal structure setbacks are adhered to.
- 507.03 Board of Health approval has been granted.

507.04 The mobile home is removed from the property when the caretaker situation is no longer needed.

508 RECREATIONAL VEHICLE PARKS/CAMPGROUNDS: All recreational vehicle parks and campgrounds must meet the following requirements:

508.01 Recreational vehicle parks and campgrounds shall have direct access to a public street with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of all vehicles into and out of the park.

508.02 Conditions of soil, ground water level, drainage, geologic structure, and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence, sudden flooding, or severe erosion.

508.03 The minimum area of a recreational park or campground shall be three acres.

508.04 The density of a park shall not exceed 17 recreational vehicles or camping spaces per acre of gross site area.

508.05 Recreational vehicles and camping spaces shall be separated from each other and from other park structures by at least 10 feet.

508.06 In addition to complying with any required side or rear yard requirements of the district in which the park is located:

A. No recreational vehicle or camping space shall be nearer than 50 feet to the right-of-way line of a highway or street.

B. Where the boundary line of a recreational vehicle park coincides with that of a residential district, a yard of at least 25 feet shall be provided for a camping space.

508.07 In the Agricultural District, food stores, restaurants, sporting good stores, laundromats, and similar convenience and service shops shall be permitted in recreational vehicle parks and campgrounds which contain 50 or more spaces provided:

A. Such shops and the parking areas required by their use shall not occupy more than 10% of the total area of the park.

B. The use of such shops shall be solely by the occupants of the park, and

C. Such shops shall be so located or designed within the park to present no visible evidence of their commercial nature to persons outside the park.

508.08 Management offices and storage, playground and picnic equipment, sanitation and laundry facilities, informational signs, and other structures customarily incidental to a recreational vehicle park or campground shall be permitted as accessory uses.

508.10 All applicable regulations of the Board of Health shall be met.

## 509 SEXUALLY ORIENTED BUSINESS

509.01 It is the purpose of this *Section* 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 prevent deleterious effects of sexually oriented businesses within the County. The provisions of this Section 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 neither the intent nor effect of this *Section* to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution or the Indiana State Constitution, 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 this *Section* to in any way condone or legitimize the distribution of obscene or material harmful to minors.

509.02 DEFINITIONS For the purposes of this *Section*, certain terms and words are defined as follows:

A. "Sexually oriented businesses" are those businesses defined as follows:

**Adult Arcade** means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show 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".

**Adult Bookstore, Adult Novelty Store or Adult Video Store** means a commercial establishment which has 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 or 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 an emphasis on 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 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."

**Adult Cabaret** means 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 or in a state of nudity or semi-nude; (b) live performances which are characterized by an emphasis on (as amended 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".

**Adult Motel** means 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 an emphasis on 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.

**Adult Motion Picture Theater** means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

**Adult Theater** means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features a person who appear in a state of nudity or live performances which are characterized by exposure of "specified sexual activities."

**Escort** means 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.

**Escort Agency** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**Massage Parlor** means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or 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 businesses shall not include the practice of massage in or by any licensed hospital; nor by a licensed physician, surgeon, chiropractor or osteopath; 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; nor by any person or entity licensed pursuant to Title 8, Chapter 8.20 (Massage Establishments) of the Tipton County Code.

**Nude Model Studio** means any place where a person, who regularly appears in a state of nudity or displays "specified anatomical areas" for money or any form of consideration and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

**Sexual Encounter Establishment** means 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 engaging in "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.

**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.

**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, regardless of whether it currently exists as 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.

**Nudity or State of Nudity** means: (a) the appearance of human bare buttock, anus, male or 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.

**Operator** means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

**Permitted or Licensed Premises** means any premise that requires a license and/or permit and that is classified as a sexually oriented business.

**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.



**Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

**Public building** means any building owned, leased or held by the United States, the state, the county, the city, and 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.

**Public Park or Recreation 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 city which is under the control, operation, or management of the county parks and recreation authorities.

**Religious Institution** means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

**Residential District or Use** means a single family, duplex, townhouse, multiple families, or Mobile Home Park or subdivision as defined in the Tipton County Zoning Section.

**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, colleges and universities. The term "School includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

**Semi-Nude** means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

**Sexually Oriented Business** means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, and adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.

**Specified Anatomical Areas** means and includes any of the following:

1. Less than completely and opaquely covered human genitals, pubic

region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Sexual Activities** 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; or
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.

**Substantial Enlargement of a Sexually Oriented Business** means an increase in the floor areas occupied by the business by more than 15%, as the floor areas exist on the date this *Section* takes effect.

**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 devices 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.

**509.03 PERMIT REQUIRED.**

- A. No person shall conduct, maintain, operate, or cause to be conducted, maintained, or operated, any sexually oriented business within the unincorporated areas of the County without first being licensed under this chapter.

- B. The Planning Commission or its designee is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses. The County Zoning Board (hereafter "Zoning Board) or its designee is also responsible for ascertaining whether a proposed sexually oriented business for which a permit is being applied complies with all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this *Section* in the County.
- C. The Tipton County Sheriffs Department shall be responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time period set forth.
- D. The Zoning Board shall be responsible for inspecting a proposed, permitted or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and Sections.
- E. An application for a permit must be made on a form provided by the Planning Commission. Any person desiring to operate a sexually oriented business shall file with the Planning Commission an original and two copies of a sworn permit application on the standard application form supplied by the Planning Commission, or its designee.
- F. The completed application shall contain the following information and shall be accompanied by the following documents:
  - 1. If the applicant is:
    - a. an individual, the individual shall state his/her legal name and any aliases and submit satisfactory proof that he/she is eighteen years of age;
    - b. a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited. and a copy of the partnership agreement, if any;
    - c. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the State of Indiana, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he must state 1) the sexually oriented business fictitious name and 2) submit the required Indiana registration documents.
3. Whether the applicant or any of the other individuals listed in the application has, within the two (2) or five (5) year period preceding the date of the application, been convicted of a specified criminal act, and, if so, the specified criminal act involved, and the date and place of conviction.
4. Whether the applicant or any of the other individuals listed in the application has had a previous permit under this *Section*, or other similar sexually oriented business Sections from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed in the application has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this *Section* whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
5. Whether the applicant or any other individual listed in the application holds any other permits and/or licenses under this *Section* or other similar sexually oriented business Section from another city, county, or state and, if so, the names; and
6. The single classification of permit for which the applicant is filing.
7. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
8. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
9. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a State of Indiana registered land surveyor depicting the property lines and the structures containing

any established existing uses regulated by this *Section* within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park, recreation area, government buildings or liquor establishment, within 1, 000 feet of the property to be certified; and the property lines of any residentially zoned area or residential property within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

10. If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a permit as applicant. If a person wished to operate a sexually oriented business collectively with a group of individuals, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.
  11. If a person wishes to operate a sexually oriented business which shall exhibit on the premises films, video cassettes, or other video reproductions which depict specified sexual activities or specified anatomical areas, then said person shall comply with the application requirements stated herein.
- G. Applicants for a permit under this Section shall have a continuing duty to promptly supplement application information required by this Section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change shall be grounds for suspension of a permit.
  - H. In the event that the Planning Commission or its designee determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, he/she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)
  - I. The applicant must be qualified according to the provisions of this *Section* and the premises must be inspected and found to be in compliance with health, fire and building codes and laws.
  - J. The applicant shall be required to pay a non-refundable application fee

on One Thousand Dollars (\$1000.00) at the time of filing an application under this Section of this *Section* to the Tipton Planning Commission.

- K. The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit.
- L. By applying for a permit under this *Section*, the applicant shall be deemed to have consented to the provisions of this *Section* and to the exercise by the Tipton County Sheriff's Department and all other County agencies charged with enforcing the laws, ordinances and codes applicable in the County of their respective responsibilities under this *Section*.
- M. The applicant shall be required to pay a non-refundable application fee of One Thousand Dollars (\$1,000) to provide the County with the names of any and all employees who are required to be licensed. See XIV. This shall be a continuing requirement even after a permit is granted or renewed.

#### 509.04 INVESTIGATION AND APPLICATION.

- A. Upon receipt of an application properly filed with the County and upon payment of the non-refundable application fee, the Planning Commission shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the Tipton County Sheriff's Department and any other County agencies responsible for enforcement of health, fire and building codes and laws. Said investigation shall be completed within twenty (20) days of receipt of the application by the Auditor. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons. The Tipton County Sheriff's Department shall only be required to certify the NCIC records request check. The Tipton County Sheriff's Department shall not be required to approve or disapprove applications.
- B. A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law if effect in the County. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the Planning Commission for consideration.

509.05 ISSUANCE OF PERMIT.

- A. The Planning Commission or its designee shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth (30th) day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the Planning Commission or its designee, notifies the applicant of a denial of the application and states the reason(s) for that denial.
  
- B. Grant of Application for Permit
  - 1. The Planning Commission or its designee, shall grant the application unless one or more of the criteria set forth in Section C below is present
  
  - 2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall also indicate that the sexually oriented business shall be subject to prohibitions against Public Nudity and Indecency pursuant to the Indiana Penal Code 35-45-4-1. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be read easily at any time.
  
- C. Denial of Application for Permit
  - 1. The Planning Commission or its designee shall deny the application for any of the following reasons:
    - a. An applicant is under eighteen years of age.
  
    - b. An applicant or an applicant's spouse is overdue on his/her payment to the County of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
  
    - c. An applicant is residing with a person who has been denied a permit by the Planning Commission to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
  
    - d. An applicant has failed to provide information required by this Section or permits application for the issuance of the permit or has falsely answered a question or request

for information on the application form.

- e. The premises to be used for the sexually oriented business have not been approved as being in compliance with health, fire and building codes by the department or agency responsible under law for investigating said compliance.
- f. The application or permit fees required by this *Section* have not been paid.
- g. An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this *Section* or the County Zoning Ordinance.
- h. The granting of the application would violate a statute, ordinance, or court order.
- i. The applicant has a permit under this *Section* that has been suspended or revoked.
- j. The applicant has been convicted of a "specified criminal" act for which:
  - 1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations.
  - 2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;
  - 3. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are or two or more misdemeanor offenses for "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business



including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations; offenses occurring within any twenty-four month period;

4. the fact that a conviction is being appealed shall have no effect on disqualification of the applicant.
  5. an applicant who has been convicted of the above described "specified criminal acts" may qualify for a sexually oriented business permit only when the time period required above has elapsed.
- k. An applicant knowingly has in his or her employ, an employee who does not have a valid license as required of this Section.
2. If the Planning Commission or its designee denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial.
  3. If a person applies for a permit for a particular location within a period of twelve (12) months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

#### 509.06 ANNUAL PERMIT FEE

The annual fee for a sexually oriented business permit is Five Hundred dollars (\$500.00).

#### 509.07 INSPECTION

- A. An applicant or permittee shall permit representatives of Tipton County to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- B. A person who refuses to permit any such inspection of the premises at any time that it is occupied or open for business or open for business shall be in violation of this Section and subject to penalty.

#### 509.08 EXPIRATION OF PERMIT

- A. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in this *Section* (for renewals, filing of original survey shall be sufficient) of

this *Section*. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

- B. When the Planning Commission or its designee, denies renewal of the permit, the applicant shall not be issued a permit under this *Section* for one (1) year from the date of denial. If, subsequent to denial, the Planning Commission or its designee finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date denial became final.

#### 509.09 SUSPENSION OF PERMIT

- A. The Planning Commission or its designee, shall suspend a permit for a period not to exceed thirty (30) days if he/she determines that a permittee, or an employee of a permittee, has:
  - 1. Violated or is not in compliance with any section of this *Ordinance*; or
  - 2. Been under the influence of alcoholic beverages or any controlled substances while working in the sexually oriented business premises; or
  - 3. Refused to allow an inspection of sexually oriented business premises as authorized by this *Section*; or
  - 4. Knowingly permitted gambling by any person on the sexually oriented business premises; or
  - 5. Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the Auditor or its designee shall promptly notify the permittee of the violation and shall allow the permittee a seven (7) day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven (7) day period, the Auditor or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension.
  - 6. Operated the sexually oriented business in violation of the hours of operation of this *Section*.
  - 7. Knowingly employs a person who does not have a valid license as

required in this *Section*.

- B. The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

#### 509.10 REVOCATION OF PERMIT

- A. The Planning Commission or its designee shall revoke a permit if a cause of suspension of this *Section* occurs and the permit has been suspended within the preceding twelve (12) months.
- B. The Planning Commission or its designee shall revoke a permit upon determining that:
  - 1. A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit; or
  - 2. A permittee or an employee has knowingly allowed possession, use, or sale of alcohol and/or controlled substances in or on the premises; or
  - 3. A permittee or an employee has knowingly allowed prostitution on the premises; or
  - 4. A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended; or
  - 5. A permittee has been convicted of a "specified criminal act" for which the time period required of this *Section* has not elapsed: or
  - 6. On two or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or
  - 7. A permittee is convicted of tax violations for any taxes or fees related to a sexually oriented business; or
  - 8. A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises.

9. A permittee has been operating more than one sexually oriented business under a single roof.
  10. A permittee has engaged in or attempted to engage in a transfer of permit in violation of this *Section*.
- C. When the Planning Commission or its designee, revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective. If, subsequent to revocation, the Planning Commission or its designee finds that the basis for revocation under this *Section* has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date revocation became effective. If the permit was revoked under this *Section*, an applicant may not be granted another permit until the number of years required have elapsed.

#### 509.11 JUDICIAL REVIEW OF PERMIT DENIAL, SUSPENSION OR REVOCATION

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek judicial review of the administrative action in Tipton Circuit Court.

#### 509.12 TRANSFER OF PERMIT

A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

- A. A permittee shall not transfer his/her permit to another person.
- B. A permittee shall not transfer his/her permit to another location.
- C. Any attempt to transfer a permit either directly or indirectly in violation of this Section is hereby declared void and the permit shall be deemed revoked.

#### 509.13 SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE

- A. Each individual to be employed in a sexually oriented business, as defined in this Section who engages in the services rendered by a nude model studio, escort or escort agency, sexual encounter establishment, or a live performer or entertainer shall be required to obtain a Sexually Oriented Business Employee License. Each applicant shall pay a license fee of twenty five dollars (\$25.00). Said fee is to cover reasonable administrative costs of the licensing application process.

- B. Before any applicant may be issued a Sexually Oriented Business Employee License, the applicant shall submit on a form to be provided by the Auditor or its designee the following information:
1. The applicant's name or any other names including "stage" names) or aliases used by the individual;
  2. Age, date, and place of birth;
  3. Height, weight, hair and eye color;
  4. Present residence address and telephone number;
  5. Present business address and telephone number;
  6. State driver's license or identification number;
  7. Social Security number; and
  8. Acceptable written proof that the individual is at least eighteen (18) years of age.
  9. Attached to the application form as provided above, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Tipton County Sheriffs Department. Any fees for the photographs and fingerprints shall be paid by the applicant.
  10. A statement detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
  11. Whether the applicant has been convicted of a "specified criminal" act as defined in this Section. This information shall include the date, place, nature of each conviction or plea of *nolo contendere* and identifying the convicting jurisdiction.
  12. The Planning Commission or its designee shall refer the Sexually Oriented Business Employee License Application to the Tipton

County Sheriffs Department for an investigation to be made of such information as is contained on the application. The application process shall be completed within ten (10) days from the date the completed application is filed. After the investigation, the Auditor or its designee shall issue a license unless the report from the police department finds that one or more of the following findings are true:

- a. That the applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the Tipton County Sheriffs Department or other department of the county;
- b. That the applicant is under eighteen (18) years of age;
- c. That the applicant has been convicted of a "specified criminal act" as defined in this *Section*;
- d. That the Sexually Oriented Business Employee License is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this *Section*.
- e. That the applicant has had a Sexually Oriented Business Employee License revoked by the county within two (2) years of the date of the current application.

C. Renewal of license:

1. A license granted pursuant to this *Section* shall be subject to annual renewal by the Auditor or its designee upon the written application of the applicant and a finding by the Auditor or its designee and the Tipton County Sheriffs Department that the applicant has not been convicted of any "specified criminal act" as defined in this *Section* or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.
2. The renewal of the license shall be the same as the initial application fee.

509.14 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS IN VIDEO BOOTHS

- A. A person who operates or causes to be operated a sexually oriented business, other than a sexually oriented business, other than a sexually oriented motel/hotel, regardless of whether or not a permit has been issued to said business under this *Section*, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises wherein patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight (8) feet. The diagram shall also designate the place where this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Building Department or its designee may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
  2. The application shall be sworn to be true and correct by the applicant.
  3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Building Department or its designee.
  4. It is the duty of the owners and operator of the premises to insure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.
  5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's station designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patrol is permitted access

for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises to insure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection 509.15 of this Section.
7. No viewing room may be occupied by more than one person at any one time. No holes, commonly known as "glory holes," shall be allowed in the walls or partitions which separate each viewing room or restroom.
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two (2) foot candle as measured at the floor level.
9. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present on the premises.

#### 509.15 PROHIBITION REGARDING MINORS AND SEXUALLY ORIENTED BUSINESSES

It shall be unlawful for a person who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to knowingly or with reasonable cause knows, permits, suffers, or allows:

1. Admittance of a person under eighteen (18) years of age to the business premises;
2. A person who is under eighteen (18) years of age to work at the business premises as an employee.
3. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance at all times during such sexually oriented businesses' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the establishment. It shall be presumed that an attendant knew a person was under the age of



eighteen (18) unless the attendant asked for and was furnished:

- a. a valid operator's, commercial operator's or chauffeur's license, or
- b. a valid personal identification certificate issued by the State of Indiana reflecting that such person is eighteen (18) years of age or older.

#### 509.16 ADVERTISING AND LIGHTING REGULATIONS

- A. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.
- B. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to display or otherwise exhibits the materials and/or performances at such sexually oriented business in any advertising or any portion of the interior premises which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.
- C. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this *Section*.
- D. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to erect, construct, or maintain any sign for the sexually oriented business other than as permitted by the County *Section* and as follows:
  1. Signage shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the legal name of the enterprise.
  2. Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size, and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

- E. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to allow the exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
  - 1. The establishment is a part of a commercial multi-unit center; and
  - 2. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a pattern of the commercial multi-unit center.
  
- F. All off-street parking areas and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1.0) foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premise.
  
- G. Nothing contained in this Chapter of the *Section* shall relieve the operator(s) of a sexually oriented business from complying with the requirements of this *Section*, commonly known as the "Sexually Oriented Business Ordinance", as it may be amended from time to time, or any subsequently enacted County ordinances or regulations.

#### 509.17 HOURS OF OPERATION

- A. It shall be unlawful for any person to operate or cause to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, and allows such business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 10:00 p.m. and 10:00 a.m. of any particular day.
  
- B. It shall be unlawful for any person while working as an employee of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit service between the hours of 10:00 p.m.

and 10:00 a.m. of any particular day.

**509.18 NUDITY AT SEXUALLY ORIENTED  
BUSINESSES PROHIBITED**

No person shall allow public nudity in any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its permit suspended pursuant to the provisions of this ordinance.

**509.19 REGULATIONS PERTAINING TO LIVE ENTERTAINMENT**

- A. For purposes of this Chapter, "live entertainment" is defined as a person who appears semi nude, or a performance which is characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
- B. No person shall perform live entertainment for patron(s) of a sexually oriented business establishment except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patron(s). No patron shall be permitted within ten (10) feet of the stage while the stage is occupied by a performer.
- C. The sexually oriented business establishment shall provide separate dressing room facilities for female and male performers that shall not be occupied or used in any way by any one other than performers.
- D. The sexually oriented business establishment shall provide access for performers between the stage and the dressing room which is completely separated from the patrons. If such separate access is not physically feasible, the establishment shall provide a minimum four (4) foot wide walk aisle for performers between the dressing room and the stage, with a railing, fence or barrier separating the patrons and the performers which prevents any physical contact between patrons and performers.
- E. No entertainer, either before, during, or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after a performance. This subsection shall only apply to physical contact while in or on the premises of the establishment.
- F. Fixed rails at least thirty (30) inches in height shall be maintained establishing the separations between performers and patrons required by this section.

- G. No patron shall directly pay or give any gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and a performer. No performer shall solicit any gratuity from any patron.
  
- H. No operator of a sexually oriented business establishment shall cause or allow a performer to engage in any entertainment such as a "couch" or a "straddle" dance with a patron while in or on the establishment premises. No performer shall come in contact or engage in a "couch" or "straddle" dance with a patron while in or on the establishment premises. For purposes of this subsection, "couch" or "straddle" dance is defined as an employee of the establishment intentionally touching or coming within ten (10) feet of any patron while engaged in the display or exposure of any "specified anatomical area", or any "specified sexual activity". For purposes of this subsection, "employee" is defined as it is in this *Section*.
  
- I. Section H, shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bartender, comes within ten (10) feet of a patron. No employee shall engage in any "specified sexual activity" or display or expose any "specified anatomical area" while acting as a waiter, waitress, host, hostess, or bartender.
  
- J. Compliance with this Chapter:
  - 1. For purposes of this Chapter, establishment is defined as it is in Section II of this *Section*. No establishment shall be in compliance with this Chapter until the County's designated agent(s) have inspected and approved of the establishment's compliance. The County shall have ten (10) days from the date it receives written notice from the operator that the establishment is ready for inspection to approve or disapprove of compliance required by this Chapter. Failure to approve or disapprove of compliance within ten (10) days shall constitute a finding of compliance under this Chapter.
  
  - 2. The operator of an establishment, that has been providing live entertainment under a valid sexually oriented business permit, shall have the time periods listed below in which to bring the establishment into compliance with this Chapter. Failure to do so while continuing to provide live entertainment shall cause the establishment's permit to be suspended under this *Section*. The permit shall remain suspended until the establishment is approved by the County's designated agent(s) as being in full compliance with this Chapter.

3. The operator of establishment, that has been operating under a valid permit for another classification of sexually oriented business and who wishes to provide live entertainment at that establishment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided at that establishment. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this Chapter and all other applicable requirements of this *Section*.
4. The Applicant for a permit to operate a new establishment, who wishes to provide live entertainment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this Chapter and all other applicable requirements of this *Section*.
5. Compliance with Subsection *B* must occur within sixty (60) days from the date this Chapter becomes effective.
6. Compliance with Subsection *C* must occur within ninety (90) days from the date this Chapter becomes effective.
7. Compliance with Subsection *D* must occur within ninety (90) days from the date this Chapter becomes effective.
8. Compliance with Subsection *E* must occur upon the date this Chapter becomes effective.
9. Compliance with Subsection *F* must occur within sixty (60) days from the date this Chapter becomes effective.
10. Compliance with Subsection *G* must occur upon the date this Chapter becomes effective.
11. Compliance with Subsection *H* must occur upon the date this Chapter becomes effective.

#### 509.20 EXEMPTIONS

- A. It is a defense to prosecution for any violation of this *Section* that a person appearing in a state of nudity did so in a modeling class operated:
  1. By a college, junior college, or university supported entirely or partly by taxation.

2. By a private college or university that 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:
  - 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.
- B. It is a defense to prosecution for a violation of this *Section* that an employee of a sexually oriented business, regardless of whether or not it is permitted under this *Section*, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employees bona fide use of a dressing room which is accessible only to employees.

509.21 PENALTY AND INJUNCTIVE RELIEF

- A. Any person who violates the provisions of this Chapter shall be subject to a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for each violation. Each day of continued violation shall constitute a separate offense.
- B. In addition to seeking penalties against individuals who violate provisions of this Chapter, the County Attorney or his/her designated representations may commence legal action seeking injunctive relief against any individuals or entities violating the provisions of this Chapter.

509.22 PROHIBITION OF DISTRIBUTION OF SEXUAL DEVICES

- A. It is unlawful for anyone to distribute, for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- B. Such devices, instruments or paraphernalia shall include, but are not limited to, phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other

tools of sadomasochistic abuse.

509.23 PROHIBITION OF ALCOHOLIC BEVERAGES

- A. It is unlawful for anyone to distribute, sell, offer for sale or consume any alcoholic beverages of any kind on the property of a sexually-oriented business.

509.24 SEVERABILITY

If any chapter, section, subsection or clause of this *Section* shall be deemed to be unconstitutional or otherwise invalid, the validity with the remaining chapter, section, subsection and clauses shall not be affected thereby.

- 510 JUNK YARDS AND SCRAP METAL YARDS: All junk yards and scrap metal yards must meet the following requirements and all other conditions deemed necessary by the Board:

510.01 The minimum lot area shall be 10 acres.

510.02 All operations shall be conducted entirely within an enclosed building or opaque fence not less than 8 feet in height which bears no advertising, and does not violate Section 504.08 of this Ordinance. Such building or fence shall be constructed on or inside the front, side, and rear yard setback lines required within the district in which located and shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property or highway. Storage, either temporary or permanent, between such fence and any property line is expressly prohibited. All applicable standards of IC 8-12-1 shall also be met.

510.03 All salvage processing shall be entirely within an enclosed building and no processing shall be permitted closer than 300 feet from a Rural Residential or Suburban Residential District line, or a residential use in the Agricultural District.

- 511 AUTOMOBILE SERVICE STATIONS AND COMMERCIAL GARAGES: All automobile service stations and commercial garages established after the effective date of this Ordinance shall meet the following standards:

511.01 The minimum lot size shall be 20,000 square feet and, in addition:

- A. Gasoline service stations shall have 500 square feet of lot area for each additional pump over four and 1,000 square feet of lot area for each additional service bay over two.
- B. Commercial garages shall have 1,000 square feet of lot area for each additional service bay over two. There shall also be 300 square feet of

additional land area for each space intended for storage of disabled vehicles.

511.02 The minimum lot width shall be 150 feet.

511.03 All activities except those to be performed at the fuel pumps shall be performed within a completely enclosed structure.

511.04 Fuel pumps shall be at least 15 feet from any street right-of-way and any canopies shall meet the standards of Section 306.13 of this Ordinance.

511.05 There shall be no outdoor storage of merchandise such as tires or lubricants and there shall be no outdoor storage of discarded auto parts.

511.06 Vehicles shall not be stored outside while awaiting repairs for more than 7 days. No vehicles may be parked or stored on any public right-of-way.

511.07 Disabled vehicles may not be stored in the open at any time.

511.08 Parking areas, bufferyards, and signs shall meet applicable sections of this Ordinance.

512 HOME OCCUPATIONS: Simple and Major Home Occupations may be permitted where allowed subject to the provisions of this section:

512.01 Simple home occupations may be approved by the Zoning Administrator when it is determined the following standards are met:

- A. The home occupation is considered customary and traditional and incidental and subordinate to the residential use of the premises and not construed as a business.
- B. The home occupation shall be carried on by a resident of the premises with no more than one employee not a resident on the premises.
- C. There shall be no more than one separate home occupation per premises.
- D. The home occupation shall not be conducted in any accessory building and shall not occupy more than 25% of the floor area of the principal dwelling unit, except in the Agricultural District, where an accessory structure may be used provided that the home occupation not exceed 50% of the gross floor area of the principal residential structure, and that the accessory structure, if new, comply with principal structure setbacks. In no case shall both the principal structure and an accessory structure be used for the home occupation.



- E. There shall be no exterior indication of the home occupation or variation from the residential character of the premises.
- F. There shall be no direct sales or displays of articles other than those items produced or repaired on the premises of the home occupation.
- G. There shall be no outdoor storage of materials or goods produced and no display of goods visible from any adjoining property line or road.
- H. The home occupation shall not increase vehicular traffic flow and parking by any more than one additional vehicle at a time, other than that of the one permitted employee.
- I. Delivery of materials to or from the premises by commercial vehicles shall not exceed once per week and for a period any longer than one hour.
- J. There shall be no use which creates noise, vibration, smoke, dust, electrical interference, smell, heat, glare, fire hazard, or any other hazard or nuisance to a greater or more frequent extent beyond what normally occurs from a residence.
- K. No more than one sign shall be allowed. Such sign shall be no greater than 2 square feet in size.
- L. A permit for a home occupation is not transferable and a new occupancy permit must be applied for whenever there is a change in the occupation, ownership or the property, or tenants in the dwelling unit.

512.02 Major Home Occupations may be approved by special exception in the Agricultural district or by the Zoning Administrator in the Business or Industrial districts when it is determined that the following standards are met:

- A. The home occupation is incidental and subordinate to the residential use of the premises.
- B. The home occupation shall be carried on by a resident of the premises with no more than 3 employees not residing on the premises.
- C. There shall be no more than one separate home occupation per premises.
- D. The home occupation may be conducted in the dwelling unit or in an accessory building. The home occupation shall not exceed 50% of the floor area of the principal building.

- E. There shall be minimal exterior indication of the home occupation or variation from the residential character of the premises.
- F. Any sales or displays of articles produced on or off the premises shall be effectively screened from adjoining properties and road.
- G. No more than 5 vehicles and/or pieces of equipment shall be operated from the site or stored there overnight and shall meet Section 512.02 H of this Ordinance.
- H. Any outdoor storage of materials, equipment, or goods produced shall be effectively screened from adjoining properties and roads.
- I. The home occupation shall not increase vehicular traffic flow and parking by any more than 2 additional vehicles at a time, other than those of the permitted employees. Any parking generated by the home occupation shall be off-street and not in any required front yard.
- J. No use shall create noise, vibration, smoke, dust, electrical interference, smell, heat, glare, fire hazard, or any other hazard or nuisance to a greater or more frequent extent beyond what normally occurs from a residence.
- K. No more than one sign shall be allowed. Such sign shall be no greater than 4 square feet in size.
- L. A permit for a home occupation is not transferable and a new occupancy permit must be applied for whenever there is a change in the occupation, ownership of the property, or tenants in the dwelling unit.

513 BED AND BREAKFAST ESTABLISHMENTS AND COUNTRY INNS: Bed and breakfast establishments and country inns shall meet the following standards:

- 513.01 A bed and breakfast establishment shall have no more than 6 guest rooms or lodging units and a country inn shall have no more than 20 guest rooms or lodging units. These rooms or lodging units may be located within the principal structure or in an accessory structure. Accessory uses which are clearly incidental to the guest accommodations may be provided.
- 513.02 The owner and operator of the bed and breakfast establishment or country inn shall live on the property.
- 513.03 At a bed and breakfast establishment food service is to be limited to a continental breakfast. At a country inn full meal service may be provided for guests and the general public. In addition, a country inn may provide banquet facilities, gift shops, and/or other small retail sales.

513.04 No alterations shall be made to the external appearance of any principal or accessory structures or of the property which changes the residential character of the bed and breakfast establishment or country inn.

513.05 One non-illuminated sign no greater than 4 square feet in size shall be permitted.

513.06 There shall be one additional off-street parking space provided for each guest room at the bed and breakfast establishment or country inn.

514 ACCESSORY APARTMENT: A structure may be converted to allow the incorporation of one dwelling unit in addition to the single-family residence, or two dwelling units in addition to the commercial use of the building, to extend the economic life of a large, older building. Accessory apartments are subject to the following requirements:

514.01 There shall be no visible change in the exterior appearance of the structure containing the accessory apartment, except for additional windows and those changes necessary to meet Section 514.04.

514.02 All improvements associated with construction of the accessory apartment shall meet all applicable building and health codes.

514.03 Any additional parking as needed or required by this Section shall be provided in an off-street space.

514.04 Each accessory apartment shall have safe and proper means of entrance and exit.

514.05 There shall be a maximum of one accessory apartment which can be created from any single-family dwelling, and it shall not exceed 25% the floor space of the entire building.

515 CONVERSION DWELLINGS: Except for accessory apartments, as defined, no structure may be converted to accommodate an increased number of dwelling units unless:

515.01 The single-family appearance of the structure is not altered;

515.02 Additional off-street parking shall be available as necessary; and

515.03 The conversion is in compliance with all other applicable codes and ordinances.

516 SIDEWALK CAFES: All sidewalk cafes shall meet the following requirements:

- 516.01 The café may be unenclosed, partially enclosed, or covered but must be clearly incidental to the operation of a restaurant on the same or adjacent private property.
- 516.02 The café shall not obstruct any entrances to adjoining buildings, any pedestrian traffic, or any access to the café from the sidewalk.
- 516.03 The café must keep at least 5 feet or 50% of the pavement width, whichever is more, free of obstruction.
- 516.04 All tables, awnings, canopies, partitions and accessory items shall be removed during the period of the year when the café is not in use.
- 516.05 The café must be approved by the appropriate governing body having jurisdiction and/or ownership of the sidewalk. Liability insurance must be provided to the satisfaction of the governing body.
- 516.06 The café shall meet all applicable health department, alcoholic beverage, and building code regulations.
- 516.07 If the café is within 500 feet of a residential district, there shall be no outdoor music or entertainment.
- 516.08 The café shall be designed to complement the character of the area and/or structures and shall be attractively landscaped and/or decorated.
- 516.09 The café and adjacent sidewalk areas shall be kept well maintained and free of debris.
- 517 MINERAL RESOURCES: Nothing in this Ordinance shall prevent the use and alienation of mineral resources by the owner or alienee. However, any such use shall be subject to the following standards:
  - 517.01 No production shall be started nor shall any permit be issued until the Board shall have made a written determination with respect to the conditions under which such operation shall be conducted. The Board shall investigate the area to be developed, as well as the surrounding area, in order to determine the conditions to be prescribed so as to protect surrounding property.
  - 517.02 In their review, the Board shall determine that the following standards are met, but may, where deemed necessary, make reasonable exceptions:
    - A. That the site will be used for mineral extraction activities (as defined). Concrete batching plants and mixing plants for ortland cement or asphaltic concrete, and the manufacture of concrete, clay or cement products are only permitted if zoned industrial. All mineral extraction and related uses are subject to the performance standards prescribed in

Section 309 of this Ordinance and shall be removed upon completion of active mining at the site upon which they are located.

- B. No production from an open pit shall be permitted which creates a finished slope steeper than two feet to one foot vertical for the excavation of sand and gravel, or which creates a finished slope steeper than one foot horizontal to one foot vertical for the excavation of products other than sand and gravel, except that in locations where the soil or rock content is such that vertical cuts are proven to be safe, a vertical cut thereafter of any depth shall be allowed.
  - C. Property to be used for production shall be enclosed by a cyclone fence along the exterior boundaries for the promotion of safety and general welfare of the community.
  - D. Where required, suitable plant material shall be placed and maintained to screen cut slopes from public view. There shall be no open storage of discarded machinery, trash, or junk which would present an unsightly appearance.
  - E. Access roads to any site shall be limited to two, or at most three points and shall be constructed on a level with the pavement of any public street or highway for a distance of not less than 80 feet therefrom, and said 80 feet of road shall be improved with a dustless, all weather surface. Adequate sight distance shall be maintained for traffic safety in compliance with the standards and requirements of the highway department.
  - F. Upon the completion of operations, the land shall be left in a safe condition as shown on the Plan of Rehabilitation (see Section 517.03) so that sufficient drainage is provided so as to prevent water pockets or undue erosion, with all grading and drainage such that natural storm water leaves the entire property at the original, natural drainage points, and that the area drainage to any one such point is not increased.
  - G. Vehicles carrying materials from the site shall be loaded in such a manner as to prevent spilling rock, gravel, or sand or other materials of a similar nature while in transit upon roads and highways.
  - H. Mining shall be done so as to keep noise and dust to a minimum. Explosives shall be used only between sun-up and sun-down except in the case of emergency.
- 517.03 All applications for mineral extraction shall be accompanied by a map or plat showing the existing conditions of the area proposed for mining (including existing contours and drainage); a plan of the operational and excavation areas; the time estimate for removal of the materials; and a

plan of development showing the rehabilitation and reuse of the entire site following extraction (including proposed contours and drainage).

517.04 Mineral extraction must comply with all applicable sections of IC 13-4-6, and IC 14-4-2, and IC 14-4-2.1.

518 **HAZARDOUS WASTE/NUCLEAR WASTE:** In addition to review by the Board of Zoning Appeals, all processing, storage, recycling, recovery, and disposal of hazardous waste shall be in accordance with the provisions of IC 13-7-8.5 and 8.6, as amended, and all processing, storage, recycling, recovery, and disposal of nuclear waste shall be in accordance with the regulations of the Nuclear Regulatory Commission.

519 **LAND APPLICATION OF SLUDGE AND WASTEWATER:** Land application of sludge and wastewater shall be in accordance with the procedure, standards, and definitions of IC Title 13 and Article 330 IAC 3.3 of the Regulations of the State of Indiana, as amended.

520 **TELECOMMUNICATIONS FACILITIES:** All standards of this section apply to telecommunications facilities that are covered by the Telecommunications Act of 1996. It does not apply to personal television antennas, ham radio, or short wave radio antennas, or other communications equipment accessory to residential uses.

520.01 Prior to an improvement location permit, the applicant shall provide information demonstrating compliance with all FCC, FAA and ANSI standards and all other state or local standards.

520.02 All telecommunication towers must meet the standards of Section 307.01 which states communication structures, such as telecommunication towers (as defined) may exceed normal height requirements provided their total height does not exceed their distance from the nearest lot line.

A. If proper engineering data is provided that demonstrates the structure is engineered to be collapsible within an area of half its height, communications structures shall be, in addition to regular setback distances, setback a minimum distance from the property line or lease line of any adjoining property (which ever requires the greater setback) a distance that is equal to 50 percent of the height of the tower, but not less than 50 feet.

520.03 All new telecommunications towers shall be designed and constructed to accommodate a minimum of three service providers.

520.04 Ingress and egress to the site shall only be from approved access points. Surfacing of all roadways, driveways, and off-street parking areas shall comply with the standards of this Ordinance and the Subdivision Control Ordinance.

520.05 Telecommunications facilities shall be entirely enclosed by a woven wire or chain link fence. Such fence may be located in the front, side or rear yard.

520.06 Telecommunications facilities shall meet the standards of Section 306.13 for screening and buffering except for those sites that are adjoining property in which agriculture (as defined) is the primary use of the land.

520.07 Telecommunications towers shall not be illuminated, except in accord with other state or federal regulations.

520.08 No signs shall be permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs which are required by a federal, state or local agency. Such signs shall not exceed 5 square feet.

521 PONDS: Construction of ponds greater than 100 square feet require an improvement location permit.

A. Ponds of less than 100 square feet of surface size shall be constructed no more than four (4) feet in depth.

B Ponds and wildlife wetland habitat of 100 square feet of surface size or larger shall:

1. Be constructed to have setbacks no less than;
  - a. 75 feet from the existing or purposed right-of-way (whichever is greater)
  - b. 75 feet from the side lot lines\*
  - c. 75 feet from the rear lot lines\*
  - d. 75 feet from mutual tile drains
  - e. 75 feet from county drains
  - f. 75 feet from fingers of septic systems

\* Unless an adjoining property owner grants written permission for the pond construction to be closer to his property including crossing the property line in the case of shared pond. Written permission must be recorded. The pond boundary is defined as the edge of the ordinary high water in the pond. The ordinary high water is where vegetation stops along the edge of the water.

2. Cause no surface drain obstruction.

3. Have spoils leveled to within three (3) feet of original ground level.

4. Ponds to be constructed in compliance with the Soil Conservation Service. Technical guide, section IV, part no. 378 as amended.

5. Wildlife wetland habitat shall be constructed in compliance with Soil Conservation Service technical guide, section IV, part no. 644 as amended.
  6. Be constructed under the consultation of the Soil Conservation Service and their supervision or direction if they deem necessary.
  7. Modification of existing ponds shall conform to this ordinance.
  8. Drainage approval must be received from the Tipton County Surveyor or Tipton County Drainage Board.
- C. After obtaining a permit, but prior to excavation, the perimeter of the pond shall be staked and the applicant or excavator must call for an inspection in order to verify that required setbacks are met.
- D. Any application for variance from the above requirements must be made to the Tipton County Board of Zoning Appeals.
- E. Exempt from this Ordinance are detention and/or retention ponds approved as part of a subdivision or Site Plan by the Tipton County Plan Commission and The Tipton County Drainage Board.
- F. A Certificate of Compliance will be issued after inspection to verify compliance with the permit.

## 522 WIND ENERGY CONVERSION SYSTEMS

522.01 PURPOSE. This Zoning Code is adopted for the following purposes:

1. To assure that any development and production of wind-generated electricity in Tipton County is safe and effective;
2. To facilitate economic opportunities for local residents;
3. To provide a regulatory scheme for the construction and operation of Wind Energy Facilities in the County, subject to reasonable restrictions, in order to preserve the public health and safety.

522.02 INTENT

It is the intent of the Wind Energy Conversion Systems (WECS) siting regulations to provide a regulatory scheme for the construction and operation of WECS in the county; subject to reasonable restrictions these regulations will preserve the health and safety of the public.

522.03 DEFINITIONS



**WIND ENERGY CONVERSION SYSTEM (“WECS”)** means all necessary devices that together convert wind energy into electricity and deliver that electricity to a utility’s transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s), switching stations, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WECS project.

**APPLICANT** means the entity or person who submits to the County, pursuant to Section V of this Ordinance, an application for the siting of any WECS or Substation or thereafter operates or owns a WECS.

**FINANCIAL ASSURANCE** means reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, irrevocable letter of credit or combinations thereof.

**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(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) within one year of such event.

**PROFESSIONAL ENGINEER** means a qualified individual who is licensed as a professional engineer in any state in the United States.

**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 daycare facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

**SUBSTATION** means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility’s transmission lines.

**SWITCHING STATION** shall be an apparatus/structure in the system similar to a substation but not necessarily increasing voltage into the grid.

**WECS PROJECT** means the collection of WECS and Substations as specified in the siting approval application pursuant to Section V of this Ordinance.

**WECS 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.

**BOCA** refers to the Building Officials and Code Administrators International.

#### 522.04 APPLICABILITY

This Ordinance governs the siting of WECSs and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECSs with an aggregate generating capacity of 1.25 MW or less who locate the WECS(s) on their property must obtain a variance to this Ordinance in order to be exempt from regulation by this ordinance. This ordinance applies to all townships.

#### 522.05 PROHIBITION

No applicant or entity shall construct, operate, or locate within Tipton County a wind energy conversion system (WECS) without having fully complied with the provisions of this Ordinance.

#### 522.06 CONFLICT WITH OTHER REGULATIONS

Nothing in this Ordinance is intended to preempt other applicable state and federal laws or regulations, including compliance with all Federal Aviation Administration rule and regulations and shall comply with the notification requirements of the FAA. Nor are they intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute or other provision of law. In the event that any provision of these regulations imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that is more restrictive or that imposes higher standards shall govern.

#### 522.07 APPLICATION REQUIREMENTS

Prior to construction of a WECS, the applicant shall obtain approval for the following: (1.) an application for Special Exception from the Tipton County Board of Zoning Appeals (BZA) to permit a WECS in the following zoning districts: AG, Agriculture, B4, General Business, AB, Agribusiness, I1, Light Industrial, I2, General Industrial. WECS(s) are

not permitted in any other zoning districts. (2.) Request a variance for any variances anticipated for the WECS project as described below and in Section 10 of this Ordinance, and; (3.) An Improvement Location Permit from the Tipton County Building Commissioner, as described below and the Tipton County Improvement Location Ordinance.

1. The Application for Conditional Use

a. The application shall be filed with the BZA and include the following items:

1. A WECS Project summary, including, to the extent available:
  - (1.) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and (2.) a description of the Applicant, Owner, and Operator, including their respective business structures.
2. The name(s), address (es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with WECS on their properties, if known.
3. A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five foot intervals.
4. A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower site not greater than 1 inch equals 20 feet): the proposed location of the wind energy facility (including planned locations of each WECS Tower, guy lines and anchor bases (if any); WECS access roads; Substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: Primary Structures within one quarter of one mile of any WECS; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) times the WECS Tower Height of any WECS Tower; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines.

5. Location of all existing underground utility lines associated with the WECS.
  - b. In determining whether to approve the application for conditional use, the BZA shall determine whether the application satisfies each of the seven (7) criteria set forth in Section 7 of this Ordinance for special exception, and make written findings thereof.
  - c. The conditional use granted by the BZA for a WECS Project shall be valid for a period of one (1) year, after which approval shall terminate and be of no further force or effect if construction in earnest of the approved WECS has not commenced. The Applicant shall be granted a one (1) year extension to two (2) years from the date of the BZA approval if the Applicant presents its request for an extension to the BZA and provides a report to the BZA which shows the progress made on the WECS Project. Thereafter, an additional extension shall be at the BZA's discretion.
  - d. The fee for the application for conditional use shall be payable at the time of submission of the application. The fee shall be \$20,000.00, of which 50% shall be applied toward fees for Improvement Location Permits. In the event that the Improvement Location Permit fees are less than \$10,000.00, the County shall retain the unused Improvement Location Permit fees. The application fee shall be used to defray the costs associated with the application for a conditional use, including professional fees and expenses.
2. The Application for a Variance
  - a. Contemporaneously with the Application for conditional use, the applicant shall submit an application for variance from developmental standards sought as part of the WECS project. A single application for variance may be submitted for all variances sought.
  - b. The fee for any variance is as in the fee schedule unless filed in conjunction with a conditional use.
3. Aggregated Project Applications

Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearing, and reviews and as appropriate, approvals.
4. The Application for Improvement Location Permit

- a. The Applicant shall apply to the Building Commissioner for an Improvement Location Permit, as described in the Tipton County Improvement Location Ordinance. In addition to the information required on the Improvement Location Permit Application, the Applicant shall provide the following information to the Building Commissioner prior to the issuance of an Improvement Location Permit:
  1. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS
  2. Location of all underground utility lines associated with the WECS site.
  3. Dimensional representation of the structural components of the tower construction including the base and footings.
  4. Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.
  5. Manufacturer's specifications and installation and operation instructions or specific WECS design information.
  6. Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by International Code Council.
  7. All turbines shall be new equipment commercially available. Used, experimental or proto-type equipment still in testing shall be approved by the BZA as per the normal special exception process.
  8. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Tipton County Building Commissioner.
  9. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the BZA.
  10. 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.
  11. A revegetation plan for restoring areas temporarily disturbed during construction.

12. A fire protection plan for construction and operation of the facility.
  13. Any other item reasonably requested by the BZA.
  14. A drainage plan for construction and operation must be developed and approved by the Tipton County Drainage Board.
  15. An erosion control plan must be developed in consultation with the Tipton County Soil and Water Conservation District.
- b. Each WECS Tower shall require an Improvement Location Permit. The fee for each Improvement Location Permit shall be \$1,800.00 per MW, which shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of Improvement Location Permits.

#### 522.08 SETBACK REQUIREMENTS

1. No WECS shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the county and owner of any utility easement if applicable.
2. Installation of any WECS may not be nearer than three hundred fifty (350) feet or 1.1 times the height of the WECS tower height, whichever is greatest, to any property lines, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Distance shall be measured from the center of the foundation at the base of the tower. New structures built adjacent to wind power facilities shall maintain these same minimum setback requirements. Participating landowners within the area comprising the wind energy conversion system may waive property line setbacks with written approval from all landowners sharing such property line.
3. Except as provided herein the setback distance any WECS shall be 1,000 feet or more from any existing or occupied residence or 1320 feet or more from any platted major subdivision, as defined in the subdivision control ordinance. A turbine with a capacity of 1.25 MW or less may be placed as near as 600 feet from an occupied residence with the prior written approval of the owner. The setback distance will be followed except in specific instances allowed by the County Board of Zoning Appeals.
4. The setback distance for the WECS will be 1500 feet from any platted community under the zoning jurisdiction of a municipality. Distance

shall be measured from the center of the foundation at the base of the WECS to the closest Corporate Limit boundary line.

#### 522.09 SAFETY DESIGN AND INSTALLATION STANDARDS

##### 1. Equipment Type

###### a. Turbines

ALL turbines shall be constructed of new, commercially available equipment.

###### b. Meteorological towers

Meteorological towers may be guyed.

##### 2. Design Safety Certification

ALL WECS shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party.

##### 3. Controls and Brakes

###### a. Braking System

ALL WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Stall regulation shall not be considered a sufficient braking system for over speed protection.

###### b. Operation Mode

ALL Mechanical brakes shall be operated in a fail-safe mode.

##### 4. Electrical Components

###### a. Standards

All electrical components of ALL WECS shall conform to applicable local, state and national codes, and any relevant national and international standards.

###### b. Collection cables

All electrical collection cables between each WECS shall be located underground unless they are located on public or utility rights-of-way or with prior County approval.

c. Transmission Lines

All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the land owner or the land owner's designee until the same reach the property line or a substation adjacent to the property line.

5. Color and Finish

In addition to all applicable FAA requirements, the following shall also apply:

a. Wind Turbines and Towers

ALL wind turbines and towers that are part of WECS shall be white, grey, or another non-obtrusive color.

b. Blades

ALL blades shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing.

c. Finishes

Finishes shall be matte or non-reflective.

d. Exceptions

Exception may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

6. Warnings

a. Towers, Transformers, and Substations

A sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

b. Guy Wires and Anchor Points



For ALL guyed towers, visible and reflective objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the innermost guy wires up to eight (8) feet above the ground. In addition, visible fencing shall be installed around anchor points of guy wires.

c. Meteorological Towers

Consideration shall be given to paint aviation warning on all meteorological towers.

7. Climb Prevention

a. All WECS tower designs shall include features to deter climbing or be protected by anti-climbing devices such as:

1. Fences with locking portals at least six (6) feet in height; or
2. Anti-Climbing devices fifteen (15) feet vertically from the base of the WECS tower; or
3. Locked WECS Tower doors.

8. Blade Clearance

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

9. Lighting

a. Intensity and Frequency

ALL lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations.

b. Strobe Lights

Red strobe lights shall be required for night-time illumination to reduce harm to migrating birds. Red pulsating incandescent lights are expressly prohibited.

c. Shielding

Except with respect to lighting required by the FAA, ALL lighting shall be shielded so that no glare extends substantially beyond the boundaries of any WECS.

10. Materials Handling, Storage and Disposal

a. Solid Wastes

All solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the facility, including old parts and equipment related to the construction, operation and/or maintenance of any WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.

b. Hazardous Materials

All hazardous materials or waste related to the construction, operation and/or maintenance of any WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

522.10 OTHER APPLICABLE STANDARDS

1. Guyed Wire Anchors

No guyed wire anchors shall be allowed within any required road right-of-way setback.

2. Sewer and Water

ALL WECS facilities shall comply with the existing septic and well regulation as required by the Tipton County Health Department and/or the State of Indiana Department of Public Health.

3. Noise and Vibration

At no point within 200 feet of a primary residence may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI). This standard shall supersede any noise standard(s) set forth in Section 5 of the Tipton County Zoning Ordinance as it applies to Wind Energy Conversion Systems.

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Octave Bands for Tipton County In Hertz (Hz), per ANSI	Maximum Permitted Sound Level (in decibels) (Measured 200 feet from edge of any Primary Structure.)
63	75
125	70
250	65
500	59
1000	53
2000	48
4000	44
8000	41

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4. Utility Interconnection

The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, as amended from time to time.

5. Signage

a. In addition to complying with Sign standards, the following signage regulations and standards shall also apply. In the event that one of the following regulations or standards conflicts with another sign regulation or standard prescribed by this ordinance, the most restrictive regulation or standard shall apply.

1. Surface Area

No sign shall exceed sixteen (16) square feet in surface area.

2. Height

No sign shall exceed eight (8) feet in height.

3. Manufacturers or owner's company name and/or logo.

The manufacturers or owner's company name and/or logo may be placed upon the compartment containing the electrical equipment.

4. Development Signs

No more than two (2) identification signs relating to the development shall be located on the project site.

5. Other signs and logos

No other advertising signs or logos shall be placed or painted on any WECS.

6. Feeder Lines

With the exception of minimum setback distances, feeder lines installed as part of any WECS shall not be considered an essential service. To wit, all communications and feeder lines installed as part of any WECS shall be buried underground.

7. Other Appurtenances

No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Board of Zoning Appeals.

522.11 USE OF ROADS/SERVICES

An Applicant, Owner, or Operator proposing to use any county road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall prior to construction:

1. Identify All Such Public Roads and Services;

a. Roads

1. Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Tipton County Highway Supervisor. The Supervisor shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
2. Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Tipton County Highway Supervisor. The Supervisor may choose to require either remediation of road repair upon completion of the project or are authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be

fixed by a Professional Engineer may be required by the Supervisor to insure the County that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.

3. Newly constructed WECS access roads may not impede the flow of water.

c. Dust Control

Reasonable dust control measures will be required by the County during construction of the WECS.

d. Sewer and Water

Any facility shall comply with existing septic and well regulation as required by the Tipton County Health Department and the State of Indiana Department of Public Health.

e. Drainage Repair

All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to near original condition, and so as not to impede the natural flow of water. All repairs must be completed within a reasonable amount of time.

## 522.12 OPERATION AND MAINTENANCE

1. Physical Modifications

In general, any physical modification to any WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Therefore, prior to making any physical modification, the owner or operator shall confer with the Building Department to determine whether the physical modification requires re-certification.

2. Inspections

Inspections, at a fee to be determined from time to time by the Tipton County Plan Commission and paid by the applicant, may be made to the Tipton County Plan Commission no more than once annually to certify the safety and maintenance of the WECS and any accessory structures.

3. Interface

No WECS shall be constructed so as to interfere with any county, state or federally owned and operated microwave transmissions. The applicant, owner and/or operator shall minimize and if necessary mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. In addition, the applicant, owner, and/or operator shall:

a. Notification of existing communication tower owners

The applicant shall notify all existing communication tower owners within two (2) miles of the proposed WECS upon application to the county for permits.

b. Mitigating interference following a complaint

If after construction of the WECS, the owner or operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to mitigate said interference.

c. Failure to remedy a complaint

If the interference is not remedied within thirty (30) days the WECS shall remain inactive until the interference is remedied. Remedies may include relocation or removal.

d. Declaration of Public Nuisance

Any WECS thereof declared to be unsafe by the Tipton County Plan Commission Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this Chapter.

e. Operation and Maintenance Summaries and Reports

The owner or operator of a COMMERCIAL WECS shall submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition, shall also make available operation and maintenance report as the County reasonably requests.

f. Access to the Site and Facility

The Tipton County Plan Commission Staff, along with licenses third party professionals retained by the County for the specific

purpose of conducting inspections of the WECS shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or operator, or his/her agent, on the premises where a WECS has been constructed to inspect all parts of said WECS installation and to require that repairs or alterations be made. The owner or operator of a WECS may retain a licensed third party professional engineer familiar with WECS systems to prepare and submit to the Tipton County Plan Commission staff a written report which addresses the repairs or alterations requested, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within thirty (30) days after receiving notice from the Tipton County Plan Department staff that repairs or alterations requested, or within a longer period of time mutually acceptable to both parties. The Tipton County Plan Commission staff 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. In the event of a dispute between the Tipton County Plan Commission staff and the owner or operator, or the owner or operator's third party professional engineer, as to the repairs or alterations which are being required, the decision of the Plan Commission shall be final.

#### 522.13 DECOMMISSIONING PLAN

Prior to receiving an Improvement Location Permit, or siting approval under this Ordinance, the County and the applicant, owner and/or operator shall formulate a decommissioning plan outlining the anticipated means and cost of removing a WECS at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned. A decommissioning plan shall include, at a minimum, language to the following.

1. Assurance

Written assurances will be provided that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.

2. Cost Estimates

The applicant shall provide a contractor cost estimate for demolition and removal of the WECS facility. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WECS.

3. Financial Assurance

Applicant will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the County, for the cost of decommissioning each tower constructed under the permit. Said security will be released when each tower is properly decommissioned as determined by the Tipton County Plan Commission.

4. Discontinuation and Abandonment

a. Discontinuation

All WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Tipton County Plan Commission outlining the steps and schedule for returning the WECS to service.

b. Abandonment by the Owner or Operator

In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Tipton County Plan Commission representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.

c. Removal

An applicant's obligations shall include removal of all physical material pertaining to the project improvements to a depth of four (4) feet below ground level within ninety (90) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, or by Tipton County at the owner's expense.

d. Written Notices

Prior to implementation of the existing procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed



sixty (60) days, for good faith negotiations to resolve the alleged default(s).

e. Unresolved Defaults

If the County determines at its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provision(s) addressing the resolution of such default(s) shall govern.

f. Costs Incurred to the County

If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Tipton County to enter the property to remove a tower pursuant to the terms of an approved decommissioning plan.

522.14 LIABILITY INSURANCE

The owner or operator of any WECS shall maintain a current general liability policy covering bodily injury and property damage and name Tipton County as an additional insured with dollar amount limits of at least two million dollars (\$2,000,000) per occurrence, and five million dollars (\$5,000,000) in the aggregate, and a deductible of no more than five thousand (\$5,000).