

Chapter 21 - ZONING

Footnotes:

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Editor's note— Ord. No. 02-03, § 1, adopted Feb. 12, 2002, deleted Ch. 21 in its entirety and replaced it with a new Ch. 21 as herein set out. Former Ch. 21 pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of inclusion of the provisions of Ord. No. 02-03.

Cross reference— Buildings and building regulations, Ch. 6; drainage and flood control, Ch. 7; mobile homes and mobile home parks, Ch. 11; planning and development, Ch. 15; subdivisions, Ch. 19.

State Law reference— Municipal home rule, IC 36-1-3-1 et seq.; zoning generally, IC 36-7-4-600 et seq.

ARTICLE I. - IN GENERAL

Sec. 21-1. - Title.

This chapter may be referred to as the "Zoning Ordinance."

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-2. - Purpose and intent.

- (a) This chapter is adopted for the purpose of:
 - (1) Promoting the public health, safety, comfort, morals, convenience and general welfare.
 - (2) Securing adequate light, pure air and safety from fire and other dangers.
 - (3) Conserving the taxable value of land and buildings throughout the Town of Merrillville.
- (b) This chapter is based upon the comprehensive plan for the Town of Merrillville which has been adopted by the town council. Said comprehensive plan included a study of existing zoning, estimate of population growth, land use surveys, a land use plan, plans for major streets, community facilities, public utilities, and housing.
- (c) Need for public services and facilities in both size and location depends upon the character and intensity of land use. Regulation of the use of land is thus fundamental to a coordinated optimum physical development of the community. The land use regulations are intended to be the foundation of the entire process of improvement of the physical environment.
- (d) The regulations are intended to preserve and protect existing uses and values against adverse or incompatible adjacent uses.
- (e) The land use regulations divide the area into a number of zoning districts. Accordingly:
 - (1) The comprehensive plan included careful estimates of the land area requirements for the various land uses, such as commerce, residence, industry, and public uses. These urban uses should be directed into that land area where they may be most efficiently served by the public services and facilities such as sewers, water, schools, streets, parks and the like.
 - (2) An agriculture district has been established which includes regulations governing the types of land use activities in the prime agricultural areas containing the best soil for agricultural purposes in Merrillville.
 - (3) In the past, residential neighborhoods have deteriorated because they were invaded by small isolated commercial uses and by more intensive residential uses such as duplexes or apartment buildings. These

regulations establish residential districts particularly designed to provide maximum protection for single-family homes.

- (4) Other residential districts are established for two-family homes and for multiple-family dwellings. Density, yard, and parking regulations would insure good living conditions in these areas. Much of present day building is by large projects instead of lot-by-lot. The regulations provide for "planned developments" which may be located in any residential districts with approval of the site plan and conformity of the plan to the overall density standards of this chapter. This introduces an important measure of flexibility into the regulations.
- (5) Commercial districts recognize the different types of commercial areas that will be needed as future development occurs in Merrillville.
- (6) There is a zoning district for office and research uses.
- (7) For industry there is a "light" industrial district for the modern industrial facility and a corridor overlay district to allow limited industrial development along major corridors.
- (8) The regulations emphasize character as well as location and density of the land uses. Special inducements are offered for good design of apartment areas. Landscape planting is required in all front yards and advertising is carefully controlled.
- (9) The regulations are reasonable in relation to existing conditions. Yard dimensions are adjusted to peculiarities of existing lots. Lots that are too small may be used. Non-conforming uses are permitted.
- (10) All uses are required to provide their own off-street parking.
- (11) Each of the regulations has been designed to work harmoniously with the others, with the totality providing that minimum degree of land use control essential to the realization of the most desirable urban environment.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-3. - Definitions.

For the purpose of this chapter, certain terms are hereby defined: Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the words "structure" and "premises;" the word "shall" is mandatory and not permissive; the words "used" or "occupied" include the words "intended," "designed" or "arranged to be used or occupied;" the word "lot" includes the words "plot" or "parcel;" and the word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual. All measured distances, expressed in feet, shall be to the nearest integral foot; if a fraction is one-half (½) foot or more, the integral foot next above shall be taken. Any word not herein defined shall be as defined in the Merrillville Building Code, Subdivision Ordinance, Webster's New International Dictionary - Second Edition, or in Abram's Language of Cities.

Access. The way in which vehicles ingress and egress a lot from a street fronting along said lot.

Access drive. That area within the right-of-way between the pavement edge or curb and the right-of-way line to provide ingress and egress to and from a lot. (See section 21-21.)

Accessory apartment. A second dwelling unit either within or added to an existing single-family detached dwelling for use as a complete, independent dwelling unit. Such a dwelling unit is an accessory use to the main dwelling unit and shall be solely for use by family members or care givers. The accessory apartment shall have direct access to the primary dwelling unit without having to exit said dwelling.

Accessory building. A subordinate building, the use of which is:

- (1) Incidental to and customary in connection with the primary building or use;
- (2) Located on the same lot with such primary building or use; and
- (3) Under the same ownership. (See Figures 1 and 6).

Accessory structure. A subordinate structure, that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure and is located on the same lot as the primary building, structure, or use.

Accessory use. A subordinate use which is incidental to and customary in connection with the primary building or use and which is located on the same lot as the primary use.

Adult entertainment businesses. (See [section 21-17.](#))

Adult bookstore. An establishment having as a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult cabaret. A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

Adult drive-in theater. An open lot or part thereof, with appurtenant facilities, devoted primarily by forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Adult entertainment business. An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret, adult drive-in theater, adult live entertainment arcade, or adult service establishment.

Adult live entertainment arcade. Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performance or other gyrational choreography which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

Adult mini motion picture theater. An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motion picture arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-reducing devices are maintained to show images to five (5) or fewer persons per machine at one time, and where the images so

displaced are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater. An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slide or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult service establishment. Any building, structure, premises or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities, display of specified anatomical areas or live modeling that involves payment of any compensation or gratuities by customers.

Agriculture use. An operation which consists of the following uses, individually or in combination: the production of grain or livestock, except for the raising of hogs, pigs or other livestock fed on garbage or offal, stables; forest or tree production, dairying, pasturage, horticulture, floriculture, viticulture, bee keeping, animal and poultry husbandry, setting aside land in a government set-aside reserve program, a farmstead, uses accessory to agricultural operations on the site, or uses accessory to agricultural operations in the area.

Aircraft. Any contrivance, now known or hereafter invented, for use in or designed for navigation of or flight in the air.

Airport. Any premises which are used, or intended for use, for the landing and take-off of aircraft; and any appurtenant areas which are used or intended for use of airport buildings or structures located thereon.

Alley. Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from said lot.

Animal hospital. Any building or portion thereof designed or used for the care, observation or treatment of domestic animals, birds, reptiles and other small mammals.

Antenna. See section 21-18(b), definitions for wireless telecommunication facilities.

Apartment. See "dwelling unit."

Automobile wrecking yard.

(1) Any area of land where three (3) or more motor vehicles, not in operable condition, or the parts thereof, are stored in the open and are not being restored to operation; or

(2) Any land, building or structure used for the wrecking or storing of such motor vehicle or parts thereof.

Awning. A roof-like cover, often of fabric, metal, plastic, fiberglass or glass designed and intended for protection from the weather or as a decorative embellishment, and which is supported by and projects from a wall or roof of a structure over a window, door, or walkway.

Basement. A building story with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half (½) or more of its interior vertical height clearance below grade.

Bed and breakfast. An owner-occupied dwelling unit that contains no more than four (4) guest rooms where temporary accommodations with or without meals, is provided to overnight guests for compensation.

Block. A tract of land bounded by streets, or by a combination of one or more streets and public parks, cemeteries, railroad rights-of-way, or shore lines of waterways or municipal boundary lines.

Board. The town board of zoning appeals of the Town of Merrillville, Indiana.

Boarding house. A building or part of a building, other than hotels, motels, bed and breakfast, or multiple family dwellings, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants thereof, for three (3) or more persons is provided for a fee.

Buffer landscaping. Landscaping consisting of a continuous screening of plantings. (See Figures 15, 16, and 17.)

Buildable width. The width of a lot remaining for development after the side yards are provided. (See Figure 2.)

Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

Building, detached. A principal or accessory building surrounded by open space on the same lot.

Building height. The vertical distance from the grade to:

- (1) The highest point of a roof; or
- (2) The deck line of a mansard roof; or
- (3) The peak of a gabled roof.

Chimneys, elevators, HVAC units, tanks and similar projections, other than signs, shall not be included in calculating building height. (See Figure 4.)

Building line. A line parallel to any front, side or rear lot line which passes through the nearest point of any building or structure. (See Figure 2.)

Building line, front. A line parallel to any front lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any side lot line. (See Figure 2.)

Building line, rear. A line parallel to any rear lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any side lot line. (See Figure 2.)

Building line, side. A line parallel to any side lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any front or rear lot line. (See Figure 2.)

Building, primary. A non-accessory building or buildings, within which is conducted a permitted use of the property on which it is located.

Building setback line. The setback line, established by this chapter, beyond which a building (or structure) shall not extend unless varied according to the procedures in this chapter.

Building width. The shortest side of a building, exclusive of porches, terraces, or garages.

Bulk. A composite characteristic of a given building located upon a given lot - not definable as a single quantity, but involving all of the following characteristics:

- (1) Size and height of buildings;
- (2) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings or structures;
- (3) Gross floor area of the building in relation to lot area (floor area ratio);

(4) All open spaces allocated to the building; and

(5) Amount of lot area provided per dwelling unit.

Business center. A group of five (5) or more stores, offices, research facilities, or manufacturing facilities on a lot or adjacent lots of two (2) or more acres, which collectively have a name different than the name of any of the individual establishments and which may have common private parking and entrance facilities.

Campground. An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

Car wash. A building, area, or structure with machine or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles. Required stacking of five (5) cars for each space of capacity contained within the facility.

Carport. A roofed structure designed and intended to shelter the automotive vehicle of occupant or owner of the premises, with at least one side open to the weather.

Cellar. (See "basement" and Figure 5.)

Certificate of occupancy. A certificate signed by the community development director stating that the occupancy and use of land or building or structure referred to in the certificate complies with the provisions of this Code including building regulations, subdivision control standards, variance, special exception that may have been granted, or development plan approval reduction.

Child care. A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth. (For reference see IC 12-7-2.)

Child care center. A building where at least seventeen (17) children receive child care from a provider:

- (1) While unattended by a parent, legal guardian, or custodian;
- (2) For regular compensation; and
- (3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

This term also applies to a building where child care is provided to less than seventeen (17) children if the provider has applied for a license under IC 12-17.2-4 and meets the requirements under IC 12-17.2-4. (For reference see IC 12-7-2.)

Child care home. A residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian or other relative) at any time receive child care from a provider whose primary residence is such residential structure:

- (1) While unattended by a parent, legal guardian, or custodian;
- (2) For regular compensation; and
- (3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

This term includes a Class I child care home and a Class II child care home as such terms are defined by IC 12-7-2-33.7 and 12-7-2-33.8, respectively. (For reference see IC 12-7-2.)

Child care institution.

- (1) A residential facility:
 - a. That provides child care on a twenty-four (24) hour basis for more than ten (10) children; or
 - b. With a capacity of not more than ten (10) children that does not meet the residential structure requirements of a group home; or
- (2) An institution:
 - a. That operates under a license issued under IC 12-17.4:
 - b. Provides for delivery of mental health services that are appropriate to the needs of the individual; and
 - c. Complies with the rules adopted under IC 4-22-2 by the Division of Family and Children. (For reference see IC 12-7-2.)

Child care ministry. A child care facility operated by a church or religious ministry that is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code. (For reference see IC 12-7-2.)

Clinic. An establishment where patients are not lodged overnight, but are admitted on an out-patient basis for examination and treatment by a group of Indiana licensed physicians or dentists practicing medicine together, excluding the practice or operations of pregnancy termination and/or euthanasia.

Club. Buildings, structures, or facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily to render a service which is customarily carried on as a business. This term includes lodges and halls of private, fraternal or religious groups.

Commission. The town plan commission of the Town of Merrillville, Indiana.

Commitment. An official agreement concerning and running with the land as recorded in the office of the recorder of Lake County, Indiana.

Community development director. The officer designated by the commission and town council to administer and enforce this chapter, or a duly designated assistant.

Comprehensive plan. The official comprehensive plan of the Town of Merrillville, Indiana.

Condominium. A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis.

Council. The town council of the Town of Merrillville, Indiana.

Cul-de-sac. A street having one open end and being permanently terminated at the other by a vehicular turnaround. (See Figure 11.)

Decibel. A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

Deck. A ground-supported, unenclosed, platform accessory structure, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised above grade level designed and intended for the recreational enjoyment of the occupant(s) and guest(s) of the primary use or structure.

Density. A unit of measurement which represents the number of dwelling units per acre of land on the aggregate total land to be developed. (See Figure 13.)

Development standards. Area, bulk, height and other applicable regulations of a zoning district contained in the ordinance which govern the physical development of real estate.

Distribute. To transfer possession of matter for a consideration.

District. A section of the territory within the jurisdiction of the Town of Merrillville, Indiana for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land, and open spaces about buildings, are established by this chapter.

Drive-in restaurant or refreshment stand. Any place or premises used for sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

Drive-through restaurant. A business establishment whose method of operation involves the delivery of the prepared food or beverage to the customer in a motor vehicle, typically through a drive-through window, for consumption off of the premises.

Drive, interior access. A way for internal vehicular movement in and around an individual lot or business center. (See [section 21-21.](#))

Driveway. Access for vehicular egress/ingress between the right-of-way of a public or private street and the required parking area. (See Figure 18.)

Driveway, interior access. A minor, private street providing for vehicular egress/ingress between the minimum required setback lines of separate lots or between lots within the boundaries of business center. (See Figure 18 and [section 21-21.](#))

Dwelling. Any building or portion thereof which is designed and used primarily for residential purposes. (See Figure 3 and 12.) This term shall not include hotels, motels, or boarding houses.

Dwelling, attached. A dwelling unit having its own ground floor entrance and open space, joined to two (2) or more other dwellings by party walls, or other horizontally unifying structural element. (See Figure 3.)

Dwelling, caretaker. A single-family dwelling designed and used as part of a commercial or industrial use and located on the same lot.

Dwelling, detached. A dwelling unit which does not share a common wall with any other dwelling and is surrounded on all sides by open space located on the same lot. (See Figures 3 and 8.)

Dwelling, four-family detached. A building designed for or intended for occupancy by four (4) families and surrounded on all sides by open space. (See Figures 3 and 8.)

Dwelling, manufactured home. A dwelling unit which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process; provided, that each module must bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards; and provided further, that each unit must have been built after January 1, 1981, and must have at least one thousand (1,000) square feet of main floor area (exclusive of garages, carports, and open porches) and attached to a permanent foundation.

Dwelling, mobile (mobile home). A movable or portable dwelling unit that:

- (1) Is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process;

- (2) Is designed for occupancy by one family;
- (3) Is erected or located as specified by the Town of Merrillville Building Code; and
- (4) Was either:
 - a. Constructed prior to June 15, 1976 and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or
 - b. Constructed subsequent to or on June 15, 1976 and bears a seal, certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.

Dwelling, modular home. A dwelling unit which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process, designed for residential occupancy; provided, that each module must bear the seal certified that it was built in compliance with Indiana Public Law 360; and, provided further, that the unit must have been built in compliance with the CABO One and Two-Family Dwelling Code, and must have at least one thousand (1,000) square feet of main floor area (exclusive of garages, carports and open porches) and attached to a permanent foundation.

Dwelling, multiple family. A building designed for or occupied exclusively by five (5) or more families. A multiple dwelling shall also include the terms "apartment house, town house, garden apartments and row house."

Dwelling, single-family. An individual, detached building containing one dwelling unit which is either: (See Figures 3 and 8.)

- (1) Built in compliance with the State of Indiana Code and any current amendments for One and Two-Family Dwellings,
- (2) A modular dwelling; or
- (3) A manufactured dwelling.

Dwelling, three-family detached. A building designed for or intended for ownership and occupancy by three (3) families and surrounded on all sides by open space. (See Figure 3.)

Dwelling, two-family detached and attached. A building designed for or occupied exclusively by two (2) families. (See Figures 3 and 8.)

Dwelling unit. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family and its household employees, including provisions for sleeping, lawful cooking, and sanitary facilities. The term shall include mobile dwellings, modular dwellings and manufactured dwellings but shall not include recreational vehicles.

Easement. Land which has been designated by lawful agreement between the owner or owners of land and a person or persons for a specified use only by such person or persons.

Efficiency dwelling unit. A dwelling unit consisting of one principal room, together with sanitary, lawful cooking, living and sleeping facilities and/or dining alcove.

Enlargement of an adult entertainment business. An increase in the size of the building structure or premises in which the adult entertainment business is conducted by either construction or use of:

- (1) An adjacent building;
- (2) An additional building; or

- (3) The construction or use of any portion of an adjacent or additional building, whether located on the same or an adjacent or parcel of land.

Entertainment. Dancing to music provided either by mechanical means or by live musicians; live performances by musicians and other live presentations by individuals from the performing arts excluding adult entertainment.

Essential services. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including telecommunication towers not greater than fifty (50) feet in height, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare. Main rail lines are included, but classification yards are excluded from this definition. Telecommunications towers greater than fifty (50) feet in height are not defined as an essential service.

Establishing an adult entertainment business. Any of the following:

- (1) The opening or commencement of an adult entertainment business as a new business;
- (2) The conversion of any existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein;
- (3) The addition of any of the features of one or more of the adult entertainment businesses defined herein to an existing business;
- (4) The addition of any of the adult entertainment businesses defined herein to any other existing adult entertainment business.

Family. One or more human beings (person can be a corporation) related by blood, marriage, adoption, foster care or guardianship, together with incidental domestic servants and temporary, non-compensating guests; or, not more than four (4) persons not so related, occupying a dwelling unit and living as a single housekeeping unit.

Fence. A structure, including entrance and exit gates, designed and constructed for enclosure or screening.

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

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

Flood table land. The continuous land area adjacent to the flood plain, the elevation of which is greater than the flood height by five (5) feet or less.

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

Floodway fringe. Those portions of the floodplain lying outside the floodway.

Floor area. For single-family dwellings and two-family dwellings, the sum of all horizontal surface areas (in square feet), of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such buildings or portions thereof. The floor area of a building shall exclude all areas with a vertical height clearance less than seventy-eight (78) inches, porches, basement, or cellar space is used for storage or incidental uses.

Floor area, gross.

- (1) For dwelling units, the total area, computed on a horizontal plan inclusive of basements, attached garages, entrances, hallways, stairways and other enclosed areas, but exclusive of cellars and attics.
- (2) For commercial or industrial buildings or structures, the sum of all horizontal surface areas of all floors of a building or structure measured from the exterior faces of the exterior walls or from the center line of walls separating abutting buildings or structures.

Floor area ratio. The floor area of the building divided by the area of the lot. (See Figure 4.)

Frontage. All the property on one side of a street or highway, between two (2) intersecting streets (crossing or terminating) or for a distance of four hundred (400) feet on either side of a proposed building or structure, measured along the line of the street, or if the street is deadened, then all of the property abutting on one side between an intersecting street and the dead-end of the street, but not including property more than four hundred (400) feet distance on either side of a proposed building or structure.

Garage, private. A detached accessory building or an accessory portion of the principal building, including a carport which is intended for and used for storing the private motor vehicles of the family or families residing upon the premises, and in which no business, service or industry connected directly or indirectly with the motor vehicles is carried on.

Garage sale. A public or private sale conducted by the owner or occupier of a premises of six (6) or more items of personal property owned by the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

Grade. The average level of the finished surface of ground adjacent to the exterior walls of the building or structure. (See Figure 5)

Greenbelts. An area or strip of land reserved for the purpose of separating zone districts, and protecting wetlands, ditch lines, and creeks from further encroachment and development, consisting of green plant material(s), and/or limited paved, concrete, gravel, stone, or bark material.

Group home. A residential facility licensed by the community residential facilities council, or its successor in authority, and authorized by IC 12-17.4-5 in which care is provided on a twenty-four (24) hour basis for not more than ten (10) individuals in need of services; or children who have committed a delinquent act.

Home occupation. An occupation or business activity carried on within a legally established dwelling unit by a resident of said dwelling, where the occupation or business activity:

- (1) Is clearly incidental and subordinate to the residential use;
- (2) Does not alter the outside appearance of the dwelling and there is no visible evidence of the conduct of a home occupation;
- (3) Is carried on within the principal building and only by members of the family occupying the premises;
- (4) Does not include any outdoor storage or activities other than receipt or delivery associated with the business activity. (See [section 21-76.](#))

Home day care center. A dwelling where there is provided care and maintenance to children separated from their parents or guardian or a person in loco parentis during a part of the day for two (2) or more consecutive weeks, not to exceed five (5) children at any one time, and where no overnight stays are provided.

Hospital, sanitarium, sanatorium or preventorium. An institution for the reception, care and medical treatment of sick and injured patients whom are usually lodged overnight, provided such institution is operated by or treatment given under direct supervision of a physician licensed to practice by the State of Indiana.

Hotel. A building in which lodging is provided and offered to the public for compensation and providing additional services, such as restaurants, meeting rooms and recreational facilities.

Institution. A nonprofit establishment for public use.

Junk yard. Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or assorted, including but not limited to, used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, cloth, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which does not carry a current, valid license, and is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom. This term shall not apply to said use or activity carried on entirely within an enclosed building.

Kennel. Any premises where four (4) or more animals over four (4) months of age are owned, boarded, bred and/or offered for sale.

Laboratory. A building or room in a building utilized for conducting scientific experiments, medical or dental analyses, or similar work.

Landscaped area. An area that is permanently devoted and maintained to the growing of shrubbery, grass and other plant material. (See Figures 15, 16, and 17.)

Lawful cooking. A room or area in which food may be prepared and cooked and which contains the following:

- (1) A kitchen sink in good working condition and properly connected to an approved water supply and approved sewer/septic system. The sink must provide an adequate amount of water under pressure, both unheated and heated to no more than one hundred twenty (120) degrees Fahrenheit;
- (2) Cabinets, shelves, counters or tables used for storage of food, eating, drinking or cooking equipment and utensils shall be of sound condition furnished with surfaces that are easily cleanable and that will not impart any harmful effect to food; and,
- (3) A stove, oven or microwave oven for cooking food and a refrigerator for safe storage of food at temperatures less than forty-five (45) degrees Fahrenheit. (See "dwelling unit.")

Liquor store. A business establishment where alcoholic liquor is kept and sold but where such alcoholic liquors are not consumed on the premises.

Loading space. A hard-surface, off-street area either within a building or on the same lot, used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

Lodging or rooming house. See "boarding house."

Lot. A platted parcel or combination of platted parcels recorded in the office of the recorder of deeds of Lake County, Indiana occupied or intended for occupancy by a use permitted in this chapter, including one principal building, together with its accessory buildings, open spaces and parking spaces required by this chapter and having its principal frontage upon a road or street.

Lot area. The area of a horizontal plane bounded by the vertical planes through front, side and rear lot lines. (See Figure 10.)

Lot, corner. A lot abutting upon two (2) or more streets at their intersections or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. (See Figure 9.)

Lot, coverage. The total ground area within the lot or project covered by the primary structure plus any accessory structures (including decks, patios, above-ground pools, garages, carports and storage sheds), excluding driveways, sidewalks, fences, walls not attached in any way to a roof, and protecting roof eaves.

Lot, depth. The mean horizontal distance between the front and rear lot lines. (See Figure 9.)

Lot, double frontage or through lot. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines, but in the case of two (2) or more contiguous through lots, there shall be a common front lot line. (See Figure 9.)

Lot, interior. A lot that is not a corner lot or double frontage or through lot. (See Figure 9.)

Lot line, front. That boundary of a lot which adjoins an existing or dedicated public street; or where no public street exists, is along a public way. On a corner lot, the lot line having the shortest length abutting a street shall be the front lot line. (See Figure 2.)

Lot line, rear. That boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line; and in the case of an irregular, or triangular-shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line. (See Figure 2.)

Lot line, side. Any lot line which is not a front lot line or a rear lot line. (See Figure 2.)

Lot of record. A lot or parcel of land, the plat or deed of which has been recorded prior to the adoption of this chapter.

Lot width. The width of the lot at the building setback line.

Lot, zoning. A single tract of land located within a single block which (at the time of filing for a zoning permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. Therefore, a "zoning lot" may or may not coincide with a lot of record. The zoning lot shall have adequate frontage on an improved dedicated roadway of adequate width.

Matter. Any book, magazine, newspaper or printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation of any statute or other figure, or recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

Metal building. A building comprised of structural steel framework, both primary (main frame) and secondary (girds and purlins) members; covered by a skin of steel panels on the roof and/or walls, and not more than fifty (50) percent of any wall area in steel panels. The wall and roof panels can be an integral part of the structural soundness of the complete system.

Mobile home park. An area where one or more inhabited mobile dwellings can be or are intended to be parked. It does not include trailer sales lots on which unoccupied trailers, new or used, are parked for purposes of sale.

Motel, motor court, motor lodge or tourist court. Any building or group of buildings containing guest rooms or dwelling(s), some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, or intended wholly or in part for the accommodation of transients.

Motor freight terminal. A building or premises in which goods, materials or products are received, stored and/or dispatched by motor vehicle.

Motor vehicle. Any self-propelled, wheeled vehicle designed primarily for transportation of persons or goods along streets, not intended to be used as a dwelling unit or accessory use.

Nonconforming building or structure. Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment of the zoning ordinance but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Nonconforming use. Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment of the zoning ordinance but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Noxious matter. Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

Nursery. Any land or structure used for the growing, harvesting, processing, storing, and/or selling of plants, shrubs, trees and flowers, including products used for gardening and landscaping, but not including fruit and vegetable sales and not including a retail establishment which sells plants as an accessory aspect of a large establishment.

Nursing home. A home for the care of children or the aged or infirm in which three (3) or more persons not of the immediate family are received, kept or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Obstructions. An obstruction is any building or structure or parts thereof which is located so as to come in the way of any open area required by this chapter. Trees or shrubs planted in accordance with this chapter shall not be considered an obstruction.

Octave band. A term denoting all the frequencies between any given frequency and double that frequency.

Octave band filter. An electrical frequency designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.

Odor threshold value. The minimum concentration of odorous material in air which can be detected as determined by Manufacturing Chemists Association, or other qualified laboratory.

Open sales lot. Any land used or occupied for the purpose of buying and selling by way of merchandise, passenger cars, trucks, motor scooters, motorcycles, boats and monuments, or for the storing of same prior to sale.

Parking lot. The primary or accessory use of a lot or a portion of a lot for the parking of motor vehicles.

Parking space. An off-street dustless surfaced area, enclosed or unenclosed, sufficient in size to store one automobile not less than nine (9) feet wide and nineteen (19) feet long, together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

Particulate matter. Finely divided solid or liquid matter, other than water, which is released into the atmosphere.

Party wall. A wall starting from the foundation and extending continuously through all stories to or above the roof which separates one building from another and is in joint use by each building. (See Figure 8.)

Performance. Means any play, motion picture, dance or other exhibition or presentation, whether picture, animated or live, performed before an audience of one or more persons and excluding adult entertainment uses.

Permitted use. The use of land or the use of a building or structure on land which is allowed, either as a matter of right or under limited conditions (i.e., as a special exception, an accessory use, a home occupation, or a temporary use) in the zoning district applicable to the land.

Person. Any individual, firm, partnership or corporation.

Personal storage building. "Personal storage building" is explicitly designed to lease portions of said building for protected storage access or seasonal equipment normally owned by residents who do not have the storage facilities at their place of residence. The following types of storage shall not be permitted in a personal storage building: perishable or refrigerated food or product; flammable material; paint or corrosive liquids; livestock or pets; or substances or materials producing toxic or lethal fumes, gases or pollutants. Furthermore, a personal storage building shall not be used as a place of business, a machine or auto shop or service station or for the manufacture, construction, fabrication, production, repair, maintenance or upkeep of any product or commercial venture, or as a dwelling. One caretaker dwelling is allowed under a planned unit development.

Plan commission. The Town of Merrillville, Indiana Plan Commission.

Planned development. A use of land which offers benefits to the neighborhood of which it is a part or to the general public welfare beyond those required by this zoning ordinance, and which use of land will contain or provide amenities not otherwise required by law, including but not limited to provisions for common open spaces, recreational facilities or specific design, engineering, architectural, site planning or landscape features.

Pole building. A structure comprised of structural framework of wood posts and trusses (main frame) and secondary (girths and purlins) members of dimensional wood; covered by a skin of steel panels on the roof and/or walls, and not more than fifty (50) percent of any wall area in steel panels. The wall and roof panels can be an integral part of the structural soundness of the complete system.

Premises. A lot, together with all buildings and structures thereon.

Public utility. Any person, firm or corporation duly authorized to furnish essential services such as electricity, gas, steam, telephone, telegraph, cable access, water or sewage systems to the public under public regulation.

Recreational vehicle. Any boat, boat trailer, trailer, any camping trailer, travel trailer, pick-up coach, motor home or other unit built or mounted on a vehicle or chassis, without permanent foundation, which may legally be driven or towed by a motor vehicle on a street and not to be used as a dwelling unit.

Research laboratory. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not primarily facilities for the manufacture or sale of products.

Religious use. A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to educational, instructional, social, residential or child care ministry uses.

Residence. A dwelling, an abode, a domicile, a home, or a place in which a person resides.

Residential facility for the developmentally disabled. A residential facility established under a program authorized by IC 12-11-1 which provides residential services for not more than eight (8) developmentally disabled individuals.

Residential facility for the mentally ill. A residential facility established under a program authorized by IC 12-22-1-1 which provides residential services for mentally ill individuals.

Right-of-way. Specific and particularly described land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare for passage of pedestrians, vehicles, or utilities, as set forth in a written grant, declaration or conveyance that is recorded in the office of the Lake County Recorder.

Right-of-way, existing. The total right-of-way width of a street as created or expanded by the most recent grant, declaration or conveyance for that is recorded by the office of the Lake County Recorder.

Right-of-way, public. Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality, county or state to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as set forth in a written grant, declaration or conveyance that is recorded by the office of the Lake County Recorder.

Right-of-way, private. Specific and particularly described strip of privately-held land devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as set forth in a written grant, declaration or conveyance that is recorded by the office of the Lake County Recorder.

Ringelmann number. The number of the shaded gray area on the Ringelmann Chart (U.S. Bureau of Mines Information Circular 6888) that coincides most nearly with the light obscuring capacity of smoke.

Screening. A structure erected or vegetation planted for concealing an area from view. (See Figure 15, 16 and 17.)

Smoke units, number of. The number obtained by multiplying the smoke density in Ringelmann numbers by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading is made at least once every minute during the period observation; each reading is then multiplied by the time in minutes during which it is observed; the various products are then added together to give the total number of smoke units observed during the total period under observation. Steam or water vapor is not considered smoke.

Sound level meter. An instrument standardized by the American Standards Association for measurement of the intensity of sound.

Special exception use. The use of land or the use of a building or structure on land which is allowed in the zoning district applicable to the land only through the grant of a special exception by the board of zoning appeals and town council. (See section 21-11.)

Specified anatomical areas. Any of the following:

- (1) Less than completely opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities. Any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts;
- (4) Flagellation or torture in the context of a sexual relationship;

- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (6) Erotic touching, fondling or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in the above definitions.

Staff. The community development director, or designated assistant or any attorney, employee or agent of the Town of Merrillville, Indiana, as designated by the plan commission.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story and a cellar shall not be counted as a story.

Story, half. A space under a sloping roof which has the line of intersection of roof decking and wall not more than three (3) feet above the top floor level, and in which space not more than sixty (60) percent of the floor area is completed for principal or accessory use.

Street. Any public or private right-of-way, with the exception of alleys, essentially open to the sky and open and dedicated to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, lane road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features. (See Figure 11.)

Street, private. Any privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A private street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

Street, public. Any publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features. (See [section 19-224](#).)

Structural alteration. Any change, except those required by law or ordinance, which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other ordinances, laws or codes, except such changes as are ordered made pursuant to the provisions of Unsafe Building Law, IC 36-7-9-1, or any amendments thereto.

Structural alteration of an adult entertainment business. Any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, IC 36-7-9-1, and any amendments thereto.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences and signs.

Tavern. An business establishment where alcoholic beverages are sold to be consumed on the premises, but where a minor cannot be within the use and where food or packaged liquors may be served or sold only as accessory to the primary use.

Telecommunication facilities. See section 21-18(b), Definitions for wireless telecommunication facilities.

Temporary building or use. A building or land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Toxic material. A substance, liquid or solid or gaseous, which by reason of an inherent deleterious property tends to destroy life or impair health.

Use. The purpose or activity for which the land or building thereon is designed, arranged or intended or for which it is occupied or maintained.

Variance. A waiver of specific terms of this chapter or a grant of relief from the requirements of this Code which permits construction or use in a manner that would otherwise be prohibited by this Code and which would impose an undue hardship.

Warehouse. A building or structure for the storage of goods, materials or products awaiting shipment to another location for wholesale or retail trade, or limited industrial use which may include office space for same business.

Yard. An open space, unobstructed to the sky, extending fully across the lot while situated between the front, side or rear lot line and the established front, side or rear building line. (See Figure 2.)

Yard, front. An open space, unobstructed to the sky, extending across the full width of the lot extending from the front building line to the front lot line. On corner lots, the front yard shall face the shortest street dimension of the lot, except that if the lot is square or almost square, i.e., has dimensions in a ratio of from 3.2 to 3.3, then the front yard may face either street. (See Figure 2.)

Yard, rear. An open space, unobstructed to the sky, extending fully across the lot between a rear lot line and the rear building line. (See Figure 2.)

Yard, side. An open space, unobstructed to the sky, extending yard between the established building line and the side lot line, and extending from the front lot building yard line to the rear lot building yard line. (See Figure 2.)

Yard, width and depth. The shortest horizontal distance from a lot line to the main building.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, §§ 2—4, 7-11-06)

Sec. 21-4. - Interpretation.

- (a) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.
- (b) Where the conditions imposed by any provision of this chapter upon the (1) use of land or buildings, (2) the bulk of buildings, (3) floor area requirements, (4) lot area requirements, and (5) yard requirements are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.
- (c) This chapter is not intended to abrogate any easement, covenant or other private agreement, provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this chapter shall govern.
- (d) No building, structure, or use, not lawfully existing at the time of the adoption of this chapter shall become lawful

or be made lawful solely by reason of the adoption of this chapter; and to the extent that, and in any manner that said unlawful building, structure, or use is in conflict with the requirements of this chapter, said building, structure, or use remains unlawful hereunder.

- (e) It is recognized that this chapter may require interpretation to assign all possible land uses to individual zoning districts. For any land use which is not specifically set forth in this chapter, the community development director shall review the land use for consistency with the intent set forth in each zoning district and for compatibility with land use characteristics typical of land uses permitted within those districts. Then, the community development director shall determine the appropriate zoning district for any land use which is not specifically set forth in this chapter. In case of disagreement with the determination of the community development director in assigning a land use to an appropriate zoning district, any aggrieved party may file an appeal with the board. If it is (i) determined by the community development director and no appeal of the that decision is filed with the board, or (ii) determined by the board that a particular use is not permitted in any agricultural, residential, commercial, industrial or other zoning district provided for in this chapter, then such use shall be deemed to require a special exception or use variance in the most intense agricultural, residential, commercial, industrial or other zoning district most similar to the particular use.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-5. - Building on lot and variances.

- (a) In all districts every principal building hereafter erected or structurally altered shall be located on one zoning lot, and there shall be located not more than one principal building on one zoning lot, except in a planned development.
- (b) These provisions may be varied upon a public hearing in the manner set forth in this chapter.
- (c) A variance may be allowed if:
- (1) The acreage is adequate for a planned development;
 - (2) The lot area and density requirements are not met;
 - (3) The building does not have street frontage;
 - (4) The setback requirements are not met.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-6. - Allowable use of land or buildings.

The following uses of land or buildings are allowed in the districts indicated hereinafter in Division 1, Article III of this chapter under the conditions specified in this chapter.

- (1) Uses lawfully established on the effective date of this chapter.
- (2) Permitted uses as designated in Division 1, Article III of this chapter.
- (3) Special exception procedures are designated in Article II of this chapter.
- (4) See Division 8, Regulations for All Districts.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-7. - Prohibited use of land or buildings.

No building or tract of land shall be devoted to any use other than one which is specified as a permitted use or special exception use in Division 8, Article III of this chapter, in the zoning district in which such building or land is located. However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter, and where construction has been begun within six (6) months of such effective date and diligently prosecuted to completion, said building or structure may be completed in accordance with approved plans on the basis of which the building permit was issued; and further, may upon completion be occupied under a certificate of occupancy by the use originally designated, subject to the provisions of section 21-15 of this Code.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-8. - Control over use.

No building or premises shall hereafter be used or occupied, and no building or structure, or part thereof, shall be erected, raised, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the district in which it is located. However, in residential districts, a lot in an ownership which was of record at the time of adoption of this chapter, even though not meeting the requirements of this chapter as to area and width, may be used for single-family residential purposes, provided the use conforms with all other regulations of the district in which it is located, except where an adjoining vacant lot is in the same ownership, the owner shall combine the lots to conform with the requirements of that district.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-9. - Control over bulk.

Except in the case of planned development, all new buildings shall conform to the bulk regulations established herein for the district in which each building is located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted, or relocated in such a manner as to conflict or to further conflict with the bulk regulations of this chapter for the district in which such buildings shall be located.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-10. - Accessory building and uses.

- (a) Accessory uses shall be compatible with the principal use and shall not be established prior to the establishment of the principal use, and shall not include the keeping, propagation, or culture of pigeons, poultry, or livestock, whether or not for profit, except in the A1 district.
- (b) Unless otherwise provided by section 21-12 of this Code, no accessory building, unless it is structurally a part of the principal building and unless it conforms with requirements of accessory buildings, for special uses, shall be erected or altered at, nor moved to, a location within ten (10) feet of the nearest wall of the principal building, nor within required area for front or side yard of the lot, as set forth for the district, and in residential districts an accessory building in a rear yard shall be not less than six (6) feet from any property line.
- (c) No accessory building shall encroach upon a side yard of a corner lot which shall be considered as a front yard nor upon that side yard of a reversed corner lot which is adjacent to the street, nor upon the rear yard of a through lot.
- (d) No accessory building shall have more than one story nor exceed seventeen (17) feet in height unless otherwise

permitted as accessory to business and manufacturing uses, or to authorized special exception uses.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-11. - Special exceptions.

- (a) To provide for the location of certain uses hereinafter specified which are deemed desirable for the public welfare within a given district or districts, but which might have an adverse effect upon nearby properties or upon the character and future development of the district in which they are located, a classification of special uses is hereby established. Procedures for special exception uses are set forth in Articles II and Article III, Division 8 of this chapter.
- (b) Where a use exists on the effective date of this chapter and it is classified as a special use by said chapter, it shall be considered to be a lawful special use. Additions or alterations to existing buildings or land improvements, for expansion of lawful special uses, may be made with the area of the lot included in the ownership existing at the time of adoption of this ordinance, and they shall be subject to yards, floor area ratio, and building height requirements set forth in this chapter for permitted uses in the districts in which they are located. (See section 21-42.)

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-12. - Permitted obstructions in yards.

- (a) Detached accessory structures shall:
- (1) Have a coverage of not more than thirty (30) percent of the area of a rear yard
 - (2) Be located not less than six (6) feet from the nearest lot line except for fences which may be constructed up to the lot line;
 - (3) Be located not less than six (6) feet from another accessory building;
 - (4) Be no higher than twenty-four (24) inches above curb level, if located in that portion of a requested front or side yard situated within thirty (30) feet of the lot corner formed by the intersection of any two (2) streets. (See Figure 14.) This restriction shall apply to all obstructions including trees and shrubs.
- (b) The following structures and uses are permitted and may be encroachments in yards and courts as follows:

		F	S	R	C
		means front yards and side yards adjoining streets	means interior side yards	means rear yards	means courts
(1)	Awnings or canopies, attached	F	S	R	C
(2)	Arbors or trellises, detached	F	S	R	C
	Arbors or trellises, attached	F	S	R	C

(3)	Air conditioning equipment				R	
(4)	Carports, detached, provided all setbacks are met			S	R	
(5)	Chimneys, attached		F	S	R	
(6)	Dumpsters, with required screening in commercial, industrial and multi-family zoning districts only			S	R	
(7)	a.	Fences, solid or open-not more than six (6) feet six (6) inches in height, measured from the lowest adjacent ground elevation, except in commercial and industrial districts, not more than eight (8) feet in height measured from the lowest adjacent ground elevation		S	R	
	b.	Fences, open-only in commercial and industrial districts and not more than eight (8) feet in height, measured from the lowest adjacent ground elevation	F	S	R	
	c.	Fences, solid or open-containing or constructed of, in whole or in part, barbed wire or any other material likely to cause injury to persons coming into contact therewith or any fence charged with electric current	NOT ALLOWED, except in agricultural districts for containment of farm animals			
	d.	Fences, snow—Are not permitted except for the months				

		of December through March.			
	e.	Fences, materials-the following are the materials allowable for construction of fences; chain-link, wood, brick, decorative split rails, decorative wrought iron or vinyl. The following are prohibited materials for fences; concrete, chicken wire, wire strands, railroad ties, concrete blocks.			
	f.	Fences in residential zoning districts shall be neighbor friendly. When installing a fence, the support posts and cross supports must be exposed only on the interior of the fence so that the fencing supports are not viewed outside of the property owner's property. This is for the purpose of appearance and maintenance.			
(8)	Fire escapes (open or closed) and unenclosed decks or firewood stacked no higher than six (6) feet in residential districts located not less than six (6) feet from the nearest lot line			S	R
(9)	Garages, attached, provided all setbacks are met		F	S	R
	Garages, detached, provided all setbacks are met			S	R

	Gazebos provided all setbacks are met		S	R	
(10)	Growing of farm and garden crops in the open		S	R	
(11)	Lawn furniture, such as benches, sundials, birdbaths, flagpoles and similar architectural features	F	S	R	C
(12)	Loading berths			R	
(13)	Ornamental light standards and open decks/porches	F	S	R	C
(14)	Parking spaces—In commercial, industrial and multi-family residential districts	F	S	R	C
(15)	Parking spaces—In single-family residential districts shall be limited to one garage and/or one designated driveway, said driveway not to exceed thirty-six (36) feet in width and not less than six (6) feet from side lot line	F	S	R	
(16)	Playground, laundry-drying equipment, playhouses			R	
(17)	Sheds, storage			R	
(18)	Signs and nameplates	F	S	R	C
(19)	Sills, cornices and ornamental features of the principal building	F	S	R	C
(20)	Swimming pool, private, spas			R	
(21)	Terraces, patios and outdoor			R	

	fireplaces				
(22)	Tennis courts, private			R	
	Basketball court, private			R	
(23)	Trees, shrubs and other plants	F	S	R	C
(24)	Freestanding TV earth station antennas, not more than fourteen (14) feet in height, or a height equal to the distance between the structure and the nearest utility pole, whichever is less. A setback of no less than six (6) feet from any property line shall be maintained. All connecting cables used in conjunction with said antenna shall be buried. A safeguard, or safety device shall be placed around the motorized area of remotely controlled units, or they shall be provided with a six (6) foot fence around such units. In commercial and industrial districts, when ground-based antennas are installed, the units shall be provided with a six (6) foot wood fence. Applicants shall present documentation of possession of any required license by any federal, state, or local agency			R	

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 10-10, § 1, 4-27-10)

Sec. 21-13. - Yards generally.

- (a) The minimum yard space required for one structure shall not again be considered as yard space for another adjoining structure.
- (b) No lot shall be reduced in area so that the yards or other open space become less than required by this chapter.
- (c) On streets where a front yard setback has been maintained for buildings existing on lots or tract having a total frontage of twenty-five (25) percent on one side of any street in a block, the front yard setback shall not be less than the average setback, but not less than ten (10) feet.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-14. - Control over height.

- (a) Except for telecommunication towers less than fifty (50) feet in height, television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, stacks, conveyors and flagpoles which may be erected to such height as may be authorized by the board, all other uses shall conform to the height regulations for the district in which the use is located. Telecommunication towers fifty (50) feet or greater in height are regulated by section 21-18.
- (b) It is permissible to erect TV earth station antennas (satellite dishes) in agricultural districts and residential districts on roofs of structures whether or not the height requirements in each district are violated, provided the said satellite dishes in agricultural and residential districts do not exceed six (6) feet in diameter.
- (c) It is permissible to erect TV earth station antennas (satellite dishes) in commercial and office districts and industrial districts on roofs of structures whether or not the height requirements in each district are violated.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-15. - Nonconforming lots, uses, buildings and structures.

- (a) It is the intent of this chapter to permit nonconforming buildings, structures and uses to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconforming buildings, structures and uses shall not:
 - (1) Be enlarged upon, expanded or extended; or
 - (2) Be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district.In addition, nonconforming lots of record, nonconforming buildings or structures, nonconforming uses of land, and nonconforming uses within nonconforming buildings or structures that are either illegal or not legally established on the effective date of this chapter shall not become legally established or validated by virtue of the enactment of this chapter.
- (b) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the zoning district in which such nonconforming use is located. A nonconforming use of a building or structure, or a legally established nonconforming use of land, shall not be extended, expanded or enlarged, nor shall additional signs for such nonconforming use be erected on the lot, after the effective date of this chapter.
- (c) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans for or construction of any building or structure, or the designation of use of any building or structure, for which an improvement location permit has been properly filed for or issued prior to the effective date of this chapter;

provided that the construction of such building or structure is commenced within six (6) months of such effective date and diligently prosecuted to completion; and provided further however that such construction shall be completed within two (2) years of the issuance of said improvement location permit.

- (d) Any legally established lot recorded or any legally established platted lot recorded prior to the effective date of this chapter, having less than the required minimum lot area or minimum lot width required by the applicable zoning district regulations of this chapter, shall be deemed a permitted exception to such minimum lot area or minimum lot width and may be used for any use permitted within the applicable zoning district in which such lot is located provided that:
 - (1) All other development standards are met; and
 - (2) Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.
- (e) Where a nonconforming building or structure exists on the effective date of this chapter that could not be built under the terms of this chapter, such building or structure may continue to exist so long as it remains otherwise lawful, subject to compliance with the following provisions:
 - (1) Such nonconforming building or structure may not be enlarged, expanded or altered in a way which increases its nonconformity, provided such building or structure may be altered so as to decrease the extent of nonconformity;
 - (2) Should such nonconforming building or structure, or nonconforming portion of a building or structure, be damaged or destroyed by any means to the extent of more than one-half ($\frac{1}{2}$) of the gross floor area of the building or structure immediately prior to the damage or destruction, said building or structure shall not be reconstructed except in conformity with the provisions of this chapter; and
 - (3) Should such building or structure be moved for any reason for any distance whatsoever, such building or structure shall thereafter conform to the provisions of this chapter.
- (f) No building except single-family residences, which has been damaged by any cause whatsoever, to the extent of more than fifty (50) percent of the fair market value of the building immediately prior to the damage, shall be restored except in conformity with the regulations of this chapter, and all rights as a nonconforming use are terminated. If a building is damaged by less than fifty (50) percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within twelve (12) months of the date of such damage.
- (g) Where nonconforming uses of land exist on the effective date of this chapter which would not be permitted by the provisions of this chapter, such uses may be continued so long as they remain otherwise lawful provided that:
 - (1) Such nonconforming uses shall not be enlarged, expanded, increased or extended to occupy a greater area of land than was occupied on the effective date of this chapter;
 - (2) Such nonconforming uses shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses on the effective date of this chapter; and
 - (3) No additional building or structure shall be erected in connection with such nonconforming use of land.
- (h) If any nonconforming use of land is discontinued or abandoned for more than one hundred eighty (180) days (except when government action impedes access to the premises), any subsequent use of such land shall conform to the provisions of this chapter.
- (i) If any nonconforming use is located within a nonconforming building or structure and such nonconforming

building or structure becomes unsafe or unlawful by reason of physical condition and is razed, the nonconforming use previously being conducted in such nonconforming building or structure shall be terminated and no longer permitted. If any nonconforming use is located within a nonconforming building or structure and such nonconforming use or structure is damaged or destroyed by any means to the extent of more than one-half (½) of the gross floor area of the building or structure immediately prior to the damage or destruction, the nonconforming use previously being conducted in such nonconforming building or structure shall be terminated and no longer permitted.

- (j) On any nonconforming building or structure, or portion of a building or structure containing a nonconforming use, work may be done on ordinary repairs or on the repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic feet content existing when the building or structure, or portion of a building or structure containing a nonconforming use became nonconforming shall not be increased. Nothing herein shall be deemed to prevent the strengthening, repairing or restoring to safe condition of any building or structure, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official. If a nonconforming building or structure or portions of a building or structure becomes unsafe or unlawful by reason of physical condition and is razed, such building or structure shall not thereafter be rebuilt or used except in conformity with the provisions of this chapter.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-16. - Temporary buildings and uses.

- (a) *Permitted temporary buildings and uses.* A temporary building or use which is in compliance with the provisions of this article, shall be allowed in any zoning district. A temporary building or use which will be converted into a permanent primary or accessory building or use after the cessation of the temporary use shall be reviewed by the board of zoning of appeals and then approved by the town council as a special exception use prior to the establishment of the temporary building or use. A temporary building or use which will be removed from the site upon cessation of the temporary building or use may be approved by the community development director and shall not be required to obtain special exception use approval. By way of example only, permitted temporary buildings and uses include: construction trailers, portable buildings, mobile classrooms and development sales offices. (See Chapter 9, Article IV for special event permits.)
- (b) *Improvement location permit and duration.* An improvement location permit is required for all temporary buildings and uses. The permit application, together with the required fee shall be filed on forms available in the planning and building department. The community development director shall inspect the premises of the permit request and shall approve the permit if all requirements are met. The approval may be for a period not to exceed two (2) years and may be renewed for one additional year by the community development director upon showing of good cause.
- (c) *Compliance with development standards.* Any temporary building or use shall comply with all applicable development standards and setback requirements in the zoning district in which the temporary building or use is located.
- (d) *Cessation of use.* All buildings, structures or debris associated with the temporary building or use shall be removed from the site immediately upon completion or cessation of the temporary use or expiration of the time period set forth on the approved permit.
- (e) *Additional regulations for garage sales/yard sales.* (Improvement location permit not required.) Notwithstanding

any regulations above to the contrary, a garage sale/yard sale may be conducted only on premises located within an agricultural, residential or PUD district and shall be subject to the following additional regulations:

- (1) A garage sale/yard sale may be conducted two (2) times each calendar year and shall not exceed three (3) consecutive days in duration;
- (2) A garage sale/yard sale shall only be conducted during the hours from sunrise to sunset;
- (3) All personal property exhibited outdoors during a garage sale/yard sale shall be placed within a building or structure or otherwise removed from the premises immediately following the end of the garage sale/yard sale;
- (4) Garage sale/yard sale signs shall comply with the applicable provisions of Article VI of this chapter.
- (5) Nothing in this article shall be construed to prohibit one or more owners from conducting a combined garage sale/yard sale on one of the premises owned by the participants, provided that all other provisions of this article are complied with.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-17. - Special regulations for adult entertainment businesses.

- (a) *Purpose and intent.* In the development and adoption of this section, the town council has recognized and acknowledged that there are some adult entertainment business uses which due to their very nature have certain operational characteristics which produce harmful secondary effects upon the areas in which they are located, particularly when they are located in close proximity to residential neighborhoods, thereby having a deleterious impact upon property values and the quality of life in such surrounding areas. It has been acknowledged by communities across the nation that state and local governmental entities have a special concern in regulating the operation of such adult entertainment businesses operating within their jurisdiction to ensure that such harmful secondary effects will not contribute to the blighting or down grading of adjacent neighborhoods or create an atmosphere in such areas more conducive to violence, sexual harassment, public intoxication, prostitution or the spread of sexually transmitted diseases. The special regulations deemed necessary to control the harmful secondary effects arising from these adult entertainment businesses are set forth in this section. The purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods, to deter the spread of urban blight and to protect minors from the harmful secondary effects caused by the operational characteristics of these adult entertainment business uses by restricting their close proximity to churches, parks, schools, day care and child care facilities and residential areas.
- (b) *Definitions.* As used in this section only, the following terms shall be defined as set forth below. All other terms shall have the meaning set forth in section 21-3, Definitions.

Adult bookstore. An establishment having as a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult cabaret. A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified

anatomical areas or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

Adult drive-in theater. An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Adult entertainment business. An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret, adult drive-in theater, adult live entertainment arcade, or adult service establishment. Said definition does not include hospital, educational programs, library, etc.

Adult live entertainment arcade. Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performance or other gyrational choreography which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

Adult mini motion picture theater. An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motion picture arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-reducing devices are maintained to show images to five (5) or fewer persons per machine at one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater. An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slide or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult service establishment. Any building, structure, premises or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities, display or specified anatomical areas or live modeling that involves payment of any compensation or gratuities by customers.

Enlargement of an adult entertainment business. An increase in the size of the building, structure or premises in which the adult entertainment business is conducted by either construction or use of:

- (1) An adjacent building;
- (2) An additional building; or
- (3) The construction or use of any portion of an adjacent or additional building, whether located on the same or an adjacent lot or parcel of land.

Establishing an adult entertainment business. Any of the following:

- (1) The opening or commencement of an adult entertainment business as a new business;
- (2) The conversion of any existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein;
- (3) The addition of any of the features of one or more of the adult entertainment businesses defined herein to an existing business;
- (4) The addition of any of the adult entertainment businesses defined herein to any other existing adult entertainment business.

Services involving specified sexual activities or display of specified anatomical areas (as used to define an adult service establishment). Any combination of two (2) or more of the following activities:

- (1) The sale or display of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the specified sexual activities or specified anatomical areas;
- (2) The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
- (3) The operation of coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas;
- (4) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, modeling or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Specified anatomical areas. Any of the following:

- (1) Less than completely opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities. Any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts;
- (4) Flagellation or torture in the context of a sexual relationship;
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (6) Erotic touching, fondling or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in the above definitions.

Structural alteration of an adult entertainment business. Any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, IC 36-7-9-1, and any amendments thereto.

- (c) *Prohibitions.* The establishment, enlargement, structural alteration of any adult entertainment business shall be prohibited if such adult entertainment business is within one thousand (1,000) feet of any other adult entertainment businesses or within one thousand (1,000) feet of any existing church, school, day care facilities, child care facility, park, agricultural district, or residential zoning district within the corporate limits of the Town of Merrillville.

Provided further, that no adult entertainment business shall be established, enlarged, or structurally altered unless the site or proposed site is located in a C4E commercial entertainment district or the M-1 limited industrial district.

- (d) *Measurement of distances.* The distance between one adult entertainment business and another adult entertainment business shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of each such business. The distance between an adult entertainment business and any church, school, park, day care facility, child care facility, agricultural district, or residential district, shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the adult entertainment business to the nearest lot line of the church, school, day care facility, child care facility, park, agricultural district or residential zoning district.
- (e) *Exterior display.* Notwithstanding any other provisions of this chapter to the contrary, all exterior displays for an adult entertainment business shall comply with the following regulations:
- (1) No adult entertainment business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window or other opening from any public right-of-way.
 - (2) Number of signs. No more than one wall sign shall be permitted for an adult entertainment business and said wall sign shall be permitted only on the front facade of the building. In addition to the one permitted wall sign, an adult entertainment business may be permitted not more than one pole or ground sign structure if it is the zoning district in which it is located. All other permanent sign structures shall be prohibited. (See section 21-204.)
 - (3) Sign surface area. The sign surface area of a wall sign for an adult entertainment business shall not exceed an amount equal to five (5) percent of the front building facade of the first floor elevation (first ten (10) feet) of the premises occupied by the adult entertainment business, or one hundred (100) square feet, whichever is the lesser. The maximum sign surface area of a ground or pole sign structure, where permitted, shall not exceed one square foot for each lineal foot of frontage of the lot, or thirty-six (36) square feet, which is the lesser.
 - (4) Lighting, signs and sign structures used by an adult entertainment business may be illuminated, provided, however, such illumination shall not be by way of exposed neon, exterior lighting (e.g., spot or flood lights) or any flashing or animated lights (either interior to the sign, on the exterior of the signs, or as a border to sign).

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-18. - Special regulations for wireless telecommunication facilities.

- (a) *Purpose and intent.* The purpose of this section is to establish the guidelines for the placement of wireless

telecommunications facilities. The intent of this section is to:

- (1) Encourage the location of telecommunication towers in non-residential areas and minimize the total number of telecommunication towers throughout the community.
- (2) Encourage strongly the joint use of new and existing telecommunication tower sites.
- (3) Encourages users of telecommunication towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
- (4) Encourage users of telecommunication towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
- (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

These policies were designed to comply with the Federal Telecommunications Act of 1996, 47 U.S.C. §332(c)(7). The provisions of this section themselves shall not be interpreted to prohibit, or to have the effect of prohibiting, telecommunications or personal wireless services, television broadcast signals, multichannel multipoint distribution services or direct broadcast satellite services. This section shall not be applied or interpreted in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

- (b) *Definitions.* As used in this section only, the following terms shall be defined as set forth below. All other terms shall have the meaning set forth in section 21-3, Definitions.

Antenna. Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, and dishes, and omni-directional antennas, such as whip antennas, but not including satellite earth stations.

Antenna array. A structure attached to a telecommunications tower that supports a telecommunications antenna.

EIA-222. Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures."

Fall zone. A prescribed area around the base of a telecommunications tower within which there is a potential hazard from falling debris or collapsing material.

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

Guyed tower. A monopole that is tied to the ground or other surface by diagonal cables or guy wires.

Height. The distance measured from the ground level to the highest point on the telecommunications tower or other structure, including an antenna.

Monopole. A type of mount that is self supporting with a single shaft of wood, steel, or concrete and a platform or racks for panel Antennas arrayed at the top.

Mount. The structure or surface which antennas are mounted, including the following four (4) types of mounts:

- (1) *Roof mounts.* Mounted on the roof of a building.
- (2) *Side mounts.* Mounted on the side of a building.
- (3) *Ground mounted.* Mounted on the ground.
- (4) *Structure mounted.* Mounted on a structure other than a building.

Non-whip antenna. An antenna which is not a whip antenna, such as dish antennas, panel antennas, etc.

Telecommunications. The transmission between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications antenna. An antenna used to provide a telecommunications service.

Telecommunications service. The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Telecommunications tower. A structure more than fifty (50) feet tall, built primarily to support one or more telecommunications antennas.

Whip antenna. An omni-directional dipole antenna of cylindrical shape which is no more than six (6) inches in diameter.

Wireless telecommunication facility. A facility used for telecommunications purposes, and may include antennas, equipment shelters, equipment cabinets, transmission equipment and cables, support structures to achieve necessary elevations or reception and transmission devices including but not limited to telecommunications towers.

- (c) *Application.* Notwithstanding any other provision of this chapter and in addition to other applicable provisions, wireless telecommunications facilities, when such are permitted by federal law and the laws of the State of Indiana, shall be regulated and governed by the use, regulations and requirements of this section. However, this section shall not apply nor be construed to apply to amateur radio operators who are licensed to operate a radio or transmitter by the Federal Communications Commission under Part 97 of the Federal Communications Commission's Rules.
- (d) *Policies.* Telecommunication towers and equipment buildings shall be located to minimize their number, height and obtrusiveness; to minimize visual impacts on the surrounding area; and, in accordance with the following telecommunications policies:
- (1) Ensure that the height of telecommunications towers should have the least visual impact necessary and should be no greater than required to achieve service area requirements and potential collocation, when visually appropriate.
 - (2) The selected site for a new telecommunications tower should provide the least visual impact on residential areas or the public way and the selected site should provide the best opportunity to minimize the visual impact of the proposed facility.
 - (3) Telecommunications towers should be located to minimize being visually solitary or prominent when viewed from residential areas or the public way. Telecommunications towers should be obscured by vegetation, tree cover, topographic features, and buildings or other structures to the maximum extent feasible.
 - (4) Telecommunications towers should be located to ensure that historically significant landscapes are protected. The views of and vistas from architecturally or historically significant structures should not be impaired or diminished by the placement of telecommunications towers.
 - (5) The board of zoning appeals and town council may grant a special exception use which does not fully comply with the telecommunications policies contained herein for telecommunications towers when the board of zoning appeals and town council determine that such a grant better accomplishes the telecommunications policies set out in this subsection than would a strict application of these telecommunications policies. Such deviations from these telecommunications policies shall be no greater than necessary to accomplish those policies.

- (e) *Procedures.* Telecommunications towers are hereby declared special exception uses in the agricultural district (A-1), highway commercial (C-3), commercial entertainment district (C-4E) and industrial corridor overlay district (M-2) contained in this chapter. (See section 21-136.)

The applicant for a telecommunications tower special exception shall demonstrate that they have exhausted all efforts to locate the proposed telecommunications antennas upon existing buildings or structures in the geographical area of the proposed telecommunications antennas. The applicant for a telecommunications tower special exception shall demonstrate in writing in its application with supporting evidence that the need for the location or the telecommunications tower is in compliance with and will promote the policies set forth in this section. The applicant shall submit a master plan for its telecommunications tower and facilities throughout the Town of Merrillville. The master plan shall demonstrate efforts to minimize the size and number of telecommunications tower locations throughout the geographical area, taking into consideration existing technology.

All applications for a telecommunications tower shall be reviewed by the community development director or designated agent with the recommendations becoming part of the record of the proceedings before the board of zoning appeals and shall be considered by the board of zoning appeals as conditions recommended to be imposed on the special exception use by the board of zoning appeals if the special exception use is granted and which conditions, if imposed, shall be satisfied before a certificate of use is issued.

The placement of telecommunications antennas upon existing telecommunications towers may be administratively approved by the community development director or designated agent.

If a portion of a telecommunications tower is to be leased to other telecommunications service providers, the portions of the actual or proposed lease that demonstrate compliance with the requirements of this paragraph shall be submitted with the application for special exception use approval.

- (f) *Development standards.* All wireless telecommunications facilities shall comply with the development standards set forth below.

- (1) In addition to complying with the requirements for a special exception use for the zoning district of the property, telecommunication towers shall comply with the following:
 - a. The maximum height of a telecommunications tower, including antenna array, shall not exceed one hundred ninety-nine (199) feet above grade.
 - b. No new telecommunications towers shall be located within five thousand (5,000) feet from another telecommunications tower.
 - c. All guyed and guyed anchors shall be located within the buildable area of the lot and shall not be located within any front, side or rear yard setback and, in any event, no closer than ten (10) feet to any lot line.
 - d. The base of a telecommunications tower shall be enclosed by security fencing.
 - e. Equipment buildings must be similar in color and character to the main or adjoining building or structure or blend with the landscaping and other surroundings immediately adjacent to the equipment building and shall be screened by a chain link or wrought iron fence with landscaping installed in compliance with the provisions of section 21-119 (f)(2) of this chapter.
 - f. A telecommunications tower shall be erected and operated in compliance with the most current FCC and FAA rules and regulations and other applicable federal and state laws, rules, and regulations. All

telecommunications towers shall comply with all ordinances of the Town of Merrillville not in conflict with this section.

(g) A telecommunications tower must be:

- (1) Used by three (3) or more wireless communication providers; or
- (2) Designed and built so as to be capable of use by three (3) or more wireless communication providers including providers such as cellular or PCS providers using antennas arrays of nine (9) to twelve (12) antennas each within fifteen (15) vertical feet of each other with no more than three (3) degrees of twist and sway at the top elevation and the owner of the telecommunications tower and the property on which it is located must certify to the town that the antenna is available for use by other telecommunications service providers on a reasonable and non-discriminatory basis and at a cost not exceeding the market value for the use of the facilities. If a portion of the telecommunications tower is to be leased to other telecommunications service providers, the portions of the actual or proposed lease that demonstrate compliance with the requirements of this paragraph shall be submitted with the application for special exception use approval.

(h) All telecommunications towers shall be of a tapering monopole construction, except that another type of telecommunications tower may be allowed upon showing that the alternate type of telecommunications tower would cause less visual impact on surrounding property than a similar monopole structure.

(i) No lettering, symbols, images, trademarks, signs, or advertising shall be placed on or affixed to any part of telecommunications tower, antenna array or antenna, other than as required by FCC or FAA regulations regarding telecommunications tower registration or other applicable law.

(j) Telecommunications towers shall be constructed to minimize potential safety hazards. Telecommunications towers shall be constructed so as to meet or exceed the most recent EIA-222 standards, and prior to issuance of a building permit, the community development director shall be provided with an engineer's certification that the telecommunications tower's design meets or exceeds those standards. Guyed telecommunications towers shall be located in such a manner that if the telecommunications tower shall fall along its longest dimension, the telecommunications tower will remain within the lot lines and avoid habitable structures, public streets, utility lines and other telecommunications towers.

(k) No signals or lights or illumination shall be permitted on telecommunications towers unless required by the Federal Communications Commission, the Federal Aviation Administration or the Town of Merrillville.

(l) Wireless telecommunications facilities mounted on existing buildings or structures shall comply with the following:

- (1) Roof-mounted telecommunications antennas are allowed on non-residential buildings in all zoning districts without further zoning proceedings, provided a non-whip antenna does not exceed the height of the building by more than ten (10) feet and is screened from view from any adjacent public right-of-way and provided a whip antenna does not exceed the height of the building by more than fifteen (15) feet and is located no closer than fifteen (15) feet to the perimeter of the building. Prior to installation of a roof-mounted telecommunications antenna, the community development director shall be provided with an engineer's certification that the roof will support the proposed telecommunications antenna and associated roof-mounted equipment. Roof-mounted telecommunications antenna and associated equipment shall be screened with enclosures or facades having an appearance that blends with the building on which they are located or by locating them so that they are not visible from an adjacent public right-of-way.
- (2) Building-mounted telecommunications antennas of the non-whip antenna type are allowed on non-residential

buildings in all zoning districts without further zoning proceedings, provided the non-whip antenna is mounted flush with the exterior of the building so that it projects no more than thirty (30) inches from the surface of the building to which it is attached and the non-whip antenna's appearance is such as to blend with the surrounding building.

- (3) Associated equipment shall be placed either within the same building or in a separate building which matches the existing building in character and building materials or blends with the landscaping and other surroundings immediately adjacent to the separate building housing the equipment. Associated equipment for roof-mounted telecommunications antennas may be located on the roof of the building if it is screened from view from any adjacent public right-of-way.
- (4) Telecommunications antennas are allowed without further zoning proceedings on existing utility, lighting, telecommunications towers and sign structures exceeding fifty (50) feet in height above grade, provided that the telecommunications antenna does not exceed the height of the structure by more than ten (10) feet if a non-whip antenna or fifteen (15) feet if a whip antenna. Existing structures may be rebuilt if necessary to support the load of the new telecommunications antenna without further zoning proceedings if the rebuilt structure is substantially similar in appearance to the existing structure it replaces.
- (5) Telecommunications antennas located on existing buildings or structures are not subject to the five thousand-foot separation requirement.
- (6) When an application is made to locate a telecommunications antenna on an existing building or other structure, the community development director shall be provided with color photo simulations showing the site of the existing structure with a photo-realistic representation of the proposed telecommunications antenna and the existing structure or any proposed reconstruction of the structure as it would appear viewed from the closest residential property and from adjacent public right-of-way. The applicant shall also submit photographs of the same views showing the current appearance of the site without the proposed telecommunications antenna.
- (m) *Modifications.* If any additions, changes, or modifications are to be made to a wireless communications facility, the community development director shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification to such wireless communications facility, including a telecommunications tower, conforms to structural wind load and all other requirements of the current building code adopted by the Town of Merrillville.
- (n) *Removal upon nonuse.* Telecommunications towers which have not been used for a period of one year shall be removed. The last telecommunication service provider to use a telecommunications tower shall notify the community development director or its designee within thirty (30) days that use of a telecommunications tower has been discontinued.
- (o) *Safety standards.* To ensure the structural integrity of a wireless telecommunications facility, the owner of such a facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for wireless telecommunications facilities that are published by the Electronic Industries Association, as amended. If a facility fails to comply with such codes and standards and/or constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such facility into compliance. Failure to do so will result in removal of the facility at the owner's expense.
- (p) *Fall zone.* In order to ensure public safety, the minimum distance from the base of any ground mounted facility to

any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility or mount, including any antennas. In the event an existing structure is proposed as a mount for an antenna, a fall zone shall not be required.

- (q) *Master plans and updates.* Within thirty (30) days of the enactment of this chapter, and during each January thereafter, providers of personal wireless services, as that term is defined by federal law, operating in the Town of Merrillville shall provide the town with their respective master plan for wireless telecommunications facilities, including detailed maps, showing the precise locations and characteristics of all telecommunications antennas and telecommunications towers serving any portion of the town and indicating coverage areas for current and future telecommunications antennas and telecommunications towers and shall provide the town with any updates to the above documents. Updated documents shall be provided to the town within three (3) months of their creation.
- (r) *Severability.* If any subsection, sentence, clause, or phrase of this section should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not effect the validity or constitutionality of any other subsection, sentence, clause, or phrase of this section.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-19. - Special regulations for land excavation and land fill.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant. The owner of the property upon which the excavation/fill is to take place, and the person who is to perform the excavation/fill.

Engineer. The town engineer or, if such person is unavailable, or if such position is vacant, the assistant town engineer, and if neither the town engineer or the assistant town engineer are available, or if both positions are vacant, then a person appointed by the town manager for the limited purpose of fulfilling the responsibilities of the engineer under this section.

Excavate. To move, remove, relocate, or otherwise change the existing contours or conditions of any natural surface or subsurface material or element including, but without limitation, sand, soil, earth, clay, slag, and other materials and elements.

Subsurface excavation. Excavation at a level below the average elevation for the area in which the excavation occurs, which average elevation shall be determined by the town engineer.

Surface excavation. Excavation at a level at or above the average elevation for the area in which the excavation occurs, which average elevation shall be determined by the town engineer.

Surface fill. Land fill at a level at or above the average elevation of the area in which the fill occurs. The average fill will be determined by the town engineer.

- (b) *Findings and policy.*

- (1) It is the findings of the town council that subsurface excavation and/or fill has a potential to create a hazard to the public health, safety, and welfare and to diminish the value of adjoining properties, and that such excavation shall be permitted only in circumstances wherein:
- a. The benefit to be realized by the public as a result of the excavation and/or fill is, on balance, greater than the hazard to be created thereby;

- b. Specific and continuing provision is made for protection of the public health, safety, and welfare and aesthet the excavation/fill activities from adjoining properties.
- (2) It is further findings of the town council that excavation and/or fill has substantial potential to cause the blowing or spilling over of excavated materials upon the properties of others, that such blowing and spilling constitutes a public nuisance, and that excavation/fill should be permitted only in circumstances wherein adequate provision has been made by the applicant to control such blowing and spilling.
- (3) It is the further finding of the town council that excavation and/or fill, whether surface or subsurface, has potential to create other hazards, the existence of which must be determined by the town, by and through its board of zoning appeals and town council, on a case-by-case basis.
- (c) *Permit required.* No person shall undertake any excavation and/or fill within the corporate boundaries of the Town of Merrillville without first having secured an excavation/fill permit issued by the town engineer and community development director.
- (d) *Application.*
 - (1) All persons requesting the issuance of an land excavation/fill permit shall submit to the Town of Merrillville as a special exception, by delivering to the planning and building department an application therefore upon such form as the board of zoning appeals and town council may from time to time prescribe. The application shall contain at least the following information:
 - a. The street address or general location of the excavation/fill site;
 - b. The legal description of the excavation/fill site;
 - c. The full name, and address of the applicant;
 - d. The full name, street address and post office address of any person known to be hauling the excavated/fill materials from the excavation/fill site at the time of application, and be the same information for any subsequent haulers, (to be provided to the Town of Merrillville at least seven (7) days before said subsequent haulers begin to remove or fill any material);
 - e. A licensed engineer's drawing of the proposed excavation/fill site, including clearly marked details of the area to be excavated, the elevation before and after the proposed excavation, and the elevations of adjoining properties; and such drawing shall bear the name, address, and license number of such engineer;
 - f. The purpose for which the proposed excavation/fill is to be undertaken;
 - g. What provision will be made to control the blowing and spilling of excavated/fill materials upon the properties of others;
 - h. What traffic routes will be used for hauling of excavated/fill materials from the excavation site;
 - i. A written plan for reclamation of the site upon expiration of the excavation/fill permit, which plan shall be approved in form and substance by the town engineer;
 - j. In the case of an application for subsurface excavation, a statement of what benefit will be realized by the public as a result of the excavation, and a statement of what specific and continuing provisions will be made for protection of the public health, safety, and welfare, and for the aesthetic screening of the excavation activities from adjoining properties; and
 - k. The names and mailing addresses of all adjoining landowners.
 - (2) Each application shall be signed under oath and dated by the applicant, and the signature provision thereon

shall recite, under penalties for perjury, that the applicant has read this section and understands and accepts the obligations hereby imposed.

State Law reference— Perjury, IC 35-44-2-1.

- (e) *Application fee.* Each applicant for a permit under this section shall be accompanied by a non-refundable application fee in the amount required in section 21-48.
- (f) *Evaluation of application.*
 - (1) The town engineer shall preliminarily evaluate the application for a permit under this section solely for the purpose of determining whether it is complete and complies with this section. If not, it shall be returned to the applicant, and the town shall take no further action.
 - (2) If the application is complete, the town engineer shall review the application, inspect the proposed excavation/fill site, and thereafter prepare his recommendation with respect thereto, which recommendation shall be in writing and shall be submitted to the board of zoning appeals. The town engineer shall submit his recommendation within forty-five (45) days after the application is submitted.
 - (3) The board of zoning appeals shall follow normal special exception procedures in considering the application. This includes a review by the board of zoning appeals and final approval or review by the town council.
- (g) *Review procedures.*
 - (1) If any applicant under this section is aggrieved by the decision of the town council, the applicant may file with the town council, within ten (10) calendar days following the date of the town council meeting, a written request for review of the decision. The request for review shall constitute a condition precedent to any action in the court system, and shall contain specific written allegations of error, in order that the town council may understand the nature of the grievance and have a meaningful opportunity to correct its own errors.
 - (2) The town council shall consider the request for review within thirty (30) days after it is filed, at a regular or special meeting. The town council, in its sole discretion, may permit argument by the applicant or the applicant's representative, or may summarily consider the request for review.
- (h) *Reapplication.* If the town council denies an application for an excavation permit, no application for an excavation permit which includes any part of the site subject to denial shall be considered by the town council until six (6) months following the date of denial.
- (i) *Expiration.*
 - (1) Any excavation/fill permit issued pursuant to this section shall expire and be of no further force and effect, upon the first of the following to occur:
 - a. Three (3) months inactivity at the excavation/fill site; or
 - b. One year after the date of issuance.
 - (2) Upon expiration of the excavation/fill permit, the reclamation plan shall be implemented, starting within thirty (30) days of said expiration.
 - (3) No renewals of excavation/fill permits shall be allowed, but a new permit must be sought according to the procedures of this section upon expiration of the existing permit. It shall be permissible to commence the application procedure prior to expiration of the existing permit, in order to avoid a lapse between permits.
- (j) *Issuance and insurance.* No excavation/fill permit shall be issued to any applicant until all of the following have occurred:

- (1) The town council has found that the application therefore should be granted.
- (2) The applicant has provided proof of liability insurance by which the Town of Merrillville, its agents, employees, elected and appointed officials are named as additional insureds, in an amount not less than three hundred thousand dollars (\$300,000.00) per incident and one million dollars (\$1,000,000.00) aggregate for subsurface excavation and in an amount not less than three hundred thousand dollars (\$300,000.00) per incident and five hundred thousand (\$500,000.00) aggregate for surface excavation, which liability insurance insures against all forms of loss arising from the excavation/fill, hauling of excavated/fill materials, and any related activities of the applicant.
- (3) The applicant has posted a surety bond issued by an insurance company in good standing with the state insurance commissioner, in an amount established by the town council, and sufficient to provide for the cost of restoration of the excavated/fill site to its original condition, and to repair and/or replace any streets or highways within the Town of Merrillville which may be damaged by the hauling of excavated/fill materials, and to construct adequate safety barriers, where appropriate, and to abate any public nuisance which may be caused by the excavation, and to pay the town's attorney's fee incurred by enforcing the provisions of this section, and to protect against any other specified and foreseeable loss or damage which the town council may find. Such bond shall specifically state the purposes for which it has been issued, and they shall be the purposes described in this section, provided, that no such bond shall be required of a governmental agency or body.
- (4) The applicant, if the application is for subsurface excavation, posts a surety bond issued by an insurance company in good standing with the state insurance commissioner for the reasons set forth in subsection (3) of this subsection (j) in the amount of seventy-five cents (\$0.75) per cubic yard of material to be removed below grade.
- (5) The applicant has paid to the town a permit insurance fee in the amount required by the provisions of this section.

State Law reference— State insurance commissioner, IC 72-1-1-1 et seq.

- (k) *Applicability.* Notwithstanding the provisions of subsection (c) to the contrary, the provisions of this section shall not apply to excavation/fill necessary for the erection or alteration of a building or structure pursuant to a valid building permit issued by the planning and building department of the Town of Merrillville, provided that the person undertaking such excavation/fill diligently and without unnecessary or unreasonable delay completes such excavation/fill.
- (l) *Transfer.*
 - (1) An excavation/fill permit issued pursuant to this section may only be transferred upon the approval of the town council. A request for transfer of an excavation/fill permit shall be made in writing to the town council by the proposed transferee and shall contain the following information:
 - a. The full name, and address of the proposed transferee;
 - b. The full name, and address of the transferor;
 - c. The reason for the transfer; and
 - d. Any other information which the board of zoning appeals or town council may reasonably request.
 - (2) Each request for transfer of an excavation/fill permit shall have attached to it a copy of the excavation/fill permit for which the transfer is requested.

- (3) No transfer shall be effective until all of the following have occurred:
 - a. The town council has found that the request for a transfer should be granted; and
 - b. The transferee has provided proof of liability insurance and has posted a surety bond as required by the provisions of subsection (j).
- (4) Any excavation/fill permit transferred pursuant to this section shall be subject to all of the terms of the original permit unless modified by the town council and shall further be subject to any additional conditions imposed by the town council.
- (5) Under no circumstances may a permit issued pursuant to this section be transferred if:
 - a. The site of the excavation/fill has changed.
 - b. The scope of the excavation/fill has changed or the written plan for reclamation of the site upon expiration of the excavation/fill permit has been changed.
- (6) If any of the foregoing items has changed, the request for a transfer shall be treated as a new application for an excavation/fill permit, which shall be subject to all of the provisions and procedures of this article.
- (7) A transfer fee, in the amount required in section 21-48, shall be charged to transfer such permit to a new owner.
- (m) *Attorneys' fees.* In any action commenced by the town to enforce the provisions of this section, and in any legal proceeding initiated by any applicant or person to whom an excavation/fill permit has been issued, and if the Town of Merrillville shall prevail therein, the applicant shall pay the town's attorneys' fees incurred in connection with such proceedings at the rate customarily charged by the town's attorney to non-municipal clients.
- (n) *Violations.*
 - (1) If any applicant shall, at the time of application for an excavation/fill permit, be in violation of this section, the board of zoning appeals and town council shall not consider the applicant.
 - (2) If any person to whom an excavation/fill permit has been issued shall violate any of the provisions of this section, or shall cause or create a public nuisance, or create a condition which is hazardous to the public health, safety, or welfare, or excavate below the approved elevations, or otherwise act unlawfully in connection herewith, the town may take enforcement action as provided in section 21-24 (violations).
 - (3) In addition to the remedies above provided, if any person to whom an excavation/fill permit has been issued shall violate any of the provisions of this section, the Town of Merrillville may, after five (5) days' notice to such person, take all appropriate legal action to call and collect upon the surety bond posted by the applicant.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-20. - Lighting standards.

- (a) *Intent.* It is the intent of lighting standards to provide for illumination levels on individual lots which are adequate for the safe and efficient movement of individuals or vehicles to and from a lot and within a lot. Light intensity shall not be so great as to cause objectionable glare beyond any lot line.
- (b) *Lighting regulations.* All lighting shall comply with the following regulations:
 - (1) Light standards and fixtures on a lot, including free-standing light fixtures and those attached to buildings, security lights and architectural lights, shall be of consistent design and materials.
 - (2) Parking lot lights shall be of uniform size, design and height.

- (3) All free-standing lights shall be of either: a "down lighting" style with the light element completely shielded on all the top; or be equipped with a refractor so as to direct light down onto the lot.
- (4) Lighting shall not cause illumination beyond any lot line or onto any right-of-way, based upon the zoning district of the real estate on the opposite side of such lot line or right-of-way, in excess of:
 - a. If adjoining commercial or industrial districts—Two (2) foot candles.
 - b. If adjoining residential districts—One-half (0.5) foot candles.
- (5) Architectural or sign lighting shall be so directed and shielded that the light element is not visible from any point along an adjacent public right-of-way.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-21. - Standards for private streets, interior access driveways and drives.

All private streets, interior access driveways and interior access drives shall be paved and developed to the following standards:

- (1) Minimum pavement width available for through traffic, exclusive of parking areas:
 - a. *Residential districts.*
One-way traffic, no parking—Twelve (12) feet.

One-way traffic, parking on one or both sides—Twenty-four (24) feet.

Two-way traffic, no parking—Twenty (20) feet.

Two-way traffic, parking on both sides—Twenty-four (24) feet.
 - b. *Commercial or industrial districts.*
One-way traffic, no parking—Eighteen (18) feet.

One-way traffic, parking on one or both sides—Thirty (30) feet.

Two-way traffic, no parking—Twenty-four (24) feet.

Two-way traffic, parking on one or both sides—Thirty-six (36) feet.
- (2) Minimum pavement depth and materials shall be those required by the town engineering standards booklet for public streets.
- (3) Private streets, interior access driveways and interior access drives shall be privately maintained in good repair and reasonable free of chuckholes, standing water, weeds, dirt, trash, debris, mud, ice and snow by the owner, project management, owner's association or other similar organization.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-22. - Vision clearance area.

No building, structure or improvement, including landscaping, shall be erected, placed, planted or maintained so as to interfere with a vision clearance area located between the heights of two and one-half (2½) feet and nine (9) feet above the crown of a street, driveway or alley. A vision clearance area shall be established for all streets, whether public or private, in

one of the following manners:

- (1) At the intersection of streets, vision clearance areas are formed at each corner by the street right-of-way lines and a line connecting points on the right-of-way lines located thirty (30) feet away from the intersection of such street right-of-way lines. In the case of a round or corner-cut right-of-way, the measurement shall be taken from the intersection of the right-of-way lines extended (see Figure 14); or
- (2) At the intersection of a street with a driveway or alley, vision clearance areas shall be formed by the intersection of the street right-of-way line and the driveway surface edge or the right-of-way of the alley and a line connecting points ten (10) feet from the intersection of such street right-of-way line and the driveway surface edge or alley right-of-way.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-23. - Commitments required by the plan commission and/or board of zoning appeals.

- (a) The plan commission and/or board of zoning appeals may, when in its discretion it is deemed necessary to:
 - (1) Assure the compatibility of a proposed development with surrounding properties; or
 - (2) To minimize the potential for the occurrence of detrimental affects from any attributes of a proposed development on surrounding properties, require or permit the owner of a parcel of property to make written commitments concerning the use or development of the subject property in connection with recommending approval of any petition contained in this chapter to the town council as a condition of development.
- (b) The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall be in effect for:
 - (1) As long as the real estate to which they apply remains zoned to the classification to which the real estate was zoned when the commitments were made; or
 - (2) Modified or terminated as provided below.

The commitments shall be recorded in the office of the recorder of Lake County, Indiana upon the final approval. Following the recording of the commitments, the community development director shall retain a copy of the recorded commitments in its file.

- (c) The plan commission and/or board of zoning appeals, owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval, and other specially affected persons designated in such commitments shall be entitled to enforce such commitments pursuant to IC 36-7-4-1015 or as otherwise provided by applicable law.
- (d) The commitments required by the plan commission and/or board of zoning appeals shall be in a form approved by the attorney for the Merrillville Plan Commission and/or Merrillville Board of Zoning Appeals.
- (e) Commitments required or permitted by the plan commission and/or board of zoning appeals may be modified or terminated by a decision of the plan commission and/or board of zoning appeals, made at a public hearing after notice to adjoining owners has been given pursuant to the rules of procedure of the plan commission. Any modification or termination of the commitments shall not be effective until:
 - (1) Reduced to writing;
 - (2) Approved by the plan commission attorney and/or board of zoning appeals attorney;
 - (3) Executed and notarized by the present owner(s) of the real estate; and

(4) Recorded in the office of the recorder of Lake County, Indiana.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-24. - Violations.

(a) The community development director or designated assistant is empowered to issue a stop-work order requiring the suspension of land improvement of any kind when any of the following circumstances exist:

- (1) A site improvement is occurring without any permit required by this chapter having first been obtained; or,
- (2) A site improvement is occurring in violation of: the terms, conditions or provisions of this chapter; the terms, provisions, conditions or commitments of a variance or special exception; or, commitments made in connection with a petition for zone map amendment or other approval authorized by this chapter.

The stop-work order shall be posted on the property in a conspicuous place, or personally delivered to the owner, tenant or occupant, or person in charge and state the conditions under which construction or other activity may be resumed. The community development director shall meet with the recipient of a stop-work order upon request to explain the conditions under which construction or other activity may be resumed.

The plan commission may institute a lawsuit in a court of competent jurisdiction to enforce the provisions of a stop-work order.

(b) Each of the following shall be deemed civil zoning violation which may be enforced by the designated enforcement entity in accordance with the provisions set forth below:

- (1) The failure to obtain any permit when one is required by the terms and provisions of this chapter.
- (2) The location, erection, or maintenance of any sign not specifically permitted by this chapter.
- (3) The conduct of any activity in a zoning district that is not specifically enumerated as a permitted primary or accessory use in that zoning district, and which activity has not been legally established by a currently valid variance, special exception or other approval grant.
- (4) Failure to comply with zoning district development standards.
- (5) The failure to comply with: the terms, provisions, conditions or commitments of a variance grant or special exception; or commitments made in connection with a petition for zone map amendment or other granted approval authorized by this chapter.
- (6) The violation of a stop-work order issued pursuant to this chapter.
- (7) Failure to obtain contractors license and/or registration.
- (8) Failure to comply with Chapter 13 of the Merrillville Municipal Code.
- (9) Failure to comply with any other provision of this chapter.

(c) Any person who commits a civil zoning violation as defined above may be issued a citation by appropriate enforcement official.

Subject to the provisions of subsection (1)a. and c. below, every ten (10) days a civil zoning violation remains uncorrected is a distinct and separate civil zoning violation subject to an additional citation and fine in the amount prescribed in this chapter.

(1) *Procedures.*

- a. Appropriate enforcement official may issue a citation to a person who commits a civil zoning violation or

allows a civil zoning violation to be committed on real estate in which the person has a possessory or ownership interest. The citation may be served by personal service, by certified mail, by First Class U.S. Mail, or by placement in a conspicuous place on the property where the violation occurs and shall serve as notice that a civil zoning violation has been committed.

- b. No citation shall be issued unless the person who commits a civil zoning violation or allows a civil zoning violation to be committed on real estate in which the person has a possessory or ownership interest has been served with a notice to correct the civil zoning violation at least ten (10) days before the issuance of a citation to allow said person an opportunity to correct the violation and to come into compliance with the prescribed zoning ordinance or regulation. However, the service of a notice to correct the civil zoning violation is not required before issuing a citation for violation of a stop-work order issued pursuant to this subsection b. or for the removal of a portable sign.
- c. If a person who is served with a notice of civil zoning violation or receives a citation elects to file a petition for zone map change, variance, special exception or other approval to correct such violation, then the person must indicate the intent to file such a petition on the served notice or citation and return a copy to the planning and building department. A person shall have ten (10) days from service of a notice of civil zoning violation or receipt of citation to file the petition. During the pendency of said petition the issuance of additional citations and additional monetary fines as prescribed in subsection b. shall be stayed. A person who files the petition within said time period shall pursue the petition in an expeditious and diligent manner. If the petition is denied, withdrawn or dismissed and the civil zoning violation continues, then a lawsuit may be commenced by the planning and building department or appropriate enforcement official as provided by applicable laws.

- (d) The monetary fine for the first citation for a civil zoning violation shall be fifty dollars (\$50.00), and the following monetary fines shall apply for each subsequent citation:

Second citation\$100.00

Third citation150.00

Fourth citation200.00

Each additional300.00

Provided, however, in no event shall a subsequent citation be issued within ten (10) days of the issuance of a previous citation, nor shall, the total monetary fine for each civil zoning violation exceed two thousand five hundred dollars (\$2,500.00).

All fines prescribed by this section for civil zoning violations shall be paid to the town courts of the Town of Merrillville, who shall render to the person making the payment a receipt stating the amount and purpose for which the fine has been paid, a duplicate of which shall be made a part of the records of the town. Payment of fines by check shall be made out to "The Town of Merrillville." All fines thus received shall be deposited within the general fund of the Town of Merrillville.

- (e) A person who receives a citation for a civil zoning violation may elect to stand trial before the town court for the violation by indicating on the citation his intent to stand trial and returning a copy of the citation to the town courts. The returned copy of the citation shall serve as notice of the person's intent to stand trial, and the issuance of additional citations and additional monetary fines as prescribed in this section shall be stayed upon

receipt of the notice. The notice shall be given at least five (5) days before the date that payment of the citation is due as set forth below. On receipt of the notice of intention to stand trial, a lawsuit may be commenced by the planning and building department or appropriate enforcement official as provided by applicable law to enforce the terms and provisions of this chapter if a person who receives a citation fails to:

- (1) Pay the assessed fine within thirty (30) days after the issuance of a citation;
 - (2) File a petition as prescribed above; or,
 - (3) Give notice of his intention to stand trial as prescribed above, the planning and building department or designated enforcement official may file a lawsuit as provided by applicable law to enforce the terms and provisions of this chapter.
- (f) Issuing a stop-work order or issuing a civil penalty does not preclude the designated enforcement entity from seeking alternative and additional relief from the court in the same action, or from seeking injunctive relief or any other remedy in a separate action.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-25. - Severability.

It is hereby declared to be the intention of the town council that the several provisions of this chapter are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgment shall not affect any other provision of this chapter not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any provisions of this chapter to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-26. - Repealer.

Ordinance 72-21 heretofore adopted on the twenty-sixth day of December, 1972, and as subsequently amended by Ordinance 78-5, is herewith and now comprehensively amended as herein provided, and all other ordinances previously adopted that are inconsistent herewith are now repealed

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-27. - Effective date.

Since an emergency exists for an immediate taking effect of this chapter, the same shall be in full force and effect from and after its passage or as soon thereafter as otherwise provided by law.

(Ord. No. 02-03, § 1, 2-12-02)

Secs. 21-28—21-40. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Sec. 21-41. - Board of zoning appeals.

- (a) The board is hereby established with membership and appointment as provided in accordance with IC 36-7-4-900 et seq. and all acts now or hereafter amendatory or supplemental thereto.
- (b) At the first meeting of each year, the board shall elect a chairman, a vice-chairman, and a secretary from among its members, and it may appoint and fix the compensation of a secretary and such employees as are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensation theretofore fixed by the town council.
- (c) The board shall adopt rules, which may not conflict with this chapter or applicable law, concerning: the filing of appeals; applications for special exceptions and variances; the giving of notice; the conduct of hearings; the determination between use variances and development standards variances; the creation, form, recording, modification, enforcement and termination of commitments; and, the designation of which specially affected persons and classes of specially affected persons are entitled to enforce commitments. (See board of zoning appeals by-laws in the office of the planning and building department.)
- (d) All meetings, other than executive sessions, of the board shall be open to the public. The board shall keep minutes of its proceedings, keep records of all examinations and other official actions, prepare written findings, and record the vote of each member on all actions taken. Except as provided otherwise by applicable law, all minutes and records shall be filed in the office of the planning and building department and shall be public records.
- (e) The board shall have the duty and power to:
 - (1) Hear and determine appeals from and review any order, requirement, decision, or determination made by staff or administrative official under this chapter.
 - (2) Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body except the plan commission in relation to the enforcement of this chapter.
 - (3) Hear and determine appeals from and review any order, requirement, decision, or determination made by staff, an administrative board or other body except the plan commission in relation to the enforcement of those provisions of this chapter requiring the procurement of an improvement location permit or a certificate of occupancy.
 - (4) Make recommendations regarding special exceptions in accordance with the provisions of section 21-42.
 - (5) Hear, and approve or deny, all variances from development standards of this chapter. A variance from development standards may be approved only upon written determination that:
 - a. The approval will not be injurious to the public health, safety, morals and general welfare of the community;
 - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - c. The strict application of the terms of this chapter would result in an unnecessary hardship in the use of the property.
 - (6) Make recommendations regarding variances of use from the terms of this chapter in accordance with the provisions of section 21-43.

- (f) The board may impose reasonable conditions as a part of its approval of or recommendation regarding any special exception or variance from the terms of this chapter.
- (g) The board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel in the case of a petition for a special exception, variance from the terms of this chapter or a variance of development standards. All such commitments shall be in recordable form and shall be recorded in the office of the Lake County Recorder and shall take effect upon the granting of the special exception or variance. Unless modified by a decision of the board, a recorded commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. The commitments required by the board of zoning appeals shall be in a form and content approved by the attorney for the board of zoning appeals. By permitting or requiring commitments, the board does not obligate itself to approve or deny any request. This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law. A commitment may be modified or terminated only by a decision of the board made at a public hearing after notice to adjoining owners has been given pursuant to the rules of procedure of the board. Any modification or termination of the commitments shall not be effective until:
 - (1) Reduced to writing;
 - (2) Approved by the board;
 - (3) Executed and notarized by the present owner(s) of the real estate; and
 - (4) Recorded in the office of the recorder of Lake County, Indiana.

(Ord. No. 02-03, § 1, 2-12-02)

State Law reference— Board of zoning appeals, IC 36-7-4-900 et seq.

Sec. 21-42. - Special exceptions.

- (a) The board of zoning appeals shall submit petitions for special exceptions to the town council for approval or disapproval. The board of zoning appeals shall make recommendations to the town council on petitions for special exception specifically listed in the district regulations of this chapter except for planned unit development.
- (b) After a public hearing on a petition for special exception, the board of zoning appeals shall forward the petition for special exception to the town council with a favorable recommendation, an unfavorable recommendation, or no recommendation. The board of zoning appeals may also impose reasonable conditions as part of its recommendation.
- (c) The town council shall not approve a petition for special exception unless it, after giving notice if required under IC 5-14-1.5-5 of its intention to consider the petition at its first regular meeting after the board of zoning appeals files its recommendation, determines in writing that:
 - (1) The establishment, maintenance, or operation of the special exception use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare, and is in accordance with the comprehensive plan.
 - (2) The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already substantially diminish and impair property values within the neighborhood.
 - (3) The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 - (4) Adequate utilities, access roads, drainage, and/or other necessary facilities will be provided.

- (5) Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the streets.
- (6) The special exception shall in all other respects conform to the applicable regulations of the district in which it is located; and the town council shall find that there is a public necessity for the special exception.
- (d) The town council shall vote to either approve or deny a petition for special exception within ninety (90) days after the board makes its recommendation. If the town council does not vote to deny the petition for special exception within ninety (90) days, the petition for special exception is approved.
- (e) The town council shall file a copy of its decision in the clerk's office within thirty (30) days after it either approves or denies a petition for special exception.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-43. - Variance of use.

- (a) The board of zoning appeals shall submit petitions for variance of use to the town council for approval or disapproval. The board of zoning appeals shall make recommendations to the town council on petitions for variance of use relating to buildings, land, or premises now existing or to be constructed.
- (b) After a public hearing on the petition for variance of use, the board of zoning appeals shall forward the petition to the town council with a favorable recommendation, an unfavorable recommendation, or no recommendation. The board of zoning appeals may also impose reasonable conditions as part of its recommendation.
- (c) The council shall not approve a petition for variance of use unless it, after giving notice if required under IC 5-14-1.5-5 of its intention to consider the petition for variance of use at its first regular meeting after the board of zoning appeals filed its recommendation, determines in writing that:
 - (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - (2) The use and value of the area adjacent to the property included in the variance of use will not be affected in a substantially adverse manner;
 - (3) The need for the variance of use arises from some condition peculiar to the property involved;
 - (4) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance of use is sought; and
 - (5) The approval does not interfere substantially with the comprehensive master plan of the Town of Merrillville.
- (d) The council shall vote to either approve or deny a petition for variance of use within ninety (90) days after the board of zoning appeals makes its recommendation. If the town council does not vote to deny a petition for variance of use within ninety (90) days, the petition for variance of use is approved.
- (e) The council shall file a copy of its decision in the clerk's office within thirty (30) days after it either approves or denies a petition for variance of use.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-44. - Building director.

- (a) It shall be the duty of the building director to enforce this chapter. The building director shall receive applications required by this chapter, issue permits, and furnish the prescribed certificates. The building director shall provide through departmental staff the inspection of premises for which permits have been issued, and shall make necessary inspections to see that the provisions, statutes, and governing laws are complied with. The building

director and the departmental staff shall enforce all laws relating to the construction, alteration, repair, removal, demolition, equipping, use, occupancy, location, and maintenance, of structures, buildings improvements, signs, and excavation. The building director position reports to the town manager, then to the town council.

- (b) Entry and inspections shall be made by the building director, or a duly appointed staff personnel. Such entry and inspections shall be made at any reasonable hour. Such entry and inspections may be made based upon health and safety complaints. Such entry and inspection may be made without a warrant if the situation presents an imminent danger to the health or safety of any occupant. If the situation does not present an imminent danger to the health or safety of an occupant and entry and inspection is denied, then entry and inspection shall occur by administrative warrant which shall be issued by the Merrillville Town Court. The chief of police shall enforce entry into buildings for the purpose of these inspections.
- (c) The building director shall keep careful and comprehensive records of applications, permits issued, fees assessed, certificates issued, inspections made, reports rendered, and of notices or orders issued.
- (d) The building director shall/may request and shall receive so far as may be necessary in the discharge of their duties, the assistance and cooperation of the clerk-treasurer, town engineer, chief of police, fire chief, town manager and town attorney in the discharge of established duties.

(Ord. No. 06-18, §§ 1, 4, 7-11-06; Ord. No. 17-09, 6-27-17)

Sec. 21-45. - Improvement location permits.

- (a) No building, structure, improvement, sign, land excavation, land fill, or use of land may be altered, changed, placed, erected, demolished or located, unless the building, structure, improvement, sign, land excavation, land fill, or use and its location conform to the provisions of this chapter and an improvement location permit for the alteration, change, placement, erection, demolition or location of such building, structure, improvement, sign, land excavation, land fill, or use has been issued. Exception to this requirement would be maintenance i.e. painting, siding, re-shingle, door or window replacement involving no structural change.
- (b) An application for an improvement location permit shall be submitted in such form as the community development director may prescribe. Such application shall be made by the owner or lessee, or agent of, the architect, engineer, or builder employed in connection with the proposed work. If such application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner in fee, or the person making the application that the proposed work is authorized by the owner in fee and that the person making the application is authorized to make such application. Such application shall contain the full names and addresses of the applicant and of the owner, and, if the owner is a corporate body, of its responsible officers. Such application shall give such additional information as may be required by the community development director for an intelligent understanding of the proposed work. Such application shall be accompanied by payment of the fees required by Chapter 6, Article II, section 6-21.
- (c) When an improvement location permit is required by this chapter, an application for an improvement location permit shall be filed with the community development director. Said application shall be on a form prescribed by the plan commission and accompanied by a site plan consistent with the requirements set forth below.
 - (1) A plat of survey for a single-family dwelling or a two-family dwelling on a platted lot shall be drawn to scale of not more than 1"=100' showing:
 - a. North arrow;
 - b. Legal description of the lot along with existing and proposed elevations of lot;

- c. Address of the lot—Assigned address of lot is required;
 - d. Names, center-lines and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad right-of-ways abutting or within the lot;
 - e. The location and dimensions of all buildings, structures or improvements currently existing on the lot;
 - f. Structures proposed for demolition should be indicated as such;
 - g. The location and dimensions of all proposed buildings, structures or improvements, including land excavations, land fills, fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed buildings;
 - h. Location of any proposed or existing driveway and its width at the property line. (Any connection to an alley must also be indicated);
 - i. The distance from lot lines for all existing and proposed buildings, structures, improvements, signs, land excavations, or land fills distance is measured as a line from the point where the building, structure, improvement, sign, land excavation, or land fills is closest to the property line. This measurement is taken perpendicular to the property line;
 - j. The height of the existing and proposed buildings, structures or improvements;
 - k. All other information required by the staff for the proper administration of this chapter.
 - l. A licensed engineer's drawing of the proposed excavation site, including clearly marked details of the area to be excavated, the elevation before and after the proposed excavation, and the elevations of adjoining properties; and such drawings shall bear the name, address, and license number of such engineer.
 - m. Nothing in this section shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.
- (2) A plat of survey for any commercial, industrial or special exception use shall be drawn to scale of not more than 1"=100' showing:
- a. North arrow;
 - b. Legal description—Address of the site; assigned address of lot, parcel or tract is required;
 - c. The actual shape, size and dimensions of the lot, parcel or tract;
 - d. Area map or sketch to indicate the location of the site;
 - e. Names, center-lines and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad right-of-ways abutting or within the lot, parcel or tract;
 - f. The location and dimensions of all buildings, structures, improvements or signs currently existing on the lot parcel or tract;
 - g. Structures proposed for demolition should be indicated as such;
 - h. The location and dimensions of all proposed buildings, structures, improvements, signs, land excavations, or land fills including fences, sheds, paved areas, storage areas, parking areas. Cross-hatch or shade lightly all proposed buildings;
 - i. Location of any proposed or existing driveway and its width at the property line. (Any connection to an alley must also be indicated);

- j. (If applicable) location, dimensions, and type (e.g. ground, pole, wall) of all signs on the site, existing and proposed; separate elevations of proposed sign structures with all dimensions drawn to scale;
 - k. The distance from lot lines for all existing and proposed buildings, structures, improvements, signs, land excavations or land fills (this distance is measured as a line from the point where the building, structure, improvement, sign, or land excavation is closest to the property line.) This measurement is taken perpendicular to the property line.;
 - l. The height of the existing and proposed buildings, structures, improvements or signs;
 - m. The number of dwelling units (if applicable) of existing and proposed buildings or structures;
 - n. The current and proposed use to be made of all buildings, structures, improvements or lands within the lot (e.g. parking, residence, office, storage);
 - o. Location, engineering information, regarding all utilities to provide service to the buildings or structures on the lot parcel or tract;
 - p. The location and dimensions of all off-street parking and off-street loading facilities;
 - q. The location and dimensions of all fences, walls or other screening and buffering devices;
 - r. Location, size and species of all proposed and existing trees (six (6) inches or larger at four and one-half (4.5) feet above grade) and landscaping;
 - s. Site data summary (a text summary in table format describing: square footage of existing and proposed buildings; existing, proposed and required parking; existing, proposed and required loading; proposed and permitted maximum building height; accommodation of drainage, sanitary sewer, water and other utility services; legal description; lighting; and landscaping);
 - t. The seal of the registered professional engineer or architect responsible for the site plan; and
 - u. All other information required by the staff for the proper administration and enforcement of this chapter.
 - v. Nothing in this section shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.
- (d) The community development director may waive or relax any of the site plan requirements listed above, as circumstances dictate. The site plan shall be attached to the application for an improvement location permit when such application is submitted to the community development director and shall be retained in the office of the community development director as a public record.
- (e) The plan commission and/or board of zoning appeals in cases of special exception may promulgate rules, regulations, and procedures, in addition to those listed herein, as to the form and processing of the applications, site plans, and permits required by this section.
- (f) When a builder, developer or owner of any building, structure, improvement, sign, land, excavation, or land fill for which an improvement location permit has been obtained, for any reason, proposes that the construction of said building, structure, improvement, sign, land excavation, or land fill deviate from the plans filed with the improvement location permit application and approved by the community development director, the builder, developer or owner shall make application for an amended improvement location permit. The community development director shall review the application for the amended improvement location permit in accordance with the procedures set forth above to determine compliance of the amended improvement location permit

application with the provisions of this chapter and any other applicable conditions, covenants or restrictions. If such amended improvement location permit application is found to be in compliance, the community development director shall issue an amended improvement location permit. Any determination by the community development director with respect to an amended improvement location permit shall be subject to the same appeal rights and procedures as set forth herein for an initial application for an improvement location permit.

- (g) Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of a building, structure, improvement, sign, land excavation, or land fill for which a valid improvement location permit has been issued or all required permits and approvals were obtained before the effective date of this chapter.
- (h) It shall be the duty of the community development director to examine applications for improvement location permits within a reasonable time after filing. If, after examination, he/she finds no objection to the same and it appears that the proposed work will be in compliance with this chapter, he/she shall approve such application and issue an improvement location permit for the proposed work as soon as practicable. If his examination reveals otherwise, he/she will reject such application, noting his finding in a report to be attached to the application and delivering a copy to the applicant.
- (i) Nothing in this section shall be construed to prevent the community development director from issuing an improvement location permit for the construction of part of a building, structure, improvement, sign, land excavation, or land fill before the entire plans and detailed statements of said building, structure, improvement or sign have been submitted or approved, if adequate plans and detailed statements have been presented for the same and have been found to comply with this chapter.
- (j) All work performed under an improvement location permit issued by the community development director shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot plan, or an approved amendment thereof, shall be strictly adhered to. It shall be unlawful to reduce or diminish the area of a lot or plot of which a plot plan has been filed and has been used as the basis for an improvement location permit, unless a revised plot plan showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.
- (k) Every improvement location permit issued by the community development director under the provisions of this chapter shall have his/her signature affixed thereto; but this shall not prevent him/her from authorizing a subordinate to affix such signature.
- (l) Works authorized by an improvement location permit must be started within six (6) months of the date of issuance and must be completed within two (2) years unless an extension is granted by the community development director. An improvement location permit under which no work is commenced within two (2) years after issuance shall expire by limitation.
- (m) A copy of the improvement location permit shall be kept on the premises open to public inspection at the commencement of work and until the completion of same. The community development director may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. The community development director shall be given at least twenty-four (24) hours' notice of the starting of work under an improvement location permit.
- (n) The community development director may revoke an improvement location permit issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the

application or plans on which the permit was based. If the community development director determines that construction or development is proceeding or has proceeded in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval, or that the improvement location permit has been issued in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval, the community development director may revoke said improvement location permit. In the event that an improvement location permit is revoked, the community development director shall send written notice of the revocation to the permit applicant.

- (o) Any determination by the community development director concerning the issuance of an improvement location permit may be appealed to the board of zoning appeals by any party claiming to be adversely affected by that decision.
- (p) The issuance of an improvement location permit does not substitute for or supersede the requirement to obtain approvals specified in other laws, ordinances, rules and regulations, as the same may be amended from time to time, before the construction of any building, structure, improvement, sign, land excavation, or land fill.
- (q) Notwithstanding anything contained in this section to the contrary, no improvement location permit shall be required for minor repairs or alterations to buildings, structures, improvements, signs, land excavations, or land fills where the cost of such repairs or alterations does not exceed five hundred dollars (\$500.00).
- (r) The Merrillville Roadway Engineering Standards Booklet is hereby adopted and incorporated into the Merrillville Municipal Code by reference. The Merrillville Roadway Engineering Standards Booklet contains the proper standards for driveways, roads, sidewalks, and other design criteria for the issuance of building permits. All plot plans, permit survey, or other documentation submitted for the issuance of a building permit must use the design criteria in the Merrillville Roadway Engineering Standards Booklet.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06; Ord. No. 13-07, § 1, 6-11-13)

Sec. 21-46. - Certificate of occupancy/certificate of use.

- (a) No building, structure, improvement, for which an improvement location permit is required by the provisions of this chapter shall be used for the purpose contemplated by the improvement location permit until a certificate of occupancy has been issued by the community development director. A certificate of occupancy shall be applied for at the same time as the application for an improvement location permit and said certificate shall be issued within a reasonable time after the request for same shall have been made in writing to the community development director after the erection or alteration of such building, structure, improvement; or part thereof shall have been completed, in conformity with the provisions of these regulations. Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the community development director for a period not to exceed six (6) months, during the completion of alterations or during partial occupancy of a building, structure, improvement pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the tenants relating to the use or occupancy of the premises or any other matter covered by this chapter, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. The community development director can require conditions as part of the temporary occupancy.
 - (1) The individual filing and being granted a building permit; whether homeowner, builder, subdivider, or developer, must be the same individual who files and is granted a temporary or final certificate of occupancy.
 - (2) To ensure the completion and warranty for the installation for landscaping, sidewalks, driveways, and other

visible building construction elements for residential properties, said requirements are in effect.

- a. Prior to the issuance of a temporary of certificate of occupancy, the applicant, developer, or future homeowner shall post a performance surety in the form of a cash escrow or certified check to guarantee completed landscaping, completed sidewalks, completed driveway, and that all other required work is completed within sixty (60) days following the issuance of a temporary certificate of occupancy. The performance surety will be released following the issuance of a final certificate of occupancy and a satisfactory inspection for the completion of all landscaping, sidewalk, driveway and all other required work. Such inspection shall be based on the Town of Merrillville's existing code and regulatory guidelines and will be conducted by the Town of Merrillville's Building Inspector, Zoning Director, or Community Development Director.
 - b. A certified check or cash escrow will not be required in the event that a financial institution requires moneys in an escrow account (from homeowner and or developer) for the completion of sidewalks, driveways, and or landscaping equal or above the amount specified by this ordinance. The Town of Merrillville requires written proof from the financial institution that such an escrow account has been formed and the specific amounts held if it is to be used to satisfy the requirements of this ordinance.
 - c. Completed landscaping shall be defined as sod taking root and or seeding germinating and growing out of the ground. Eighty-five (85) percent coverage must be completed in all turf areas.
- (3) If completed landscaping, sidewalks and driveways cannot occur due to seasonal constraints, the planning and building department will still require a performance surety in the form of a cash escrow or certified check. In the case of seasonal constraints all required landscaping shall be installed and approved within sixty (60) days from the start of the following planting season. In the case of seasonal constrains for asphalt driveways, said asphalt driveways shall be installed and approved within sixty (60) days following the winter season. Winter seasons ends March 1. Sidewalks will be required within sixty (60) days following the issuance of temporary certificate of occupancy.
- (4) If the covenants of the subdivision require any portion of the lots to be sodded or landscaped above and beyond Town of Merrillville zoning ordinance and building code requirements, and the costs of sodding/landscaping are greater then the escrow amounts detailed below, then the Town of Merrillville shall have the right to recuperate the cost difference from the homeowner or developer if the Town of Merrillville installs the landscaping or sodding. The Town of Merrillville may have the right but not the obligation to install completed landscaping, driveways, or sidewalks and use the proceeds from the performance sureties for this purpose if the owner or developer fails to install final landscaping, sidewalks or driveways within the allotted time frames of this ordinance.

- a. Required performance surety amounts.

1. Performance surety amounts will be required for the following items as stipulated below:

	Standard Lots	Corner Lots
Landscaping (includes both front and rear yards*)	\$2,500.00	\$2,500.00
Sidewalks	1,000.00	1,500.00
Driveways	1,500.00	1,500.00

* Completed landscaping is defined above in subsection (2)c.

b. Landscape escrow fund.

1. Performance surety in the form of a cash escrow or certified check will be cashed and deposited upon receipt by the Clerk Treasurer for the Town of Merrillville, Indiana into an escrow trust fund titled "landscape escrow trust fund". Any dollar amounts collected will be held in said account until landscaping, sidewalks, and driveways are completed. Once these aforementioned issues are completed and verified by inspection from the building inspector, zoning director, or community development director, the exact amount of said escrow funds, which were deposited and required by this chapter, will be returned to the original depositor.

- (b) No structure shall be used for which an improvement location permit is required by the provisions of this chapter for the purpose contemplated by the improvement location permit until a certificate of use has been issued by the community development director. A certificate of use shall be issued for the following: i.e., fences, sheds, detached garages, towers, pools, land excavation/land fill or any similar detached structures.
- (c) A record of all certificates shall be kept on file in the office of the community development director and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the improvements affected. A fee shall be charged for a certificate of occupancy/use as provided in section 21-48.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06; Ord. No. 06-48, §§ 1—3, 1-9-07)

Sec. 21-47. - Amendments.

- (a) All amendments to this chapter shall be in conformance with IC 36-7-4 and all acts supplemented and amendatory thereto.
- (b) Any petition for amendment shall be accompanied by a legal description and, if land is unplatted, a plat of survey, certified by a registered land surveyor or engineer, showing all dimensions of the property in question.
- (c) Any petition for amendment shall be accompanied by a certified list of names and addresses (as determined from the most current property tax rolls) of all owners of land immediately adjacent to, or across any street or alley from, the property in question. Said certified by a title company, township tax assessor, or county auditor.
- (d) Any petition for amendment that is approved by ordinance which involves a change in the zoning district map shall be valid for a period of two (2) years after such amendatory ordinance is passed and provided a building permit is secured within two (2) years after the effective date of the amendatory ordinance and provided further that substantial development has occurred within one year from the time the building permit has been secured.
- (e) If a building permit is not issued or if a substantial development of the property has not been undertaken within the time as specified above, the amendatory ordinance shall be reviewed by the plan commission for its continued applicability unless an administrative extension has been granted by the community development director previous to the expiration of the two-year period.
- (f) The community development director is authorized to grant up to six (6) months extension before said amendatory ordinance is reviewed by the plan commission. Extensions shall only be granted by the community development director when it has been demonstrated that development has not occurred because of factors beyond the control of the owner.
- (g) For purposes of this section "substantial development" shall mean actual physical construction of streets and/or other site improvements necessary and at least the construction of one building as defined in this chapter.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-48. - Fees.

(a) A fee shall be paid by the applicant at the time a petition or application is filed in order to defray administrative costs associated with the processing of development petitions, improvement location permits, and other approvals. All applications shall be accompanied by a check, money order or other approved payment method acceptable to the clerk-treasurer in accordance with the following schedule of fees:

(1) Board of zoning appeals:

- a. Administrative appeal\$250.00
- b. Variance developmental standards, commercial or industrial use200.00
- c. Variance developmental standards, residential use100.00
- d. Special exceptions250.00
- e. Variance of use200.00
- f. Land excavation or fill requiring special exception approval250.00
- g. Land excavation or fill requiring special exception approval for transfer of ownership250.00

(2) Plan commission:

- a. Zone change250.00
- b. Subdivision approval (see Chapter 19 of the Merrillville Municipal Code) for fees.
- c. Planned unit development:
 - 1. Amendment, approval extension, or vacation of plat250.00
 - 2. Conceptual approval (optional)100.00
 - 3. Preliminary approval250.00
Plus five dollars (\$5.00) per acre
 - 4. Final approval250.00
Plus two dollars (\$2.00) per acre

(3) Land excavation or fill not requiring BZA action:

- a. Commercial/industrial100.00
- b. Residential50.00

(4) Certificate of occupancy/use:

- a. Commercial or industrial use50.00
- b. Residential use20.00

(5) Driveway alterations permit:

- a. Commercial or industrial use50.00
- b. Residential use20.00

(6) Home occupation permit:

- a. Original request30.00
- b. Renewal fee (one-half (½) original fee)15.00

(7) Improvement location permit (building permits). See Chapter 6 of this Code for fees.

(8) Sign permit application fee30.00

Plus any required building permit fees (see Chapter 6 of the Merrillville Municipal Code section 6-21.)

(9) Special meeting of plan commission or board of zoning appeals500.00

(10) Subdivision approvals. See Chapter 19 of the Merrillville Municipal Code for fees.

(11) Temporary building or use, i.e. construction trailers, not requiring special exception approval:

a. Residential:

1. Application fee20.00

2. Building permit fee50.00

b. Commercial/industrial:

1. Application fee20.00

2. Building permit fee80.00

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-23, § 5, 7-12-05)

Secs. 21-49—21-60. - Reserved.

ARTICLE III. - DISTRICTS

DIVISION 1. - GENERALLY

Sec. 21-61. - Zoning districts generally.

(a) In order to carry out the purposes and provisions of this chapter, the Town of Merrillville is hereby divided into the following districts:

(1) Floodplain district.

(2) Agricultural district.

(3) Residential districts:

R-1 single-family residence.

R-2 single-family residence.

R-3 two-family residence.

R-4 low density multiple-family residence (maximum seven (7) units per acre).

R-5 medium density multiple-family residence (maximum eleven (11) units per acre).

(4) Commercial and office districts:

C-1 neighborhood commercial.

C-2 community commercial.

C-3 highway commercial.

C-4E commercial entertainment.

C-5 office and research.

(5) Industrial districts:

M-1 limited industrial.

M-2 limited industrial corridor overlay.

(6) Planned unit development district.

(7) Greenbelt district.

(8) C/IS commercial/industrial special district.

- (b) The location and boundaries of the districts established by this chapter are set forth on the zoning district map, dated April 25, 1978, which is incorporated herein and hereby made a part of this chapter. The said map, together with everything shown thereon, and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein. The said map shall be on file with the office of the planning and building department, and shall be open to the public reference at all times during which those offices are open. Land which may hereafter become incorporated into the town shall be included in the A-1 zone until changed by amendment to this chapter.
- (c) When uncertainty exists with respect to the boundaries of the various districts, as shown on the zoning district map, the following rules shall apply:
- (1) District boundary lines are either the center lines of railroads, highways, streets, alleys or easements, tract or lot lines, or such lines extended unless otherwise indicated.
 - (2) In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street, highway or railroad, the depth of such strips shall be in accordance with dimensions shown on maps measured at right angles from the centerline of a street, highway or railroad, and the length of frontage shall be in accordance with dimensions shown on the map from center lines of streets, highways or railroad right-of-way unless otherwise indicated.
 - (3) Where a district boundary line divides a lot in single ownership, the regulations for either portion of the lot may, in the owner's discretion, extend to the entire lot, but not more than twenty-five (25) feet beyond the boundary of the district.
- (d) The following public utility uses are permitted in any district: poles, electric towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distributing equipment, and telephone booths, provided that installation shall conform with rules and regulations of the applicable administrative authorities.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

DIVISION 2. - FLOODPLAIN DISTRICT

Sec. 21-62. - Floodplain district.

- (a) It is the purpose of the floodplain district to apply special regulations to the use of land in those areas of the town, which are subject to predictable inundations at frequent intervals. This district is superimposed over the other established districts and includes all one hundred-year frequency flood areas shown on the most recent flood

insurance rate map produced by the Federal Emergency Management Agency. The following provisions shall apply:

- (1) All land lying within the floodplain of the one hundred-year frequency flood of Turkey Creek and Deep River, and their tributary streams, is subject to these regulations, in addition to the regulations otherwise established by this chapter. The boundaries of the floodplain are hereby established as shown on the zoning district map.
- (2) When the proposed use is allowable hereunder in any other zoning district, the following uses and types of activities are permitted in the designated floodplain.
 - a. Residential, educational and institutional buildings, only if they have a minimum floor elevation of not less than two (2) feet above the one hundred-year flood level, as established by the Department of Natural Resources.
 - b. Outdoor recreational uses.
 - c. Public rights-of-way, private drives, and parking lots.
 - d. Commercial buildings in the commercial districts where the minimum floor elevation is not less than two (2) feet above the one hundred-year flood level.
 - e. Any structure, filling, excavating, or any change in the natural grade of any property requires a permit, and shall not be detrimental to other properties or the characteristics of the floodplain.
- (3) Where topographic data, engineering studies or other studies are requested by the Town of Merrillville to determine the effects of flooding on a structure or the effects of the structure on the flow of water, the applicant shall submit such data or studies.

(Ord. No. 02-03, § 1, 2-12-02)

Cross reference— Flood hazard areas, § 7-16 et seq.; subdivision of land in floodplain areas, § 19-7.

Secs. 21-63—21-70. - Reserved.

DIVISION 3. - AGRICULTURAL DISTRICT

Sec. 21-71. - A-1 agricultural district—Intent.

The A-1 agricultural district is established to include land being used for agricultural activities, floodplain, and other rural uses, which is not expected to develop for intensive urban or suburban uses within the near future. It is the intent of this district to allow farm uses, to conserve the desirable characteristics of the land, to preserve open space, and to protect the district from the encroachment of scattered urban development that may inhibit the overall development of the town in accordance with the comprehensive plan.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-72. - A-1—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the A-1 agricultural district are listed in section 21-136.

(b) The area, bulk and height regulations for the A-1 agricultural district are listed in section 21-137.

(c) Parking requirements. See Article V.

(d) Sign regulations. See Article VI.

(e) All buildings used for housing of animals must be at least three hundred (300) feet from all property lines.

(Ord. No. 02-03, § 1, 2-12-02)

Secs. 21-73—21-75. - Reserved.

DIVISION 4. - RESIDENTIAL DISTRICTS

Sec. 21-76. - Home occupations.

(a) The standards below are intended to ensure compatibility of home occupations with other permitted uses and with the residential character of the neighborhood plus clearly establishing the secondary or incidental status of home occupations in relation to the primary use for dwelling purposes. To achieve this intent the following standards shall apply to owner occupied single family dwellings in any residential/agricultural zoning district:

(1) By way of example, the following uses, when conducted in compliance with the conditions set forth in this section, qualify as permitted home occupations:

- a. Art studio.
- b. Barbershop or beauty parlor, one chair only.
- c. Dressmaking or tailoring.
- d. Tutoring or teaching, including musical instruments or dancing but limited to one pupil at a time.
- e. Professional consultative office whose function is one of rendering a service and does not dispense goods or products, such as accountant, architect, engineer, sales representative, lawyer or clergyman.
- f. Secondary business office where said business has its principal office, staff, and main equipment located in a commercial zoning district, and when home occupation use by the owner consists mainly of computer, fax, and normal office machines and where no walk-in traffic is received.
- g. Child care home.
 1. No more than five (5) children and where no overnight stays are provided.
 2. No more than twelve (12) children with license from the department of children and family services.
This term includes a class I child care home and a class II child care home as such terms are defined by IC 12-7-2-33.7 and 33.8 respectively. (For reference see IC 12-7-2.)
- h. Craft creation assembly where items produced in their home are sold elsewhere.
 - i. The selling or otherwise disposing of agricultural products produced on the premises in A-1 zone only.

(2) The following uses, by the nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits specified above for home occupations and impairs the use, value and quiet enjoyment of adjacent residential properties. Therefore, the uses specified below shall not be permitted as home occupations:

- a. The operation of any wholesale or retail business unless conducted entirely by mail, and does not involve

the sale, receipt, or delivery of merchandise on the premises.

- b. Any manufacturing or processing of goods, materials or products.
- c. A repair shop or service establishment of any kind operating on or from the premises, such as repair or painting of vehicles, boats or trailers.
- d. Use of electrical or mechanical equipment which creates visible or audible interference with radio or television reception or which creates noise, vibrations, smoke, dust, odors, heat, or glare not normally associated with residential use.
- e. Dental or medical offices or clinics, veterinary clinic, kennel or stables.
- f. Any use not in compliance with the intent and conditions set forth in this section.

(3) Home occupations shall conform to the following standards and conditions:

- a. Permitted home occupations shall not include the employment of any persons in addition to the homeowner and members of the family that reside in the home.
- b. The home occupation shall be conducted wholly within the enclosed living area of the residence or attached garage but not in any other accessory or detached structure.
- c. The establishment and conduct of a home occupation shall not change the principal character of use of the home and no more than one room of the home or twenty (20) percent of the gross floor area of the residence may be used in the conduct of the home occupation.
- d. There shall be no exterior evidence of any home occupation other than one sign mounted flat against the dwelling, stating name and address only and said sign shall not be greater than four (4) square feet in size. No yard signs pertaining to the home occupation are allowed.
- e. No exterior storage of equipment, materials or supplies used in conjunction with home occupation is allowed.
- f. Home occupations shall not create vehicle or pedestrian traffic than normally associated with single family residence, and shall not involve use of heavy commercial vehicles for delivery of materials to or from the premises.
- g. There shall be no additional or separate entrance to the dwelling for the purpose of conducting the home occupation.
- h. There shall be no internal or external alterations, construction features, or use of electrical or mechanical equipment, which would change the fire rating of the structure.
- i. There shall be no equipment or process used in the home occupation which created noise, vibration, glare, smoke, fumes, odors, or electrical interference detectable to the normal senses at any point beyond the lot line.
- j. The dwelling shall not be altered in its appearance and the home occupation shall not be conducted in such a manner as to differentiate the dwelling from the residential character of the area by either use of colors, materials, construction, separate entrances, lighting, signs or other means.
- k. Child care homes shall be subject to an initial inspection prior to issuance of an initial home occupation permit and subject to a renewal inspection prior to renewal of the home occupation permit. Such entry and inspections shall be made by the fire inspector and building code inspector to ensure compliance with all town codes. The fire inspector and building code inspector may enter the premises at any reasonable hour for the purpose of conducting these inspections. The fire inspector and building code inspector may

also enter the premises at any reasonable hour for the purpose of conducting inspections prompted by health and safety complaints. Such entry and inspection may be made without a warrant if the situation presents an imminent danger to the health or safety of any occupant. If the situation does not present an imminent danger to the health or safety of an occupant and entry and inspection is denied, then entry and inspection shall occur by administrative warrant which shall be issued by the Merrillville Town Court. The chief of police shall enforce entry into buildings for the purpose of these inspections. Whenever any inspection demonstrates a condition which poses an immediate threat to the safety of any occupant, the fire inspector may issue a written order closing operations of the facility until such time as the unsafe condition is corrected. Notwithstanding the permit and inspection fees contained in section 21-48, the fee for these compliance inspections shall be twenty-five dollars (\$25.00) per inspection.

(4) Home occupation permit required. Violations and penalties.

- a. The building director or designated agent shall issue a permit for a registered home occupation upon explanation of the above requirements to the owner-resident of the home and homeowner's signature of understanding and agreement to abide by regulations set forth above.
- b. A fee in the amount required in section 21-48 shall be paid to the Town of Merrillville, for initial registration. Renewal thereafter shall be for a period of two (2) years, with a renewal fee equal to one-half the original fee and payable during the month of January in even numbered years, i.e., 00, 02, 04. Renewal of home occupation permits for child care homes and related inspections shall occur annually.
- c. In the event the building director determines that any home occupation previously granted is in violation of existing regulations, the building director or designated agent may issue home occupation ordinance violation citations to the homeowner, including violation citations for failure to obtain a home occupation permit. Such violations are punishable by fines of not less than two hundred fifty dollars (\$250.00) for the first violation, not less than five hundred dollars (\$500.00) for the second violation and not less than one thousand dollars (\$1,000.00) for all subsequent violations. The amount of the fine shall be determined by the Merrillville Town Court.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 06-18, § 4, 7-11-06; Ord. No. 17-09, 6-27-17)

Sec. 21-77. - General standards for residential zones.

- (a) The following general standards, conditions and provisions shall apply to all residential zones:
 - (1) The minimum ground floor area required in the R-1 and R-2 districts shall apply to all new structures built after July 28, 1981. Existing residential structures in R-1 and R-2 districts having less than the required ground floor area shall be considered to be legal existing structures.
 - (2) In all residential districts, any dwelling unit built after September 14, 1982 shall have a minimum width of twenty-three (23) feet, exclusive of porches, terraces, garages, pullout and expansion rooms, or room additions.
 - (3) In all R-1 and R-2 districts there shall be allowed only one garage, attached or detached, per lot and any garage built after September 1, 1986 shall have a maximum size of eight hundred sixty-four (864) square feet. If a parcel is five (5) acres or greater this requirement shall not apply. In an R-3 zone, a duplex unit may have a garage attached to each unit, not to exceed five hundred ninety-six (596) square feet for each garage or one detached structure to accommodate both units not to exceed eight hundred sixty-four (864) square feet. In an R-3 zone, a four-unit building may have one garage to accommodate four (4) enclosed parking spaces not to

exceed one thousand one hundred fifty-two (1,152) square feet. In R-4 and R-5 districts, under planned unit development approvals, additional garages and/or carports are permitted, and size of garages and/or carports may be increased as approved by the plan commission.

- (4) In all R-1 and R-2 districts there may only be one accessory structure for storage purposes per lot and any accessory structure built after September 1, 1986, shall have a maximum size of one hundred fifty (150) square feet. If lot size is in excess of one acre the size of the accessory structure may be increased to one hundred ninety-two (192) square feet. If a parcel is five (5) acres or greater the above requirement shall not apply. Easily moveable accessory structures under one hundred (100) square feet not placed on a permanent foundation do not apply to the above requirements.
- (5) In all residential districts where child care facilities are located, the operators shall comply with all state and federal regulations prior to occupancy.
- (6) Metal and post building construction shall not be permitted in residential districts as primary buildings or uses. Accessory buildings such as sheds and detached garages can be of both types of construction.
- (7) Mentally ill residential facilities (group homes) shall be located at least three thousand (3,000) feet apart in all residential districts, distances measured from lot line to lot lines from each separate facility.
- (8) Developmentally disabled residential facilities (group homes) shall be located at least three thousand (3,000) feet apart in all residential districts, distance measured from lot lines to lot lines from each separate facility.
- (9) Motor vehicles, motor homes and recreational trailers shall not be used as dwellings unless located in an approved mobile home park or campgrounds.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-78. - R-1 single-family residential district—Intent.

The R-1 single-family residential districts are intended to protect, promote and maintain areas that are developing or have been developed with single-family dwellings and limited public and institutional uses that are compatible with a low density residential neighborhood. The development standards and range of permitted uses are designed to provide for residential living at a density of approximately three (3) dwelling units per acre. (See Figure 13.)

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-79. - R-1—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the R-1 single-family residential district are listed in section 21-136.
- (b) The area, bulk and height regulations for the R-1 single-family residential district are listed in section 21-137.
- (c) Parking requirements. See Article V.
- (d) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-80. - R-2 single-family residential district—Intent.

The R-2 single-family residential districts are intended to protect, promote and maintain the development of single-family dwellings and limited public and institutional uses that are compatible with the surrounding residential neighborhood. The development standards and range of permitted uses are designed to provide for residential living at a density less than four (4) dwelling units per acre. (See Figure 13.)

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Sec. 21-81. - R-2—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the R-2 single-family residential district are listed in section 21-136.
- (b) The area, bulk and height regulations for the R-2 single-family residential district are listed in section 21-137.
- (c) The minimum floor area for R-2 single-family residential dwellings shall be one thousand two hundred (1,200) square feet.
- (d) Parking requirements. See Article V.
- (e) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Sec. 21-82. - R-3 two-family residential district—Intent.

The R-3 two-family residential district is established to promote and maintain the development of single-family and two-family dwellings and limited public and institutional uses that are compatible with the surrounding residential neighborhood. The development standards and range of permitted uses are designed to provide for residential living at a slightly higher density of development than that of the R-2 district with a density of approximately six (6) dwelling units per acre.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Sec. 21-83. - R-3—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the R-3 two-family residential district are listed in section 21-136.
- (b) The area, bulk and height restrictions for the R-3 two-family residential district are listed in section 21-137.
- (c) The minimum lot area and residence size as follows:
 - (1) For two-family semi detached dwellings, six thousand (6,000) square feet per each unit in the two-family dwelling. This would require an average lot size of twelve thousand (12,000) square feet per duplex.
 - (2) For other uses, as required for the R-2 district.
 - (3) The square foot living space per each individual living unit would be a minimum of one thousand two hundred (1,200) square feet.
 - (4) The side yards shall be a minimum of six (6) feet each.
- (d) Parking requirements. See Article V.
- (e) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Sec. 21-84. - R-4 three- to four-family residential district—Intent.

The R-4 three- to four-family residential districts are established to promote and maintain the development of single-family, two-family, three- to four-family dwellings and limited public and institutional uses that are compatible with the surrounding residential neighborhood. The development standards and range of permitted uses are designed to provide for residential living at a slightly higher density of development than of the R-3 district with a density of less than ten (10) dwelling units per acre.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Sec. 21-85. - R-4—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the R-4 three- to four-family residential districts are listed in section 21-136.
- (b) The area, bulk and height regulations for the R-4 three- to four-family residential districts are listed in section 21-137.
- (c) The minimum lot area and residence size are as follows:
 - (1) For three- and four-family detached dwellings, four thousand five hundred (4,500) square feet per dwelling unit. (Eighteen thousand (18,000) square foot minimum per four plex).
 - (2) The living space in any living unit shall not be less than one thousand one hundred (1,100) square feet.
 - (3) For other uses as provided for the R-3 district.
- (d) Parking requirements. See Article V.
- (e) Sign regulations. See Article VI.
- (f) Where a three- to four-family development abuts a single-family residential district, a planting buffer shall be provided which shall contain trees on eight-foot centers with an initial minimum height of eight (8) feet and a caliper of not less than two (2) inches.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Sec. 21-86. - R-5 multiple-family residential district—Intent.

The R-5 multiple-family residential districts are intended to protect, promote and maintain the development of a variety of housing types including single-family dwellings, two-family dwellings and multiple-family dwellings and limited public and institutional uses that are compatible with the surrounding residential neighborhood. The development standards and range of permitted uses are designed to provide for a mixture of housing opportunities with a density of approximately eleven (11) dwelling units per acre.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Sec. 21-87. - R-5—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the R-5 multiple-family residential district are listed in section 21-136.
- (b) The area, bulk, height and minimum living space regulations for the R-5 multiple-family residential district are

listed in section 21-137. The minimum living space for each unit shall not be less than nine hundred (900) square feet.

- (c) The minimum lot area per dwelling unit shall be three thousand nine hundred (3,900) square feet.
- (d) For minimum uses as provided for the R-4 district.
- (e) The floor area ratio for nonresidential permitted uses and special exception shall be provided for the R-4 district.
- (f) Parking requirements. See Article V.
- (g) Sign regulations. See Article VI.
- (h) Where a multiple-family development abuts a single-family residential district, a planting buffer shall be provided which shall contain trees on eight-foot centers with an initial minimum height of eight (8) feet and a caliper of not less than two (2) inches.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Secs. 21-88—21-95. - Reserved.

DIVISION 5. - COMMERCIAL DISTRICTS

Sec. 21-96. - Generally.

The following provisions shall apply to all commercial districts:

- (1) All business, service, storage, merchandise, display, and where permitted, repair and processing, shall be conducted wholly within an enclosed building, except as otherwise permitted herein for specified uses such as off-street automobile parking, off-street loading, and open-sales lots or outside storage in districts where they are permitted.
- (2) Goods sold shall consist primarily of new merchandise, and any goods produced on the premises shall be sold at retail on the premises unless otherwise permitted herein for specified uses.
- (3) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, noise, vibration, refuse matter, or water-carried waste.
- (4) In any commercial district where a commercial building is located on a lot which abuts property zoned for residential use, an opaque landscape screen or an opaque fence having a height of six (6) feet shall be provided along any side and/or rear lot line contiguous to the property zoned for residential use.
- (5) The requirements of this district shall apply to all new structures, built after July 28, 1981. Existing commercial structures not meeting the bulk requirements shall be considered legal structures.
- (6) Metal buildings and pole buildings shall not be permitted in commercial districts as primary uses and/or buildings. Accessory uses and buildings such as sheds and garages can be of both types of construction. This prohibition is only applicable to structures constructed of all three (3) elements as set forth in the Code definition of metal building and pole building.
- (7) Minimum size lots in all commercial districts shall be at least ten thousand (10,000) square feet with a minimum front yard width of one hundred (100) feet at the building line.
- (8) Child care/day care centers located in all commercial districts shall comply with all state and federal

regulations prior to occupancy.

(9) Dwelling units are not allowed below the second story except in a hotel/motel where permitted.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-97. - C-1 neighborhood commercial district—Intent.

The C-1 neighborhood commercial districts are established to promote development of areas for convenience uses which tend to meet the daily needs of the residents of the immediate residential districts. Uses within the C-1 districts are regulated in character to assure harmonious development with the residential districts served and are limited in size and scale to promote easy access. Each business establishment is restricted to no more than five thousand (5,000) square feet of floor area.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-98. - C-1—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the C-1 neighborhood commercial district are listed in section 21-136.
- (b) The area, bulk and height regulations for the C-1 neighborhood commercial district are listed in section 21-137.
- (c) Parking requirements. See Article V.
- (d) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-99. - C-2 community commercial district—Intent.

The C-2 community commercial districts are established to promote the development of areas for commercial uses which serve a market area larger than adjoining residential areas. Uses in the C-2 districts are regulated to assure convenient locations and access for the area being served.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-100. - C-2—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the C-2 community commercial district are listed in section 21-136.
- (b) The area, bulk and height regulations for the C-2 community commercial district are listed in section 21-137.
- (c) Parking requirements. See Article V.
- (d) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-101. - C-3 highway commercial district—Intent.

The C-3 highway commercial districts are established to provide locations for higher volume and higher intensity commercial uses than the C-1 and C-2 commercial districts. Activities in this district are often larger space users located along an arterial street and may include outdoor sales or operations.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-102. - C-3—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the C-3 highway commercial district are listed in section 21-136.
- (b) The area, bulk and height regulations for the C-3 highway commercial district are listed in section 21-137.
- (c) Parking requirements. See Article V.
- (d) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-103. - C-4E commercial entertainment district—Intent.

The C-4E commercial entertainment districts are established to provide locations for entertainment uses and activities that are of a larger scale or intensity than would be found in other commercial areas. Uses in the C-4E district are regulated in character to assure they will be harmonious with residential districts.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-104. - C-4E—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the C-4E commercial entertainment district are listed in section 21-136.
- (b) The area, bulk and height regulations for the C-4E commercial entertainment district are listed in section 21-137.
- (c) Parking requirements. See Article V.
- (d) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-105. - C-5 office research district—Intent.

The C-5 office research districts are established to promote the development of areas where office uses, compatible office-type businesses, and some public and semi-public uses are developed in close proximity with commercial areas while serving as a buffer or transitional area between commercial areas and existing or future residential areas. Uses within the C-5 districts are regulated in character to assure harmonious development with the residential districts which the C-5 districts buffers from more intense commercial development.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-106. - C-5—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the C-5 office research district are listed in section 21-136.
- (b) The area, bulk and height regulations for the C-5 office research district are listed in section 21-137.
- (c) Parking requirements. See Article V. The following additional parking requirements shall apply to the C5 office research district.

- (1) No facilities for parking of vehicles shall be situated in any area within thirty (30) feet of any public street unless the following conditions are met.
 - a. Berms or mounds of earth at least three (3) feet in height above adjacent street grade (measured at the curb line) and having a maximum slope of 3:1 (i.e., one foot vertically for each three (3) feet horizontally) shall be constructed and maintained so as to provide substantial screening of such parking facilities from adjacent public streets;
 - b. Suitable vegetation (consisting of both deciduous and coniferous materials) shall be planted and maintained so as to provide substantially year-round screening of such parking facilities from adjacent public streets;
 - c. Prior to the commencement of construction of such parking facilities, a landscaping plan depicting in detail all provisions for compliance with items of a. and b. above shall be submitted to the community development director for approval. (See Figure 7.)
- (2) All off-street loading, receiving and service areas as well as off-street parking spaces which are visible from residential districts shall be screened by earth berms, landscaping or architectural walls. All waste materials shall be contained within the principal or accessory building.

(d) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-107. - C/I-S commercial/industrial special district.

- (a) *Intent.* The C/I-S commercial/industrial special districts are established to promote the development of large scale, mixed-use commercial/industrial development with multiple development parcels in a campus-like setting within a single multi-use district. The primary objective of this district is to encourage development which achieves a high degree of: (i) excellence in overall site design; (ii) integration of individual parcel site design within the overall development; and, (iii) innovation, creativity and quality in building design. The district provides flexibility and procedural economy by permitting a broad range of commercial or industrial land uses in a single district, while maintaining adequate land use controls to protect adjoining properties.
- (b) *Minimum area, procedures and tentative land use plan.*
 - (1) Minimum land area: The minimum land area for the designation of an individual C/I-S district shall be one hundred (100) acres.
 - (2) Procedures: The approval process for development within the C/I-S district shall be as follows:
 - a. Rezone: Filing for and obtaining approval of a rezoning of real property to the C/I-S district.
 - b. Platting:
 1. Preliminary plat approval shall in conformance with Chapter 19, Subdivisions, of the Municipal Code of Merrillville, Indiana.
 2. Final plat approval shall be in conformance with the plat committee process of Chapter 19, Subdivisions, of the Municipal Code of Merrillville, Indiana.
 - c. Permits: Application for and issuance of improvement location permits in accordance with the section 21-45, improvement location permits.
 - d. Alternate plans: In order to encourage excellence in design and innovation and creativity, a developer may request approval of "alternate plans" as a request to waive certain development requirements of this C/I-S

district, as specified herein, in accordance with the requirements of section 21-107(h) and the provisions of IC 36-7-4-1400 et seq. regarding development plans.

- (3) Tentative land use plan: Each petition for rezoning shall be accompanied by a tentative land use plan which shall be approved as part of a rezoning ordinance. A tentative land use plan shall depict the general location all proposed land uses and their approximate size, area or intensity. A tentative land use plan shall consist of a map or other depiction of the real property to be included in the overall C/I-S district with sufficient detail to orient the proposed C/I-S district to surrounding development and land use patterns. A tentative land use plan may be supplemented by written text.
 - (4) Designation of permitted uses: Only those land uses or groups of land uses indicated on the tentative land use plan or in the supplemental written text and approved as part of a rezoning ordinance shall be authorized in a C/I-S district.
- (c) *Permitted uses.* Land uses which may be specified and permitted within a C/I-S district shall be specified in the ordinance which rezones real property to the C/I-S district. Land uses within a C/I-S district may include any commercial or industrial land use, individually or in combination, as provided below. By way of example only, and depending upon the location, the following land uses may be considered in a C/I-S district:
- (1) Any C-1 neighborhood commercial uses.
 - (2) Any C-2 community commercial uses.
 - (3) Any C-5 office research uses.
 - (4) Any M-1 limited industrial uses, except the following items:
 - a. Automobile and/or truck repair; auto and/or truck parts sales; auto and/or truck painting; auto and/or truck customizing; auto and/or truck used vehicle sales.
 - b. Pole buildings.
 - c. Transportation facilities such as truck transfer stations; truck stops; truck washes, and truck terminals (this provision does not limit distribution warehouses).
 - d. Manufacturing of food and beverages, leather goods; paper and paper products (this provision does not limit blending, assembly or packaging of items or materials).
 - e. Junk yards, wrecking yards, recycling centers and the like.
 - (5) Any other individual or combination of commercial or industrial land uses deemed appropriate by the plan commission and the town council for the property.
- (d) *Development requirements for overall development.* The development requirements contained in this subsection are intended to apply to the overall development within a C/I-S district and shall establish the basic parameters for the integration of the overall development into the neighboring community.
- (1) *Access.* Access to any particular C/I-S district shall be limited to shared street road cuts. Individual uses or buildings within a C/I-S district shall not utilize a private, individual street road cut. Access to individual parcels may be provided by the development of internal public streets, internal private streets or by limited private access easements serving multiple uses within the overall C/I-S district.
- Full-width street road cuts shall not exceed thirty-six (36) feet in width. Median divided street road cuts shall be of a width as approved by the Plat Committee. All street road cuts shall be a minimum of two-hundred fifty (250) feet apart. All street road cuts shall be a minimum of three hundred (300) feet from the intersection of

two (2) streets. The location and number of access points shall be subject to the approval of the plat committee.

- (2) *Utilities/drainage/infrastructure.* The size, type, location, construction and installation of all project utilities, including storm water drainage, sanitary sewers, water, electric lines, natural gas, telephone, etc., shall be approved through the subdivision review process.
- (3) *Overall perimeter yard and setback requirements.*
 - a. Front yard and setback measured from the front lot line abutting a perimeter street for the overall C/I-S district:
 1. Interstate highway, primary arterial—Limited access, primary arterial or secondary arterial—Sixty (60) feet.
 2. Collector or local—Forty (40) feet.
 - b. Side yard and setback measured from a side lot line—Thirty (30) feet.
 - c. Rear yard and setback measured from a rear lot line—Thirty (30) feet.
- (4) *Use of overall perimeter yards.* All overall perimeter yards shall be maintained as a landscaped yard area free from buildings or structures unless specifically authorized below:
 - a. Front yards—May included signs, entrance drives, drainage features and utilities.
 - b. Side and rear yards—May include drives connecting to adjoining parcels, drainage features and utilities.
 - c. Side and rear yards abutting a residential district—May include drainage features and utilities, with the remainder of such yard being maintained as a landscaped yard area free from buildings or structures and landscaped as required by paragraph (5)d., below.
- (5) *Overall perimeter landscaping requirements.*
 - a. Front yards—Street trees are required at one tree per forty (40) feet of street frontage along public streets. Each street tree shall be a minimum of two-inch caliper at time of planting. Corner lot tree planting shall comply with Figure 14 of this Code regarding vision clearance. See [section 21-132](#) for listing of approved trees for street planting.
 - b. Front yards adjoining a residential district—In addition to the street tree planting required in paragraph a., above, front yards adjoining a residential district shall include berms or mounds of earth at least three (3) feet in height above adjacent street grade (measured at the curb line) and having a maximum slope of 3:1 (i.e., one foot vertically for each three (3) feet horizontally) and clustering's of hedge plants or evergreen trees so as to provide partial screening of such front yard.
 - c. Side and rear yards — Trees are required at one tree per sixty (60) feet of a side or rear lot line. Each street tree shall be a minimum of two-inch caliper at time of planting. See [section 21-132](#) for listing of approved trees.
 - d. Side and rear yards abutting a residential district—Landscaping along all side and rear lot lines abutting a residential districts shall consist of:
 1. a continuous screen of evergreen plantings, minimum size of six (6) feet tall at the time of planting, spaced a maximum of twelve and one-half (12.5) feet on center; or,
 2. a minimum six-foot high wood fence, not to exceed eight (8) feet in height, landscaped with evergreen plantings, minimum size of four (4) feet tall at the time of planting, spaced a maximum of twenty-five

(25) feet on center,

located within a yard area measuring not less than ten (10) feet in depth between all buildings, parking and accessory uses and the side or rear lot lines.

- e. Water features—Water features may be incorporated into any front, side or rear yard landscape requirement.
- f. Alternate plans—An alternate plan for the overall perimeter landscaping requirements may be considered as a waiver.

(6) *Overall project signs.* Overall project signs shall provide identification to the entire C/I-S district as a unit and not to any individual use or occupant with the C/I-S district.

a. Project ground signs.

- 1. Entry walls—One ground sign may be incorporated into an entry wall treatment located on each side of any shared street road cut into the C/I-S district.
- 2. Height and area—Entry wall treatments which include a project ground sign shall not exceed eight (8) feet in height, and the portion of the wall devoted to sign surface area shall not exceed forty-eight (48) square feet in area.
- 3. Setback—All portions of such entry wall shall be setback a minimum of ten (10) feet from any public right-of-way.
- 4. Separation—No freestanding sign for any individual use or lot within the C/I-S district shall be located within fifty (50) feet of a project ground sign.

b. Project pylon signs.

- 1. Number—One pylon sign shall be permitted for each one thousand (1,000) foot increment, or portion thereof, of street frontage of a C/I-S district along an individual perimeter street.
- 2. Height and area—Each pylon sign may be up to twenty-five (25) feet in height and may contain up to three hundred (300) square feet in sign surface area.
- 3. Additional signs—Where sufficient street frontage exists to qualify for an additional pylon sign, such signs may be aggregated into one or more larger signs, provided no individual sign may exceed six hundred (600) square feet in sign surface area or fifty (50) feet in height. Any remaining sign surface area may be allocated to pylon signs in compliance with the base regulations of twenty-five (25) feet in height and three hundred (300) square feet in sign surface area.
- 4. Setback—All pylon signs shall be setback a minimum of ten (10) feet from any public right-of-way.
- 5. Separation—No freestanding sign for any individual use or lot within the C/I-S district shall be located within two hundred (200) feet of a project pylon sign.
- 6. Separation—No project pylon sign within the C/I-S district shall be located within one hundred (100) feet of a project ground sign.

(e) *Development requirements for office/research land uses.* The Development Requirements contained in this subsection are designed and intended to apply specifically to the development of individual office or research land use parcels within an overall C/I-S district development. If any portion of an individual parcel abuts the perimeter of the overall C/I-S district, that portion of the individual parcel shall also comply with the development requirements for overall development.

- (1) Lot area—Ten thousand (10,000) square feet.
- (2) Lot width—One hundred (100) feet.
- (3) Minimum yard and setback requirements.
 - a. Front yard and setback measured from the front lot line:
 1. Primary arterial or secondary arterial—Sixty (60) feet.
 2. Local or collector—Forty (40) feet.
 - b. Side yard and setback measured from a side lot line—Twenty-five (25) feet.
 - c. Rear yard and setback measured from a rear lot line—Twenty-five (25) feet.
- (4) Maximum floor area ratio—0.8.
- (5) Use of required yards—Shall subject to the provisions of [section 21-12](#) and the following additional regulations:
 - a. Front—May include driveways, signs and off-street parking areas provided such parking areas are located no closer than twenty (20) feet to a front lot line.
 - b. Side and rear yards—May include signs and interior access driveways.
- (6) Maximum building height—One hundred twenty (120) feet above grade.
- (7) Off-street parking—See [section 21-172](#), off-street parking.
- (8) Off-street loading—In addition to the provisions of [section 21-171](#), off-street loading, off-street loading areas shall be oriented to the side or rear facade of the building served.
- (9) Outdoor operations—All uses and operations (except for off-street parking and off-street loading and delivery, and walk-up customer service windows) shall be conducted within completely enclosed buildings.
- (10) Individual office/research parcel landscaping regulations.
 - a. Individual perimeter yard requirements.
 1. Front yards—Shall be provided with one tree per forty (40) feet of street frontage along all front lot lines. Each street tree shall be a minimum of two-inch caliper at time of planting. Corner lot tree planting shall comply with Figure 14 of this Code regarding vision clearance. See [section 21-132](#) for listing of approved trees for street planting.
 2. Side and rear yards—Shall be provided with one tree per sixty (60) feet along all side and rear lot lines. Each street tree shall be a minimum of two-inch caliper at time of planting. See [section 21-132](#) for listing of approved trees for street planting.
 - b. Foundation plantings.
 1. Foundation landscaping shall be applicable to all front, side and rear elevations of a new building or building addition.
 2. Foundation landscaping shall be provided at a rate of:
 - i. One shade tree for every forty (40) feet of width of the applicable elevation;
 - ii. One ornamental tree or one evergreen tree for every twenty-five (35) feet of width of the applicable elevation; or
 - iii. Ten (10) hedge plants or shrubs for every forty (40) feet of width of the applicable elevation.
 - iv. The above rates of foundation landscaping may be combined or pro-rated, as necessary, based upon the length of the applicable elevation.

3. Foundation landscaping areas shall maintain a minimum dimension of six (6) feet in the smallest dimension, with a minimum of thirty-six (36) square feet of foundation landscaping area provided for each tree and for every two (2) hedge plants or shrubs.
4. Location—Foundation landscaping areas shall be located along or adjacent to each applicable building elevation, provided, however, where a portion of the building elevation is devoted to pedestrian ingress/egress, vehicular ingress/egress, loading or drop-off zones, foundation landscaping areas may be aggregated into one or more locations along or abutting such building elevation.
5. Relationship to buildings—Foundation landscaping areas shall be located adjacent to the building.
- c. Parking lot screening. In addition to perimeter yard landscaping, foundation landscaping and interior parking area landscaping, if an off-street parking area is located between a front building line and a front lot line the edge of the parking area facing such front lot line shall be screened by:
 1. A compact row of shrubs/hedge plants planted three (3) feet on-center (3' o.c.) across the front of the parking area and a minimum of twenty-four (24) inches in height at the time of planting and located between such front lot line and the edge of the parking area; or
 2. Hedge plants or shrubs in combination with: an ornamental or decorative fence; a masonry wall; or, an earthen berm, provided that:
 - i. The ornamental or decorative fence or masonry wall is not less than twenty-four (24) inches in height nor more than thirty-six (36) inches in height, with an open space percentage equal to or less than seventy (70) percent; or,
 - ii. The earthen berm is not less than twenty-four (24) inches in height nor more than thirty-six (36) inches in height.
- d. Interior parking lot landscaping. Tree plantings are required in all front yard and/or side yard parking areas at a rate of one tree per fifteen (15) parking spaces. These trees can be incorporated in the interior of the parking facility or along the periphery of the parking lot.
- e. Water features. Water features may be incorporated into any front, side or rear yard landscape requirement.
- f. Alternate plans. An alternate plan for the individual office/research parcel landscaping regulations may be considered as a waiver.

(11) Individual office/research parcel lighting requirements. See section 21-20, lighting standards.

(12) Individual office/research parcel sign regulations.

- a. Freestanding ground signs.
 1. Number, height and area—Individual office/research parcels shall be eligible for one ground sign per street frontage, with each ground sign not to exceed six (6) feet in height or forty-eight (48) square feet in sign surface area.
 2. Separation—No individual ground sign shall be located within fifty (50) feet of a project ground sign or two hundred (200) feet of a project pylon sign.
- b. Facade signs. The total sign surface area of all building identification signs oriented to an individual facade shall not exceed five (5) percent of the total area of the facade upon which the sign is located.
- c. Traffic or direction signs—As regulated in section 21-192.

(f) *Development requirements for retail commercial land uses.* The development requirements contained in this

subsection are designed and intended to apply specifically to the development of individual retail commercial land use parcels within an overall C/I-S district development. If any portion of an individual parcel abuts the perimeter of the overall C/I-S district, that portion of the individual parcel shall also comply with the development requirements for overall development.

- (1) Lot area—Ten thousand (10,000) square feet.
- (2) Lot width—One hundred (100) [feet].
- (3) Minimum yard and setback requirements.
 - a. Front yard and setback measured from the front lot line:
 1. Primary arterial or secondary arterial—Sixty (60) feet;
 2. Local or collector—Forty (40) feet.
 - b. Side yard and setback measured from a side lot line—Ten (10) feet.
 - c. Rear yard and setback measured from a rear lot line—Ten (10) feet.
 - d. Alternate plans—An alternate plan which modifies the minimum yard and setback requirements as necessary to provide for the development of a "town center" or "main street" concept retail development may be considered as a waiver.
- (4) Maximum floor area ratio—1.3.
- (5) Use of required yards—Shall subject to the provisions of section 21-12 and the following additional regulations:
 - a. Front—May include driveways, signs and off-street parking areas provided such parking areas are located no closer than ten (10) feet to a front lot line.
 - b. Side and rear yards—May include signs, off-street parking, interior access drive, interior access driveways.
 - c. Alternate plans—An alternate plan which modifies the use of required yards as necessary to provide for the development of a "town center" or "main street" concept retail development may be considered as a waiver.
- (6) Maximum building height—Fifty (50) feet above grade.
- (7) Off-street parking—See section 21-172, off-street parking.
- (8) Off-street loading—In addition to the provisions of section 21-171, Off-street loading, off-street loading areas shall be oriented to the side or rear facade of the building served.
- (9) Outdoor operations—All uses and operations (except off-street parking, off-street loading and delivery, walk-up customer service windows and drive-through customer service windows) shall be conducted completely within enclosed buildings, except where expressly permitted below:
 - a. Outdoor seating for restaurants:
 1. Shall not be located between a building line and an abutting residential zoning line;
 2. Shall not be located in any required yard or any street right-of-way;
 3. Shall be located adjacent to the business' tenant bay or storefront;
 4. Shall be included in the calculation of required foundation landscaping area and any applicable building foundation landscaping area and associated foundation landscaping shall be extended or relocated around the perimeter of the outdoor seating area;
 5. Shall not exceed ten (10) percent of the gross floor area of the restaurant;

6. Shall not block an entrance or exit to or from the business or building; and
 7. Shall be located so as to not interfere or conflict with sidewalks, walkways, pedestrian ways, required parking areas, required loading areas, driveways, interior access drives, interior access driveways, perimeter landscape yards or foundation landscaping.
- b. Vending machines:
1. Shall abut the exterior wall of the building; and
 2. Shall not be located in any required yard.
- c. Outdoor display or sales of merchandise:
1. Shall be accessory to the primary use;
 2. Shall not exceed the lesser of: Ten (10) percent of the gross floor area; or twenty thousand (20,000) square feet, for each non-related and separately operated use;
 3. Shall not be located in a required yard;
 4. Shall be located so as to maintain a minimum usable width of four (4) feet for any sidewalks, walkways, pedestrian ways, entrances or exits to or from the business or building; and,
 5. Shall be located so as to not interfere or conflict with required parking areas, required loading areas, driveways, interior access drives, interior access driveways, perimeter landscape yards or foundation landscaping.
- d. Gasoline pumps provided that no outdoor operations other than the dispensing or installation of gasoline, oil, antifreeze and other similar products and the performance of minor services for customers as related to said dispensing or installation are conducted on the site.
- e. Walk-up or drive through customer service windows or automated teller machines (ATM's), provided that such facilities shall be located so as to not interfere or conflict with sidewalks, walkways, pedestrian ways, entrances or exits to or from the business or building, parking areas, loading areas, driveways, interior access drives, interior access driveways, perimeter landscape yards or foundation landscaping.
- (10) Individual retail commercial parcel landscaping regulations.
- a. Individual perimeter yard requirements.
- Front Yards—Shall be provided with one tree per forty (40) feet of street frontage along all front lot lines. Each street tree shall be a minimum of two-inch caliper at time of planting. Corner lot tree planting shall comply with Figure 14 of this Code regarding vision clearance. See [section 21-132](#) for listing of approved trees for street planting.
- b. Foundation plantings.
1. Foundation landscaping shall be applicable to all front elevations of a new building or building addition.
 2. Foundation landscaping shall be provided at a rate of:
 - i. One shade tree for every fifty (50) feet of width of the applicable elevation;
 - ii. One ornamental tree or one evergreen tree for every thirty-five (35) feet of width of the applicable elevation; or,
 - iii. Ten (10) hedge plants or shrubs for every fifty (50) feet of width of the applicable elevation.
 - iv. The above rates of foundation landscaping may be combined or pro-rated, as necessary, based

upon the length of the applicable elevation.

3. Foundation landscaping areas shall maintain a minimum dimension of six (6) feet in the smallest dimension, with a minimum of thirty-six (36) square feet of foundation landscaping area provided for each tree and for every two (2) hedge plants or shrubs.
 4. Location—Foundation landscaping areas shall be located along or adjacent to each applicable building elevation, provided, however, where a portion of the building elevation is devoted to pedestrian ingress/egress, vehicular ingress/egress, loading or drop-off zones, foundation landscaping areas may be aggregated into one or more locations along or abutting such building elevation.
 5. Relationship to buildings—Foundation landscaping areas shall be located: (i) adjacent to the building; or, (ii) so as to begin within fifteen (15) feet of the building (i.e., to allow for a walkway or similar improvements adjacent to the building).
- c. Parking lot screening. In addition to perimeter yard landscaping, foundation landscaping and interior parking area landscaping, if an off-street parking area is located between a front building line and a front lot line the edge of the parking area facing such front lot line shall be screened by:
1. A compact row of shrubs/hedge plants planted three (3) feet on-center (3' o.c.) across the front of the parking area and a minimum of twenty-four (24) inches in height at the time of planting and located between such front lot line and the edge of the parking area; or
 2. Hedge plants or shrubs in combination with: an ornamental or decorative fence; a masonry wall; or, an earthen berm, provided that:
 - i. The ornamental or decorative fence or masonry wall is not less than twenty-four (24) inches in height nor more than thirty-six (36) inches in height, with an open space percentage equal to or less than seventy (70) percent; or,
 - ii. The earthen berm is not less than twenty-four (24) inches in height nor more than thirty-six (36) inches in height.
- d. Interior parking lot landscaping. Tree plantings are required in all front yard and/or side yard parking areas at a rate of one tree per fifteen (15) parking spaces. These trees can be incorporated in the interior of the parking facility or along the periphery of the parking lot.
- e. Water features. Water features may be incorporated into any front, side or rear yard landscape requirement.
- f. Alternate plans. An alternate plan for the individual retail commercial parcel landscaping regulations may be considered as a waiver.
- (11) Individual retail commercial parcel lighting requirements. See section 21-20, lighting standards.
- (12) Individual retail commercial parcel sign regulations.
- a. Freestanding pylon signs. Individual commercial sites shall qualify for the following freestanding signs:
 1. Number—One pylon sign per street frontage.
 2. Height and area—Pylon signs shall not exceed two hundred (200) square feet in sign surface area or twenty (20) feet in height above grade.
 3. Setback—Minimum setback shall be ten (10) feet from any right-of-way.
 4. Separation—No pylon sign shall be located within fifty (50) feet of a project ground sign or two hundred (200) feet of a project pylon sign.

- b. Facade signs. The total sign surface area of all building identification signs oriented to an individual facade shall be:
 - 1. Front facade—Ten (10) percent of the total area of the front facade of the structure or tenant space;
 - 2. Side and rear facade—Five (5) percent of the total area of the side or rear facade of the structure or tenant space; and
 - 3. The linear measurement of a building identification sign shall not exceed eighty (80) percent of the linear width of the facade of the structure or tenant space on which the sign is located.
- c. Marquee or canopy signs—As regulated in section 21-192.
- d. Traffic or direction signs—As regulated in section 21-192.
- e. Automobile gasoline station with convenience store accessory signs—As regulated in section 21-192.

(g) *Development requirements for industrial land uses.* The development requirements contained in this subsection are designed and intended to apply specifically to the development of individual industrial land use parcels within an overall C/I-S district development. If any portion of an individual parcel abuts the perimeter of the overall C/I-S district, that portion of the individual parcel shall also comply with the development requirements for overall development.

- (1) Generally—In addition to the regulations contained in section 21-96, the provisions of section 21-115 shall also apply to any lot containing industrial land use.
- (2) Lot area—Two and five-tenths (2.5) acres.
- (3) Lot width—Three hundred (300) feet.
- (4) Minimum yard and setback requirements.
 - a. Front yard and setback measured from the front lot line:
 - 1. Primary arterial or secondary arterial—Sixty (60) feet;
 - 2. Local or collector—Forty (40) feet.
 - b. Side yard and setback measured from a side lot line—Twenty (20) feet.
 - c. Rear yard and setback measured from a rear lot line—Twenty (20) feet.
- (5) Maximum floor area ratio—1.0.
- (6) Use of required yards—Shall be subject to the provisions of section 21-12 and the following additional regulations:
 - a. Front—May include driveways, signs and off-street parking areas provided such parking areas are located no closer than twenty (20) feet to a front lot line.
 - b. Side and rear yards — May include signs, off-street parking, interior access drive, interior access driveways.
- (7) Maximum building height—Sixty-five (65) feet.
- (8) Off-street parking—See section 21-172, off-street parking.
- (9) Off-street loading—In addition to the provisions of section 21-171, Off-street loading, off-street loading areas shall be oriented to the side or rear facade of the building served, provided, however, this requirement may be waived as set forth below subject to the provision of enhanced landscaping to provide substantially year-round screening of such loading areas.
- (10) Outdoor operations.
 - a. Operations. All operations, servicing and processing (except outdoor storage, off-street parking and off-

street loading) shall be conducted within completely enclosed buildings.

- b. Storage. All storage of materials or products shall be either:
 - 1. Within completely enclosed buildings; or,
 - 2. Within a defined storage area in compliance with the following:
 - i. Location of outdoor storage:
 - (a) Along an interstate highway, primary arterial—Limited access, primary arterial or secondary arterial—Shall not be located within a minimum front yard; and
 - (b) Along a collector or local street—Shall not be located between the front lot line and the established front building line.
 - ii. Screening—Outdoor storage areas shall be screened from view from all adjacent public streets lines by:
 - (a) Buildings; or,
 - (b) Fencing, ornamental fence or wall, solid wall, architectural screen, masonry or similar type fence, supplemented with suitable vegetation (consisting of both deciduous and coniferous materials) planted and maintained so as to provide substantially year-round screening of such outdoor storage area from adjacent public streets.
- c. Height of fence—The height above grade of said fence shall be at least six (6) feet and shall not exceed twelve (12) feet.
- d. Height of outdoor storage—Outdoor storage of materials or products shall not exceed the height of the fence.
- e. Surface of outdoor storage area—All outdoor storage areas shall be surfaced with a durable, dust-free surface of concrete or asphalt surface.
- f. Amount of outdoor storage.
 - 1. The total area devoted to outdoor storage shall not exceed twenty (20) percent of the gross floor area of all buildings on the lot.
 - 2. Alternate plans: Outdoor storage in excess of twenty (20) percent of the gross floor area of all buildings on the lot may be considered as an alternate plan for the amount of outdoor storage as a waiver upon demonstration of the need for such outdoor storage for the particular use and that adequate screening of such outdoor storage area shall be provided.

(11) Individual industrial parcel landscaping regulations.

- a. Individual perimeter yard requirements.

Front yards—Shall be provided with one tree per forty (40) feet of street frontage along all front lot lines. Each street tree shall be a minimum of two-inch caliper at time of planting. Corner lot tree planting shall comply with Figure 14 of this Code regarding vision clearance. See [section 21-132](#) for listing of approved trees for street planting.
- b. Foundation plantings.
 - 1. Foundation landscaping shall be applicable to all front elevations of a new building or building addition.
 - 2. Foundation landscaping shall be provided at a rate of:

- i. One shade tree for every sixty (60) feet of width of the applicable elevation;
 - ii. One ornamental tree or one evergreen tree for every forty (40) feet of width of the applicable elevation; or
 - iii. Ten (10) hedge plants or shrubs for every sixty (60) feet of width of the applicable elevation.
 - iv. The above rates of foundation landscaping may be combined or pro-rated, as necessary, based upon the length of the applicable elevation.
 3. Foundation landscaping areas shall maintain a minimum dimension of six (6) feet in the smallest dimension, with a minimum of thirty-six (36) square feet of foundation landscaping area provided for each tree and for every two (2) hedge plants or shrubs.
 4. Location—Foundation landscaping areas shall be located along or adjacent to each applicable building elevation, provided, however, where a portion of the building elevation is devoted to pedestrian ingress/egress, vehicular ingress/egress, loading or drop-off zones, foundation landscaping areas may be aggregated into one or more locations along or abutting such building elevation.
 5. Relationship to buildings—Foundation landscaping areas shall be located adjacent to the building.
 - c. Parking lot screening. In addition to perimeter yard landscaping, foundation landscaping and interior parking area landscaping, if an off-street parking area is located between a front building line and a front lot line the edge of the parking area facing such front lot line shall be screened by:
 1. A compact row of shrubs/hedge plants planted three (3) feet on-center (3' o.c.) across the front of the parking area and a minimum of twenty-four (24) inches in height at the time of planting and located between such front lot line and the edge of the parking area; or
 2. Hedge plants or shrubs in combination with: an ornamental or decorative fence; a masonry wall; or an earthen berm, provided that:
 - i. The ornamental or decorative fence or masonry wall is not less than twenty-four (24) inches in height nor more than thirty-six (36) inches in height, with an open space percentage equal to or less than seventy (70) percent; or
 - ii. The earthen berm is not less than twenty-four (24) inches in height nor more than thirty-six (36) inches in height.
 - d. Interior parking lot landscaping. Tree plantings are required in all front yard and/or side yard parking areas not devoted to semi-truck parking at a rate of one tree per fifteen (15) parking spaces. These trees can be incorporated in the interior of the parking facility or along the periphery of the parking lot.
 - e. Water features. Water features may be incorporated into any front, side or rear yard landscape requirement.
 - f. Alternate plans. An alternate plan for the individual industrial parcel landscaping regulations may be considered as a waiver.
- (12) Individual industrial parcel lighting requirements. See section 21-20, lighting standards.
- (13) Individual industrial parcel sign regulations.
- a. Freestanding pylon signs. Individual commercial sits shall qualify for the following freestanding signs:
 1. Number—One pylon sign per street frontage.
 2. Height and area—Pylon signs shall not exceed two hundred (200) square feet in sign surface area or twenty (20) feet in height above grade.

3. Setback—Minimum setback shall be ten (10) feet from any right-of-way.
 4. Separation—No pylon sign shall be located within fifty (50) feet of a project ground sign or two-hundred (200) feet of a project pylon sign.
 - b. Facade signs. The total sign surface area of all building identification signs oriented to an individual facade shall not exceed three (3) percent of the total area of the facade upon which the sign is located.
 - c. Traffic or direction signs. As regulated in section 21-192.
- (h) *Alternate plan approvals*. In order to encourage innovative building and site designs capable of enhancing the quality of the built environment, any development within the C/I-S district may propose an alternate plan as a waiver of the development requirements specified in this section 21-017 as set forth below:
- (1) Designation of approval authority for alternate plans. Authority to approve a development plan and thereby approve an Alternate Plan as a waiver of development requirements within a C/I-S district is hereby delegated to the plat committee.
 - (2) Specification of development requirements which may be waived—The plat committee may grant a waiver of only those development requirements which specify that an alternate plan may be approved.
 - (3) Findings of fact regarding waiver requests—A waiver may only be approved upon finding that the proposed alternate plan:
 - a. Represents a innovative use of site design features or landscaping which will enhance the use or value of area properties;
 - b. Is consistent with and compatible with other development located within the C/I-S district; and
 - c. Is consistent with the intent and purpose of this chapter.
 - (4) Additional findings—In the event that the text of a particular subsection which authorizes approval of an alternate plan contains additional limitations or regulations regarding the granting of a waiver or an alternate plan approval, such additional findings as may be necessary shall also be required.
 - (5) Signing of findings—All findings for the approval of waiver or an alternate plan shall be reduced to writing and signed by the president of the plat committee and retained as a part of the permanent record of the determination.
 - (6) Procedures for the submission and review of alternate plans within the C/I-S district. The following procedures shall apply to the form of filing, required plans, fees, notice, hearing, amendment and other matters relevant to the review of an alternate plan.
 - a. Form of filing—All applications shall be on forms a provided or prescribed by the community development director.
 - b. Required plans—All applications for development plan approval shall include those plans as necessary to demonstrate the nature of final development in the event that an alternate plan is approved. Depending on the nature of the alternate plan approval being requested, the community development director may request the filing of any of the following types of plans:
 1. Overall plan.
 2. Site plan.
 3. Landscape plan.
 4. Lighting plan.
 5. Sign plan.

6. Building elevations.

- c. Fees—The fees for the review of an alternate plan shall be the same as the fees applicable to the final approval of a planned unit development.
 - d. Notice—Alternate plans shall be approved by the plat committee at a public meeting without notice to adjoining property owners.
 - e. Amendments to approved alternate plans—Minor amendments or additions to alternate plans which have already received approval and which do not involve: (a) the designation of additional land uses; (b) the reduction in overall perimeter yards; (d) the addition of driveways or access points; or, (e) reduction in the amount of parking for any use below minimum ordinance requirements, may be authorized by the community development director without a public hearing in its continuing administration of the alternate plan if, in the determination of the community development director, the requested minor amendments or additions do not adversely impact the purpose or intent of the overall development.
 - f. Appeal—Any decision of the community development director regarding a minor amendment of an alternate plan may be appealed by any interested party as follows:
 - 1. An appeal of the interpretation of a development standard incorporated by reference into the C/I-S district shall be to the board of zoning appeals;
 - 2. An appeal of the interpretation of a development requirement specified in this section shall be to the plan commission; and
 - 3. An appeal of a determination to approve or deny a minor amendment to an Alternate plan shall be to the plan commission.
 - 4. All appeals shall be filed within thirty (30) days of such determination.
- (i) *Definitions.* The following word, terms or phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) *Overall plan:* A site plan of a particular C/I-S district indicating the roadway network, proposed future development areas, all developments which have received approval within the particular C/I-S district, and any proposed development pending review within the particular C/I-S district.
 - (2) *Tentative land use plan:* An informal site plan of a proposed project intended to convey the scope, content and nature of a proposed development, but lacking sufficient detail to determine compliance with ordinance standards.
- (j) *Conflict.* In the case of conflict between a regulation contained in this section and another regulation contained in this section or a section which is referred to by this section, the regulation which imposes the higher or more restrictive standard shall control.

(Ord. No. 04-78, § 1, 1-11-05; Ord. No. 06-18, § 4, 7-11-06)

Secs. 21-108—21-114. - Reserved.

DIVISION 6. - INDUSTRIAL DISTRICT

Sec. 21-115. - Generally.

The following provisions shall apply to all industrial districts:

- (1) No lot, parcel, or tract of land shall be used, and no building or structure shall be erected, altered, or remodeled for any of the following uses: abattoirs; manufacture of acid; arsenals; crematories; manufacture or storage of fireworks or explosives; dumping or reduction of garbage, dead animals, offal, or refuse; processing or refining of petroleum; ore reduction; manufacture of nitrocellulose; manufacture of synthetic polymers; manufacture or treatment of gutta percha; salt works; manufacture of sauerkraut; manufacture of soap; smelters; stockyards or slaughter of animals or fowls; manufacture or treatment of tallow, grease or lard; tanning, curing, or storage of rawhides or skins; distillation of tar; or batch asphaltic concrete and Portland cement concrete mixing plants.
- (2) No activities involving the storage, utilization, or manufacture of materials or products which decompose by detonation shall be permitted, except such as are specifically licensed by the Town of Merrillville. Such materials shall include but shall not be confined to all primary explosives such as lead azide, lead styphnate, fulminates and tetrocene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof such as cellulose nitrate of a nitrogen content of twelve and one-half (12½) percent or greater, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine, unstable organic compounds such as acetylides, tetrazoles, perchloric acids; perchlorates, chlorates, hydrogen peroxide in concentrations greater than thirty-five (35) percent; and nuclear fuels, fissionable materials, and products and reactor elements such as Uranium 235 and Plutonium 239.
- (3) Within three hundred (300) feet of a residence district boundary line all activities and operations shall be within completely enclosed buildings or may be out-of-doors if completely screened by a solid wall or uniformly painted solid fence at least eight (8) feet in height, and open storage shall not be greater height than that of the enclosing fence, except that off-street parking for vehicles in operable condition and off-street loading and unloading spaces may be located in accordance with requirements set forth in Article V of this chapter.
- (4) No building, structure, or land within one hundred (100) feet of any lot line abutting a residential district shall be used in connection with the operations of any industrial use establishment. Off-street parking and off-street loading spaces may be located within this setback area in accordance with regulations hereinafter set forth in Article V of this chapter.
- (5) Any use establishment in an industrial district hereinafter shall be operated in such manner as to comply with applicable performance standards as hereinafter set forth governing noise, smoke, particulate matter, toxic or noxious matter, odors, fire and explosive hazards, or vibration, or glare or heat; and no use already established on the effective date of this chapter shall be so altered or modified as to conflict with such applicable performance standards. Certification from a testing laboratory, approved by the town council indicating compliance with the applicable performance standards shall accompany application for a building permit.
- (6) Noise in all industrial districts shall comply with the following performance standards:
 - a. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter, and shall include continuous noise and those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or

minus two (2) decibels. Noises incapable of being so measured shall be measured with the impact noise meter manufactured according to standards prescribed by the American Standards Association, and shall comply with the applicable performance standards for noise. In all instances in which an industrial district does not adjoin a residential or commercial district, the performance standards governing noise for the industrial district shall apply at the nearest residential or commercial district boundary line.

- b. At no point, either on the boundary of a residential or commercial district or at one hundred twenty-five (125) feet from the nearest property line of a plant or operation, whichever distance is greater, shall be sound pressure level of any individual operation or plant (other than background noises produced by sources not under control of this chapter, such as the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown in the following table:

Maximum Permitted Sound Level (Decibels)

Octave Band (Frequency cycles per second)	Along Residential District Boundaries	Along Commercial District Boundaries
0 to 75	72	75
75 to 150	67	70
150 to 300	59	63
300 to 600	52	57
600 to 1,200	46	52
1,200 to 2,400	40	45
2,400 to 4,800	34	40
Above 4,800	32	38

- (7) In industrial districts no industrial operation or activity shall cause at any time ground transmitted vibrations in excess of the limits set forth below. Vibration (the periodic displacement, measured in inches, of earth) shall be measured at any point along a residential district boundary line with a three-component measuring instrument approved by the town council, and shall be expressed as displacement in inches. The limits are as follows:

Frequency cycles per second	Maximum permitted displacement along residential district boundaries (in inches)
0 to 10	.0008
10 to 20	.0005
20 to 30	.0003
30 to 40	.0002
40 and over	.0001

- (8) The following provisions shall apply to smoke and particulate matter in the industrial districts:
 - a. The emission of smoke or particulate matter in such manner or quantity as to endanger or to be detrimental to the public health, safety, comfort, or welfare, is hereby declared to be a public nuisance, and shall henceforth be unlawful.
 - b. For the purpose of grading the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than No. 2 on the Ringelmann Chart is prohibited at all times except as otherwise provided

hereinafter.

- c. The emission from all sources within any lot area of particulate matter containing more than ten (10) percent by weight of particles having a particle diameter larger than forty-four (44) microns is prohibited.
 - d. Dust and other types of air pollution, borne by the wind from such sources as storage areas, yards, roads, and the like, within lot boundaries shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing, or other acceptable means. Emission of particulate matter from such sources in excess of the weight limitation hereinafter specified is prohibited.
 - e. The emission of more than eight (8) smoke units per hour per stack in the industrial districts is prohibited, including smoke of density in excess of Ringelmann No. 2. However, during one one-hour period in each twenty-four-hour day, each stack may emit up to sixteen (16) smoke units when blowing soot or cleaning fires. Only during fire-cleaning periods, however, shall smoke of Ringelmann No. 3 be permitted, and then for not more than three (3) minutes.
- (9) In the industrial districts, no use shall for any period of time discharge across the boundaries of the lot wherein it is located toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business.
- (10) In the industrial districts, the emission of odorous matter shall be controlled in such a manner as to be at or below the odor threshold value within any part of a residential district.
- (11) The following provisions shall apply to fire and explosive hazards in the industrial districts:
- a. The storage, utilization, or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted.
 - b. The storage, utilization, or manufacture of solid materials or products ranging from or active burning to intense burning is permitted, provided the following conditions are met:
 - 1. Said material or products shall be stored, utilized, or manufactured within completely enclosed buildings or structures having incombustible exterior walls and handled in accordance with the standards and regulations of the Town of Merrillville and the National Fire Protection Association.
 - 2. All such buildings shall be set back at least forty (40) feet from all lot lines or in lieu thereof, shall be protected throughout by an automatic fire extinguishing system installed in accordance with the standards and regulations of the Town of Merrillville and the National Fire Protection Association.
 - c. The storage, utilization, or manufacture of flammable liquids or materials which produce flammable or explosive vapors, shall be permitted in accordance with the following limitations, exclusive of storage in underground tanks and exclusive of storage of finished products in original sealed containers:
 - 1. Said materials or products shall be stored, utilized or manufactured within completely enclosed buildings or structures having incombustible exterior wall and handled in accordance with the standards and regulations of the Town of Merrillville and the National Fire Protection Association.
 - 2. All such buildings shall be set back at least forty (40) feet from all lot lines or in lieu thereof, shall be protected throughout by an automatic fire extinguishing system installed in accordance with the standards and regulations of the Town of Merrillville and the National Fire Protection Association.
 - 3. The capacity of flammable liquids in excess of the following quantities shall not be permitted:

Closed Cup Flash Point	Quantity (gallons)
Less than 24°F	1,000
24°F to less than 105°F	10,000

105°F to less than 187°F	50,000
Total of all flammable liquids permitted	50,000

(12) Any operation in the industrial districts producing intense glare or heat shall be performed within a completely enclosed building in such a manner as not to create a public nuisance or hazard along lot lines.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-116 - M-1 limited industrial district—Intent.

The M-1 limited industrial district is established to encourage development of limited manufacturing and processing facilities. These limited uses require access to arterial streets. Permitted uses in this district may have outdoor storage or service areas and may generate heavy traffic, but such operations shall be subject to all performance standards.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-117. - M-1—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the M-1 limited industrial district are listed in section 21-136.
- (b) The area, bulk and height regulations for the M-1 limited industrial district are listed in section 21-137.
- (c) Parking requirements. See Article V.
- (d) Sign regulations. See Article VI.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-118. - M-2 limited industrial corridor overlay district—Intent.

The M-2 limited industrial corridor overlay district is established to encourage limited, aesthetically pleasing, industrial development along the major corridor routes through industrial areas. The limited industrial uses, the landscaping requirements and the building controls will protect the visual appearance, impression, and feel of industrial developments along major transportation corridors in the Town of Merrillville.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-119. - M-2—Use and development regulations.

- (a) The permitted uses, special exception uses, accessory uses and the temporary uses allowed in the M-2 limited industrial corridor overlay district are listed in section 21-136.
- (b) The area, bulk and height regulations for the M-2 limited industrial corridor overlay district are listed in section 21-137.
- (c) Parking requirements. See Article V.
- (d) Sign regulations. See Article VI.
- (e) General standards and performance standards. See section 21-115.
- (f) Additional site planning and aesthetic standards:

- (1) *Landscaping*. All trees on the property that are over one foot in diameter shall be located on the site plan

submitted for planning review. Removal of any tree over two (2) feet in diameter without sufficient proof of a disease or other natural damage shall be prohibited. Tree diameter shall be measured two (2) feet above the average grade surrounding the tree.

Street trees are required at one tree per forty (40) feet of street frontage along public streets. Each street tree must be a minimum of a two-inch caliber. Corner lot tree planting shall comply with Figure 14 of this Code.

Tree plantings are required in the front yard and/or side yard parking areas at one tree per five (5) parking spaces. These trees can be incorporated in the interior of the parking facility or along the periphery of the parking lot.

Additional plantings of trees and/or shrubs shall be required at a minimum of five (5) percent of the total land area. These plantings can be incorporated into the other landscaping areas or along the building, but must be located in a required front or side yard.

- (2) *Fencing, buffer landscaping.* Fencing is required for all loading docks and open storage areas. A minimum six-foot high wood fence is required, however fencing can be as high as eight (8) feet. Also, a wood fence or landscaping is required along all side and rear lot lines adjacent to any residential zoning district. The landscaping shall consist of a continuous screen of plantings. There shall be a ten-foot green area between all buildings, parking, and accessory uses and the lot lines.

- (3) *Loading docks, and outside storage.* All loading dock facilities required by this chapter shall be located in rear yard areas only. On corner lots the rear yard is opposite the property line which is the shortest distance along a public street. All dock areas and parking areas are to be constructed to Code requirements of Article V.

All outside storage areas are to be enclosed by a wood fence. All stored materials shall not exceed the height of the wood fence installed. All open storage areas to be located in a rear yard only, and storage areas are to be paved with a dustless surfaces.

- (4) *Building requirements.* All principal buildings shall be of a masonry type of construction material on all walls. Brick, block, decorative block, poured concrete, foam core block, and flexicore are all permitted types of block materials.

Accessory storage buildings can be of metal and/or post-frame construction provided that they are not larger than the principal buildings and they do not exceed twenty (20) feet in height.

- (5) *Parking.* Parking spaces shall be provided in accordance with the provisions set forth in Article V of this chapter.

- (6) *Boundaries.* The boundary lines that separates the M-2 district and any other zoning district shall be maintained as a lot line separation. All landscaping, greenspace, and buffer regulations shall apply.

- (7) *Street road cuts.* Thirty-six (36) feet maximum. Combine use of street road cuts is encouraged, all cuts to be a minimum of two-hundred and fifty (250) feet apart. All cuts to be a minimum of three hundred (300) from the intersection of two (2) streets.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-120—21-124. - Reserved.

DIVISION 7. - PLANNED UNIT DEVELOPMENT DISTRICT

Sec. 21-125. - PUD permitted use and development standards.

Intent. The planned unit development district is designed to encourage flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structures; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage preservation and provision of open space; to provide for land use not otherwise specified elsewhere in this chapter; and encourage the use, reuse and improvement of existing sites and buildings when developed in a compatible way with surrounding uses and when the uniform regulations contained in other zoning districts do not provide adequate protections and safeguards for the site or surrounding area.

The PUD district is intended to accommodate developments with mixed or varied uses and sites with unusual topography or unique settings. The beneficial effect for the town (not the developer) shall be one which could not be achieved under any other single zoning district. A PUD district shall not be allowed where this zoning classification is sought primarily to avoid the standards and requirements of other zoning classification rather than to achieve the stated purposes above.

- (1) Primary uses in the PUD district shall be any use or range of uses specified in the ordinance establishing the PUD district and as shown on the approved final PUD plan. Primary uses, by way of example, may include any individual land use or combination of land uses deemed appropriate by the plan commission and town council for the property.
- (2) Accessory uses, home occupations or temporary uses, unless otherwise specified in the ordinance establishing a PUD district, shall be permitted in a manner customarily associated with the primary use specified in the ordinance establishing the PUD district.
- (3) Development standards applicable to a PUD development shall be those standards specified in the ordinance establishing the PUD district and as shown on the approved final PUD plan. Every petition for PUD district shall specify development standards applicable to each permitted use in the development and, at a minimum, shall adopt or include a variation of each development standard that is applicable to each such use in the district in which each such use is first permitted. In any case in which an applicable development standard has not been specified in the petition for PUD district, the development standard shall be that which is specified in the district in which the use is first permitted. If the petitioner does not want an otherwise applicable development standard for any permitted use in the development to be applicable, then the petition for PUD shall contain a statement to such effect.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-126. - PUD approval procedure.

- (a) The complete review and approval process for a PUD planned unit development consist of three (3) elements:
 - Conceptual PUD plan design review (optional);
 - Preliminary PUD plan review; and
 - Final PUD plan review.
- (b) The community development director shall combine a meeting of the plan commission, petitioner and town staff members to review conceptual PUD plan proposals. In the review process, it may include, but not be limited to

the following: terrain, natural features, drainage, pedestrian and vehicle circulation, utilities, lot and building layout, and the relationship of the proposed development to the surrounding properties.

- (c) After completion of the conceptual design review, an application for preliminary PUD plan approval may be filed with the plan commission.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-127. - Preliminary PUD plan.

A preliminary PUD plan filed with the plan commission shall satisfy the following requirements:

- (1) Applications for approval of a preliminary PUD plan shall be filed with the plan commission. Said applications shall be upon such forms and contain such information as shall be established from time to time by the plan commission and shall be accompanied by ten (10) copies of the preliminary PUD plan containing all information specified in this division.
- (2) The plan commission shall hold a public hearing on such applications at such time and place as shall be determined by said commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the plan commission shall, by rule, prescribe from time to time, provided, however, that all testimony may, at the request of the plan commission, be taken under oath which shall be administered by that member of the plan commission presiding at the hearing.
- (3) Approval of the preliminary PUD plan shall not constitute authority to proceed with construction of any improvements, but rather an approval of the general features of the plan as a basis for preparing the final PUD plan. The preliminary PUD plan shall:
 - a. Be drawn to scale.
 - b. Show accurate, dimensioned boundaries of property to be developed.
 - c. Indicate location, type and size of structures on adjacent properties within two hundred (200) feet of the proposed development.
 - d. Show the proposed size, location, use and arrangement of all buildings and structures.
 - e. Show the proposed number and arrangement of all off-street parking and loading spaces, trash enclosure location and width of driveways, entrances and exits, and their relationship to existing streets.
 - f. Show all areas to be maintained as permanent open space.
 - g. Show existing and proposed landscaping, including location and type of plant materials to remain on the site.
 - h. Contain a traffic analysis prepared by a registered professional engineer who is skilled in the science of traffic engineering, indicating the estimated traffic to be generated by the complete development of the project with said estimates shown for the average week, twenty-four-hour period, and for the peak morning and evening traffic hours. The impact of this new traffic on existing traffic in the vicinity of the project shall be appraised and a list submitted for new street construction and new traffic control measures required to accommodate the estimated traffic increases.
 - i. Provide a tabulation for each proposed use area of land coverage factor; floor area ratio; usable open space ratios; acres of land; and each percentage of total land area.
 - j. For all proposed residential use areas, provide a tabulation by use area and dwelling type, estimated population, number of dwelling units, and bedroom ratios.

- k. Show existing and proposed locations for parks, playgrounds, schools, community buildings and other open spaces. Where the plan provides for open space, such space shall not be used for the construction of any building or structure, nor shall such open space ever be computed as part of the required minimum lot size or any required yard of any other building or structure. Tennis courts, roof decks suitably improved, and swimming pools shall also be regarded as open space. Adequate safeguards, including covenants, shall be provided to prevent the subsequent development of such open space and to prevent the future construction of buildings and structures on such open spaces.
 - l. Provide for the dedication of any rights-of-way for the widening, extension, or connection of major streets, as shown on the comprehensive plan or as listed in Chapter 19 of this Code.
 - m. Show drainage retention facilities and drainage plan with sufficient control grades to indicate the intent of the developer.
 - n. Show location of all proposed underground utilities indicating gas, electric transmission and telephone lines, and for water distribution lines, sanitary sewers and storm sewers, indicating invert elevations, pipe size and direction of flow.
 - o. Indicate the stages, if any, which will be followed in carrying out construction of the proposed development, and interim use and maintenance of areas not under construction at any given time.
 - p. Include a written statement signed by the owner of the property describing the arrangements by which the owner proposes to regulate use of the property and otherwise insure development in accordance with the preliminary plan. This shall include a draft of proposed covenants which include adequate provisions to assure proper maintenance and repair and provisions for maintaining adequate personnel to assure security of all areas and facilities under common ownership, including the payment therefore, and the enforceability thereof, by or on behalf of the town. It also shall include the proposed charter and by-laws of an association, if any, for owners or tenants within the development.
 - q. Indicate the preliminary time schedule for development and construction of the project.
 - r. Contain the written consent of all property owners within the development filed with the petition before the public hearing on the preliminary PUD plan. The statement will provide that the petitioners agree to be bound by the conditions and regulations proposed and further agree to record and to register such agreements with the Lake County Recorder of Deeds.
- (4) Any petition where action has been deferred or no action taken for more than one year from the original filing date, the petitioner shall have to reapply as a new petition.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-128. - Final PUD plan and zoning map change approval.

- (a) An application for approval of a final PUD plan and zoning map change shall be filed with the plan commission. Said application shall be upon such form, and contain such information as shall be established from time to time by the plan commission, and shall be accompanied by ten (10) copies of the written text, final PUD plan, zoning map change and zoning plat containing all information specified in this chapter.
- (b) The plan commission shall hold a public hearing on such application at such time and place as shall be determined by said commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the plan commission shall, by rule, prescribe

from time to time, provided, however, that all testimony may, at the request of the plan commission, be taken under oath which shall be administered by that member of the plan commission presiding at the hearing.

- (c) The plan commission shall review the text, plan, and plat for its conformance with the preliminary PUD plan as approved, and shall, within ninety (90) days of receipt of the application, make its findings and recommendations to the town council.
- (d) The town council, after receipt of the aforesaid findings and recommendations, shall within ninety (90) days, approve or disapprove the final PUD plan and zoning map change.
- (e) Final approval, valid for one year, shall be secured for each phase, stage or section of the development as delineated on the preliminary PUD plan approved by the plan commission.
- (f) The ordinance approving a final PUD plan and zoning map change shall include the following supporting information:
 - (1) A final PUD plan indicating:
 - a. Location of all buildings and structures, and any other special facility or feature to be constructed;
 - b. Location of all parking and loading spaces, driveways, entrances and exits;
 - c. Location of all existing plant materials to be retained and new plant materials, including type and size for new materials;
 - d. Location of all common open spaces;
 - e. Location of all existing and proposed drainage facilities.
 - (2) Engineering plans and specifications for all sanitary sewer, storm sewer and water distribution lines, as well as telephone, gas and electric utility lines.
 - (3) Final version of the covenants by which the owner proposes to regulate land and building use, assure adequate maintenance and security and otherwise protect the proposed development, accompanied by the written representation and warranty of the owner of the real property which is the subject of the proposed development, will not sell or otherwise dispose of any interest in said property prior to the filing of record of said covenants in the office of the recorder of deeds in Lake County, Indiana.
 - (4) Each easement agreements, if any, as are required or approved by the town council conveying a suitable ownership interest in any parcels within the proposed development which are to be subject to public ownership.
 - (5) Final construction schedule, stating the date scheduled for final completion of construction work on all buildings, structures, facilities and features within the proposed development. Construction shall begin within one year after the date of approval of the final PUD plan and zoning map change, and all construction shall be completed within three (3) years after the date of approval of the final PUD plan and zoning map change. With the final PUD plan and zoning map change, the applicant shall file a surety bond or escrow agreement to insure the construction of the site improvements of the project within the period specified. No such bond or escrow shall be acceptable unless it is enforceable by or payable to the town in a sum at least equal to the estimated costs of all of the site improvements applicable (streets, drives, walks, wall, water mains, storm and sanitary sewers, landscape planting, ornamental features not on a building, and terraces) for the entire project, and an amount equal to the completion or removal of any uncompleted buildings. Said bond or

escrow shall be in a form and with surety and plans and the approval of the final PUD plan and zoning map change. No building permit or certificate of occupancy shall be issued for any building or use that is not in accordance with an approved final site plan.

- (g) The final ordinance, as approved by the town council, shall incorporate the final site plan and the final land use and zoning plat and shall be filed with the Lake County Recorders' Office. No permit, allowing construction of a building or any other improvements shall be issued until the final land use and zoning plat is recorded. All recording cost shall be paid by the applicant. Any changes to the approved final site plan and plat shall be accompanied by the submission of preliminary plans and final ordinance amendment of such change, which shall be approved under the procedures as set forth herein for the approval of the original preliminary plans and the approval of the original final ordinance. No building permit or certificate of occupancy shall be issued for any building or use that is not in accordance with an approved final site plan.
- (h) Approval of the final PUD plan and zoning map change shall be subject to revocation by the town council, if construction of all improvements is not completed within three (3) years of the date of approval of the final PUD plan and zoning map change. Extensions of the time schedule may be granted by the town council.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-129. - PUD general requirements and standards.

- (a) A planned unit development shall conform to the following requirements:
 - (1) The number of dwelling units erected in a PUD shall not exceed the number permitted by the regulations of the primary district for the area in which the development is located unless density increase is permitted as stipulated under design incentives in section 21-130 of this Code.
 - (2) No building is permitted to exceed the height limit of the primary district for the area in which the development is located by more than ten (10) percent.
 - (3) If more intensive uses (i.e., uses other than which the general area is zoned, such as C1 commercial district uses in an R2 single-family residential zoned area) are granted as part of a PUD there must be clear evidence that such intensive uses will be beneficial to the area and the project and further provided the plan commission shall find:
 - a. That the more intensive uses permitted are necessary or desirable and are appropriate with respect to the primary purpose of the development;
 - b. That the more intensive uses permitted are not of such a nature or so located as to exercise a detrimental influence on the development nor on the surrounding neighborhood;
 - c. That not more than five (5) percent of the gross land area of such development shall be devoted to the more intensive uses;
 - d. That in an industrial PUD development such intensive uses allowed shall conform with the performance standards of the primary district for the area in which the development is located;
 - e. That the more intensive uses allowed are recorded on the zoning district maps by appropriate symbols or by reference to documents on file with the community development director;
 - f. Where the planned unit development is to be located in a residential area the more intensive uses shall not be allowed unless the size of the planned unit development exceeds twenty-five (25) acres;
 - g. That in a combined use planned unit development the commercial buildings may not occupy more than

twenty (20) percent of the land area devoted to commercial use.

- (4) The amount of off-street parking must be adequate to serve the needs of the projects and the town council may require more off-street parking than is otherwise required by this chapter.
- (5) If any open space or recreational facility is to be used solely by the residents of the project, unless the development is under single ownership, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly improved, maintained and operated.
- (6) Underground utilities, including communications and electric systems, are required within the limits of a planned unit development. Appurtenances to these systems, which can be effectively screened, may be excepted from this requirement if the town council finds that such exemption will not violate the intent or character of the planned unit development.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-130. - PUD regulations—Residential.

- (a) In the case of residential uses permitted on the approved preliminary PUD plan, the following standards and provisions shall be required.
 - (1) A minimum parcel area of twenty-five (25) acres is required in the R1 and R2 density planned unit developments (PUD). A minimum parcel area of ten (10) acres is required in the R3 density planned unit developments (PUD). A minimum parcel area of five (5) acres is required in the R4 and R5 density planned unit developments (PUD). Adjoining dedicated street rights-of-way may not be included for computing total area for qualification.
 - (2) The number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per dwelling required by the district or districts in which the proposed PUD is located, except that additional dwelling units may be permitted according to the provisions of paragraph (9) below. Net development area shall be determined by subtracting the area set aside for nonresidential uses from the gross development area and deducting twenty (20) percent of the remainder of the site for streets, regardless of the amount of land actually required for streets. The area of land set aside for common open space, or public or recreational use, shall be included in determining the number of dwelling units permitted.
 - (3) The maximum lot coverage of residential buildings shall not exceed thirty (30) percent.
 - (4) For residential uses there shall be a maximum floor area ratio of 0.4. The total floor area for residential purposes may be increased by two (2) square feet of additional floor area for every one square foot of open space in excess of twenty-five (25) percent of the total lot area.
 - (5) Yards and open spaces adjoining the boundaries of the development shall not be less than the yard requirements of the adjoining residential districts. A landscaped and land-sculptured buffer strip at least ten (10) feet wide shall be provided along all peripheral lot lines. Spacing between principal buildings in the development shall be at least twelve (12) feet and shall be consistent with recognized site planning principles, due consideration being given to the openness normally afforded by intervening streets and alleys. The net building site area for single-family detached dwellings shall not be less than six thousand six hundred (6,600) square feet, except when the housing adjoins permanent open space not less than five thousand (5,000) square feet will be permitted.
 - (6) There shall be at least ten (10) percent of the land area in the development provided for park and recreational purposes which shall not be covered by buildings, parking lots, driveways or streets. No more than fifty (50)

percent of the useable open space shall be covered by water.

- (7) Sanitary sewer, water, fire hydrants, storm water drainage systems, including all appurtenances thereto, curbs, paving, street lights, pedestrian ways, street signs, and landscaping shall be provided in accordance with Chapter 19 of this Code and the Engineering Standard Booklet.
- (8) The designation of private streets in planned developments shall be subject to the approval of the plan commission and the town council. The design of private streets, including street lights, street signs, and landscaping shall be provided in accordance with the standards and specifications of the Town of Merrillville.
- (9) The number of permitted dwelling units may be increased up to twenty (20) percent of the allowed density providing that the percentage points accumulated for each design item be applied cumulatively and not exceed forty (40) points. The allowed density may be increased by one percent for each two (2) percentage points; however, at least twenty (20) percentage points must be accumulated in order to qualify for any increase in density.

a. *Open space:*

Percentage Points	
12	Usable open space provided equals twenty-five (25) percent of site area which is not covered by buildings, parking and streets (private or public).
3—15	Dedication or donation of sites for public purposes such as schools, parks and public buildings (but not including streets) with the number of percentage points accumulated to be determined as based on the amount of land donated in proportion to the total size of the development as follows:

Percentage Points	Net Percent of Development Area Donated
3	5
6	10
9	15
12	20
15	25 or more

In the event that thirty (30) acres or more are dedicated for public use, the full fifteen (15) percentage points may be allowed.

b. *Site planning design:*

Percentage Points	
2	Excellence in use of existing topography and/or land recontouring.
4	Excellence in siting buildings and building groups which may include variations in building setbacks.
2	Provision in design for courtyards, gardens and patios.
1	Proper consideration of sun and wind orientation.
1	Right-of-way provisions for riding, hiking and cycling.

c. *Landscape planting and screening:*

Percentage Points	
1	Provision of a masonry wall or solid fence five (5) feet high on all peripheral lot lines with a less

	restricted use.
3	Excellence in quality and amount of standard trees and shrub planting, including peripheral and interior screen planting and fencing.

d. *Facilities and amenities:*

Percentage Points	
5	Recreational facilities, which may or may not include a golf course, occupying one square foot for every five (5) square feet of residential floor area.
5	Swimming pool (five (5) for each pool not to exceed ten (10)).
1	Tennis courts (one for each court not to exceed five (5)) and playground recreation equipment.
5	Community center building and/or club.
3	Lakes and water features.
1	Provisions for pedestrian facilities such as plazas, trails, bicycle racks, interior sidewalks, benches, etc.
4	Use of sculpture, fountains, reflecting pools and similar features in design.

e. *Traffic and parking:*

Percentage Points	
5	Provision of fifty (50) percent of all required parking in an enclosed structure or structures.
10	Provision of twenty-five (25) percent of required parking in an underground structure.
2	Parking lot design which includes standard tree and shrub planting.

(10) Off-street parking spaces shall be provided in accordance with Article V of this chapter.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-131. - PUD regulations—Commercial and industrial.

(a) For commercial and industrial uses permitted on the approved preliminary PUD plan, the following standards and provisions shall be required:

(1) The minimum parcel area for commercial or industrial planned unit developments shall be as follows based on the zoning district in which a majority of the PUD uses are allowed.

C-1	2 acres
C-2	2 acres
C-3	2 acres
C-5	5 acres
M-1	4 acres

Adjoining dedicated right-of-way may not be included for computing total area for qualification.

- (2) The land coverage of all principal and accessory buildings and structures shall not exceed the following requirements of the lot area for the zone districts:

C-1	45%
C-2	50%
C-3	50%
C-5	50%
M-1	70%

Except that the percentage of land coverage may be increased two (2) percent for each ten (10) percent of required off-street parking, which is, located either below grade or in a parking structure, up to a maximum lot coverage as follows:

C-1	N/A
C-2	60%
C-3	65%
C-5	65%
M-1	N/A

- (3) All exterior lighting shall be shaded wherever necessary to avoid illumination of any adjacent property or streets or public rights-of-way.
- (4) Site development for commercial or industrial uses in a PUD shall be in accordance with the following:
- An opaque screen shall be installed and maintained along all lot lines, other than streets, abutting areas zoned for residential use. Except as otherwise provided, it shall have a total height of no less than six (6) feet nor more than eight (8) feet. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. A screen shall consist of one or more of the following types:

1. A wall shall consist of decorative brick, stone, tile or similar type of masonry material a minimum of eight provided in section 21-12).
2. A berm or mound may be banked on both sides, or with one side banked toward the lot line with a retaining wall. A berm shall be not less than twenty (20) feet wide at the base and shall have an undulating contour and shall be sloped for ease of maintenance. It shall be constructed of earthen materials and shall be landscaped. (See Figure 16.)
3. Plant materials, when used as a screen, shall consist of a mixture of compact evergreen plants, and taller deciduous plants. They shall be of a kind, and used in such a manner, so as to provide screening having a minimum width of three (3) feet within eighteen (18) months after initial installation. Plant materials shall not be limited to a maximum height.

The community development director may require that either items 1. or 2. above shall be installed, if after eighteen (18) months after installation, plant materials have not formed an opaque screen, or if an opaque screen is not maintained.

- b. Landscaping, consisting of standard evergreen and deciduous trees and shrubs in combination with vines and ground cover, shall be installed and maintained according to the following standards:
 1. Boundary landscaping is required for a minimum depth of twenty-five (25) feet from the right-of-way line along all abutting streets or rights-of-way except for the openings and the area within ten (10) feet on either side of the street openings. Within the boundary landscaping area there shall be one standard tree and two (2) standard shrubs for each ten (10) feet of street frontage and to the extent practicable, these shall include any existing standard trees or shrubs within the boundary landscaping area.
 2. An additional landscaped area, equal to at least five (5) percent of the total area of the parcel, is required. Within this area, one standard tree and one standard shrub is required for each five hundred (500) square feet of area to be landscaped.
 3. Within the off-street parking area, planting bays containing one standard tree for each ten (10) parking spaces are required.
 4. Landscaping, consisting of standard evergreen and deciduous trees measuring two and one-half (2½) inches caliper measured one foot above the root ball, and shrubs in combination with vines and ground cover, shall be installed and maintained.
 5. Landscaping along all streets and boundaries shall be limited to a height of not more than two (2) feet within thirty (30) feet of the point of intersection of two (2) or more vehicular traffic ways, driveways or streets. (See Figure 14.)
 6. Underground sprinkling facilities shall be provided for all landscaped areas.
 7. Required landscaping shall be maintained in a neat, clean and healthy condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plants.
 8. Drainage areas can be considered as green space requirements, either wet or dry.
 - c. Existing topographic patterns shall be preserved, except where modifications will specifically contribute to increased utility of the site, and/or enhancement of the site.
- (5) Vehicular access shall be provided in conformance with standards and specifications of the Indiana State

Highway Commission.

- (6) Off-street parking and loading facilities shall be provided in accordance with Article V of this chapter.
- (7) Sanitary sewer, water, fire hydrants, storm water drainage systems, including all appurtenances thereto, curbs, paving, street lights, pedestrian ways, street signs and landscaping shall be provided in accordance with the standards and specifications of the Town of Merrillville.
- (8) The designation of private streets in planned unit developments shall be subject to the approval of the plan commission and the town council. The design of private streets, including street lights, street signs and landscaping shall be subject to the approval of the town engineer.
- (9) All signs shall conform with the regulations in Article VI of this chapter.
- (10) Yards and open spaces adjoining the boundaries of the development shall not be less than the yard requirements of the adjoining zoning districts.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-132. - Approved trees for street planting.

Red Maple	Acer Rubrum
Sugar Maple	Acer Saccharum
Hackberry	Cletis Occidentalis
Marshall's Seedless Ash	Fraxinus Pennsylvanica 'Marshalli'
Ginkgo	Ginkgo Biloba
Moraine Honeylocust	Gleditsia Triocanthos 'Moraine'
Shademaster Honeylocust	Gleditsia Triacanthos 'Skyline'
Skyline Honeylocust	Gleditsia Triacanthos 'Skyline'
Sweetgum	Liquid Ambor Styraciflua
Red Oak	Quercus Borealis
White Oak	Quercus Alba
Pin Oak	Quercus Palustris
Littleleaf Linden	Tilia Cordata
Sycamore	Platanus Occidentalis

a single-family detached dwelling)															
Accessory building* (see sections 21-10 and 21-12)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Accessory structure* (see section 21-12)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Accessory use* (see section 21-10)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Adult entertainment businesses* (see section 21-17)	X	X	X	X	X	X	X	X	X	S	X	S	X	X	X
Adult business establishments*(see section 21-17)	X	X	X	X	X	X	X	X	X	S	X	S	X	X	X
Agriculture use* (provided all buildings used for housing farm animals must be at least three hundred (300) feet from all property lines)	P	X	X	X	X	X	X	X	X	X	X	X	X	P	P
Airport*	S	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Amusement establishment as follows:															
Indoor: Bowling alleys, pool halls, game arcades, gymnasiums, swimming pools, skating rinks, theaters or uses similar to those listed above as determined by the community development director.	X	X	X	X	X	X	X	S	S	X	X	X	X	X	P
Outdoor: Swimming pools, skateboard and dirtbike tracks, paint ball fields, skeet shooting ranges, drive-in theaters or uses similar to those listed above as determined by the community development	X	X	X	X	X	X	X	X	S	X	X	X	X	X	P

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Dwelling, modular home*	P	P	P	P	P	P	X	X	X	X	X	X	X	X	P
Dwelling, multiple family* (five (5) dwellings or more)	X	X	X	X	P	P	X	X	X	X	X	X	X	X	P
Dwelling, two-family*	X	X	X	P	P	P	X	X	X	X	X	X	X	X	P
Dwelling, single-family*	P	P	P	P	P	P	X	X	X	X	X	X	X	X	P
Efficiency dwelling unit*	X	X	X	P	P	P	X	X	X	X	X	X	X	X	P
Entertainment/performance excluding adult entertainment	X	X	X	X	X	X	X	S	S	P	X	X	X	X	X
Entertainment/performances* (see adult entertainment section 21-17)	X	X	X	X	X	X	X	X	S	P	X	X	X	X	X
Essential services*	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Essential services* accessory buildings	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P
Farms and farm buildings* (provided all buildings used for housing farm animals must be at least three hundred (300) feet from all property lines).	P	X	X	X	X	X	X	X	X	X	X	X	X	X	P
Food sales and service as follows: Bakery, candy store dairy, delicatessen, grocery, convenience store, meat market, carry out food only, or uses similar to those listed above as determined by the community development director.	X	X	X	X	X	X	P	P	P	X	X	X	X	X	P
Food sales and service as follows: Restaurant, drive-in restaurant or drive thru restaurant, or uses similar	X	X	X	X	X	X	S	S	S	S	X	X	X	X	P

to those listed above as determined by the community development director.															
Funeral parlor/crematory	X	X	X	X	X	X	X	S	S	X	X	S	X	X	P
Gaming facility/off track betting	X	X	X	X	X	X	X	S	S	S	X	X	X	X	X
Garage sale* (see section 21-16)	A	A	A	A	A	A	X	X	X	X	X	X	X	A	A
Garage, private* (see section 21-77)	A	A	A	A	A	A	S	P	P	X	X	X	X	A	A
Group home* (up to ten (10) individuals)	S	S	S	X	X	X	X	X	X	X	X	X	X	X	P
Golf course	P	S	S	S	S	S	X	X	X	X	X	X	X	S	P
Home day care center* (five (5) or less children)	A	A	A	A	A	A	X	X	X	X	X	X	X	X	A
Home occupation* (see section 21-76)	A	A	A	A	A	A	X	X	X	X	X	X	X	X	A
Hospital, sanitarium, sanatorium or preventorium*	S	S	S	S	S	S	X	S	S	X	P	X	X	X	P
Hotel*	X	X	X	X	X	X	X	P	P	X	X	X	X	X	P
Junk yard*/recycling center	X	X	X	X	X	X	X	X	X	X	X	S	X	X	X
Kennel*	S	X	X	X	X	X	X	X	S	X	X	S	X	X	X
Land excavation	S	X	X	X	X	X	X	X	X	X	X	S	X	X	X
Laundromat/dry cleaning with attendant on duty at all times during business hours	X	X	X	X	X	X	P	P	P	X	X	X	X	X	P
Liquor store*	X	X	X	X	X	X	S	P	P	P	X	X	X	X	P
Manufacture, assembly or repair of:	X	X	X	X	X	X	X	X	X	X	X	P	P	X	P

Appliances, bottling of beverages or food, cloth products, electrical equipment and components, jewelry, leather, mattresses, medicine, musical instruments, office equipment and machinery, optical goods, paper and paper products, pharmaceutical products, phonograph records and compact discs, tools and implements, toys or uses similar to those listed above as determined by the community development director.															
Mobile food vendors	X	X	X	X	X	X	A	A	A	A	X	X	X	X	A-C
Mobile home parks* see Chapter 11 Mobile Homes and Mobile Home Parks	X	X	X	X	X	S	X	X	X	X	X	X	X	X	P
Motel*	X	X	X	X	X	X	X	P	P	X	X	X	X	X	P
Motor freight terminal*	X	X	X	X	X	X	X	X	X	X	X	S	S	X	X
Nursery*	P	S	S	X	X	X	X	P	P	X	X	P	X	X	P
Nursing home or assisted living facility*	X	X	X	S	S	S	S	S	S	X	X	X	X	X	P
Offices (business or professional) as follows: Architect, artist, attorney, bank machines, bank/savings & loan, credit union, clinic*, dentist, design services, engineer, insurance agent, medical and dental laboratories, massage therapy, musician, optometrists, other professionals, physician, pharmacist, photographic studio, real estate, service	X	X	X	X	X	S	P	P	P	X	P	P	X	X	X

[illegible]

[illegible]

Schools, commercial or trade	S	X	X	X	S	S	X	S	S	X	X	S	S	X	P
Schools, public or private with or without boarding	P	S	S	S	S	S	X	S	S	X	X	S	S	X	P
Stables for quartering or renting of horses, provided all buildings used for housing animals must be at least three hundred (300) feet from all property lines.	S	X	X	X	X	X	X	X	X	X	X	X	X	S	S
Telecommunications tower fifty (50) to one hundred ninety-nine (199) feet high (see section 21-18)	S	X	X	X	X	X	X	X	S	S	X	P	S	X	X
Tavern*	X	X	X	X	X	X	S	P	P	P	X	X	X	X	P
With live entertainment or food service	X	X	X	X	X	X	S	S	S	S	X	X	X	X	P
Temporary uses, structures and buildings* (see section 21-16)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Transportation facility, public including terminals, parking areas and service buildings	X	X	X	X	X	X	X	X	S	X	X	P	X	X	X
Used car lot not with new dealership	X	X	X	X	X	X	X	S	S	X	X	X	X	X	X
Warehouse*	X	X	X	X	X	X	X	X	X	X	X	P	P	X	P
NOTE: PUD permitted uses must be approved as part of a final PUD plan.															

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06; Ord. No. 07-58, 1-8-08; Ord. No. 12-38, § 2, 8-14-12)

Sec. 21-137. - Area, bulk, height and placement regulations for all districts.

Except as otherwise provided herein, regulations governing area, bulk, height and placement are as shown in the schedule of permitted uses contained in this section.

SCHEDULE OF AREA, BULK, HEIGHT AND PLACEMENT REGULATIONS

Regulations	A-1	R-1	R-2	R-3	R-4	R-5	C-1	C-2	C-3	C-4E	C-5	M-1	M-2	F	PUD
Minimum Lot Area (sq. ft.)	10 Ac.	15,000	10,000	See Sec. 21-83	See Sec. 21-84	See Sec. 21-85	10,000	10,000	10,000	10,000	10,000	1 Ac.	2.5 Ac.	15,000	See Secs. 21-130 & 21-131
Minimum Lot Area Per Dwelling	10 Ac.						—	—	—	—	—	—	—	10,000	
Single-Family	—	15,000	10,000	10,000	10,000	10,000									
2-Family	—	—	—	6,000	6,000	6,000									
3- and 4-Family	—	—	—	4,500	4,500	4,500									
Multiple-Family	—	—	—	—	4,300	3,900									
Other Permitted Use	2 Ac.	15,000	10,000	10,000	10,000	10,000									
Minimum Lot Width (ft.)	300	100	80	80	100	100	100	100	100	100	100	100	300	100	
Maximum Floor Area Ratio	N/A	0.6	0.6	0.6	0.6	0.6	0.8	1.3	2.0	1.3	0.8	1.0	0.5	0.6	
Maximum Height (ft.)	35	35	35	35	40	40	30	50	70	30	120	30	65	35	
Required Yard Setback Minimum in Feet—See Thoroughfare Plan Section 19-224															
Front (3)*	40	30	30	30	30	30	30	60	60	60	40	40	60	30	
Sides (each)	25	10	6	6	15	15	10	10	10	25	25	20	30	10	
Rear	40	40	30	30	40	40	20	20	20	40	40	20	30	40	
Minimum Floor Area for Dwellings (sq. ft.)															
Single-Family	1,500	1,500	1,200	1,200	1,000	1,000	—	—	—	—	—	—	—	1,500	1,000
2-Family	—	—	—	850	850	850	—	—	—	—	—	—	—	—	850
3-Family	—	—	—	750	750	750	—	—	—	—	—	—	—	—	750
4-Family	—	—	—	750	750	750	—	—	—	—	—	—	—	—	750
Minimum Floor Area for Dwellings (sq. ft.) — Multiple-Family															
One Bedroom	—	—	—	—	750	750	—	—	—	—	—	—	—	—	750
Two Bedroom	—	—	—	—	800	800	—	—	—	—	—	—	—	—	800
Efficiency/Studio	—	—	—	—	650	650	—	—	—	—	—	—	—	—	650
Notes							(1)*								(2)*

NOTES:

(1)* Each business establishment is restricted to no more than five thousand (5,000) square feet of floor area.

(2)* See sections 21-126 through 21-131 for planned unit development regulations.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Secs. 21-138—21-160. - Reserved.

ARTICLE IV. - RESERVED

Secs. 21-161—21-170. - Reserved.

ARTICLE V. - OFF-STREET LOADING/PARKING

Sec. 21-171. - Off-street loading.

(a) In connection with any building or structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading berths not less than the minimum requirements specified below:

- (1) All required loading berths shall be located on the same lot as the use to be served and no portion of the vehicles shall project into a street or alley. In the M1 district, no loading berth for vehicles of more than two-ton capacity shall be located less than fifty (50) feet from any residential district. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two (2) streets, nor shall it be located in a required front yard or side yard.
- (2) A required off-street loading berth shall be at least ten (10) feet in width by at least fifty (50) feet in length, exclusive of aisle and maneuvering space, and shall have vertical clearance of at least fourteen (14) feet.
- (3) Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements, and shall be subject to approval of the community development director of the Town of Merrillville.
- (4) All open off-street loading berths shall be improved with a compacted hot asphalt concrete base designed in accordance with the bearing capacity of the native soil, surfaced with not less than two (2) inches of asphalt concrete or some comparable all-weather, dustless material design to be approved by the town engineer.
- (5) No storage of any kind nor motor vehicle repair work or service of any kind shall be permitted within any required loading berth.
- (6) Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (7) For the uses here listed, loading berths shall be provided as specified:
 - a. *Auditorium; banks, business and professional offices of public administration buildings; bowling alleys; hospitals, schools, colleges, sanitariums, and other similar institutional uses; and hotels or private clubs and lodges.* For such a building containing ten thousand (10,000) to one hundred thousand (100,000)

square feet of floor area or fraction thereof in such a building, one loading berth. For each additional one hundred thousand (100,000) square feet of floor area or fraction thereof in such a building, one additional loading berth.

- b. *Manufacturing, fabricating, assembly, disassembly, warehousing, storing, cleaning, servicing, testing, and repairing establishments.* For such a building containing five thousand (5,000) to forty thousand (40,000) square feet of floor area, one loading berth. For such a building containing forty thousand (40,000) to one hundred thousand (100,000) square feet of floor area, two (2) loading berths plus one additional loading berth for each additional one hundred thousand (100,000) square feet of floor area or fraction thereof.
- c. *Retail stores, furniture and appliance stores, food sales and service, automobile service, household equipment and furniture stores, repair shops, wholesale stores, and establishments handling the sale and consumption of food on the premises.* Loading berths in accordance with the following schedule:

Square Feet of Floor Area	Minimum Number
5,000 to 10,000	1
10,000 to 25,000	2
25,000 to 40,000	3
40,000 to 100,000	4

For each additional one hundred thousand (100,000) square feet of floor area or fraction thereof in such a building, one additional loading berth.

- d. *Amusement establishments.* For such a building containing eight thousand (8,000) to twenty-five thousand (25,000) square feet of floor area, one loading berth. For each additional fifty thousand (50,000) square feet of floor area or fraction thereof, one additional loading berth.
- e. *Other uses.* Off-street loading berths shall be provided in accordance with requirements determined by the community development director based upon requirements heretofore set forth for the most similar cases.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-172. - Off-street parking.

(a) *Definitions.*

Commercial vehicle is defined as any self-propelled or towed vehicle or other vessel used for the storage and/or transportation of goods or paying passengers, and shall include but not be limited to a semi tractor, semi-trailer, cargo trailer, utility trailer, hitch trailer.

Dumpster is defined as a large trash receptacle or other container designed to be hoisted and emptied into a truck or other vehicle.

Flexible parking structure or facility is defined as any garage or other enclosed facility comprised of fabric or textile material and designed for the storage of motorized vehicles, off-road vehicles and/or machinery as defined in [section 12-91](#).

Storage container is defined as a reusable container which is designed to house and maintain residential or commercial materials or products.

- (b) Off-street parking space or parking structure or facility in connection with existing buildings or structures on the

effective date of this chapter shall not be removed, enlarged, or altered except in conformance with the requirements of this chapter. In connection with any building or structure which is to be erected or substantially altered, and which requires off-street parking spaces, there shall be provided such off-street parking space in accordance with the regulations set forth hereinafter.

- (1) Except as may otherwise be provided for the parking of trucks or for special exception uses, required accessory off-street parking facilities, required as accessory to uses listed herein, shall be solely for the parking of passenger vehicles of patrons, occupants or employees.
- (2) Parking spaces shall be located on the same lot as the use served except uses other than single or two-family dwellings which are in existence on the effective date of this chapter, and which are subsequently altered or enlarged; and new uses in the C2 and C3 commercial districts and M1 light industrial district may be served in accordance with requirements of this chapter by parking facilities located on land other than the lot on which the building or use served is located; provided such facilities are located within three hundred (300) feet walking distance from the main entrance to the use served.
- (3) Determination of the number of off-street parking spaces required by this chapter results in a requirement of a fractional space, any fraction of one-half ($1/2$) or less may be disregarded; while a fraction in excess of one-half ($1/2$) shall be counted as one parking space.
- (4) Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements of each such use; and if all regulations governing the location of accessory parking spaces in relation to the use served are observed. But no parking space, or portion thereof, shall serve as the required space for more than one use unless otherwise authorized in accordance with this chapter.
- (5) No motor-vehicle repair work of any kind shall be permitted in parking lots.
- (6) A required off-street parking space shall be at least nine (9) feet in width and at least nineteen (19) feet in length, exclusive of access drives, aisles, ramps, columns, and office or work area. Such space shall have vertical clearance of at least seven (7) feet.
- (7) Each required off-street parking space shall open directly upon a parking lot aisle or a driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. Each aisle or driveway shall have a minimum width as shown in section 21-243 (Figure 18).

All off-street parking facilities shall be provided with appropriate means of vehicular access to a street, alley, or driveway in a manner which will least interfere with traffic movements. All parking area regardless of spaces shall have vehicular access to it over a street, alley, or driveway containing all-weather, hard-surfaced pavement and the location and route of access to such a parking area shall be identified. No driveway approach area within the public street right-of-way shall have a width exceeding twenty-four (24) feet exclusive of curb returns except that at the discretion of the community development director, the width may be increased to thirty-six (36) feet to accommodate truck traffic. An improvement location permit shall be obtained prior to construction, reconstruction or removal of a driveway approach within the public street right-of-way.

- (8) Off-street parking spaces may be located in any yard provided they conform to subsection (b)(14) and (15) of section 21-12 of this Code, meet all screening and buffer yard requirements, and comply with the following provisions:
 - a. Areas and access drives must be paved, except for agricultural uses and single-family uses on five (5) or

more acres which must only pave driveways between a location twenty-five (25) feet from the street right-of-way and the public pavement within the public street right-of-way;

- b. Cement wheel stops or concrete curbing must be provided along the perimeter of the parking area;
- c. All maintenance and snow removal must be the responsibility of the owner;
- d. Access to parking spaces must be obtained through ramps or aisles and not over the curbing or provided parkway (see [section 21-21](#));
- e. The owner is responsible for the replacement of parking area paving, necessitated by the town's repair of underground facilities.

(9) All open automobile parking areas containing more than four (4) parking spaces, except for those on single-family residential lots, shall be effectively screened on each side adjoining or fronting on any residential or any institutional property by a wall or fence not less than six (6) feet high, or more than eight (8) feet high, or a densely planted compact hedge not less than five (5) feet in height; and cement wheel stops shall be placed not nearer than ten (10) feet from the front line or from side lot lines. Also, where parking areas adjoin a public street, a planted buffer, at least ten (10) feet wide, shall be provided between the parking areas and the adjoining street right-of-way line. (See Figure 7.) Other planted buffers shall be provided in conformance with the yard requirements of the applicable zoning district.

(10) All open automobile parking areas containing more than four (4) parking spaces shall be effectively screened on each side adjoining or fronting on any residential or any institutional property by a wall or fence not less than six (6) feet high, or a densely-planted, compact hedge not less than five (5) feet in height; and cement wheel stops shall be placed not nearer than ten (10) feet from the front line or from side lot lines. (See Figures 15, 16 and 17.)

(11) A system of light fixtures shall be installed to provide an adequate standard of illumination over the entire parking lot during business hours and minimum-security illumination during nonbusiness hours. All lighting shall meet requirements of the town engineer and [section 21-20](#).

- a. Detailed drawings are to be submitted with respect to lighting of all parking areas containing eight (8) or more spaces. Said drawings shall be submitted at the time application is made for a building permit in R3, R4 and R5 zoning districts. If a parking area containing less than eight (8) spaces, when added to a contiguous area of parking which would result in a total parking area of more than eight (8) spaces, said drawings shall be required.
- b. Said drawings shall show location of light supports (which may be affixed directly to the building), direction of light beams, heights, and number of lights.
- c. Parking lots in R3, R4 and R5 districts shall be illuminated from sunset to sunrise and shall be triggered with photoelectric cells or other automatic means as approved by the community development director.

(12) Barrier free parking shall be provided and marked in accordance with the requirements of the Americans with Disabilities Act and may be increased by the plan commission for uses where the expected number of physically disabled would be more than required (e.g. hospitals, halls, churches, etc.).

(13) No flexible parking structure or facility shall be constructed or otherwise situated within a residential zone.

In residential zoning districts, the parking of commercial vehicles (over six thousand (6,000) pounds) or commercial equipment on public streets is prohibited. Commercial vehicles or commercial equipment (such as bobcats, backhoes, etc.) may be parked in a private driveway only for the time necessary to complete work or construction at the residence, but shall not exceed seventy-two (72) hours.

Storage containers shall not be situated or maintained on any public street or place or business without the permit required by this section, but may be stored or located in a private driveway upon a hard-surfaced pavement per section 21-172(a)(7) of this chapter, for a period necessary to accommodate work or construction at an adjacent residence, but shall not exceed thirty (30) days, which period of time may be extended in accordance with a permit granted pursuant to the provisions of this section.

Dumpsters shall not be stored or placed on any public street, but may be stored or located in a private driveway upon a hard-surfaced pavement per section 21-172(a)(7) of this chapter, for a period necessary to accommodate work or construction at an adjacent residence, but shall not exceed fourteen (14) days, which period of time may be extended in accordance with a permit granted pursuant to the provisions of this section.

No semi-trailer, cargo trailer, storage box, dumpster or any other container in excess of eighteen (18) square feet shall be utilized for storage in any residential zone.

Commercial vehicles are prohibited from parking upon any public street or private driveway in a residential zone. The parking of vehicles or vehicles with equipment on a public street for the performance of a service on the adjacent property is allowed, but for only a reasonable time to complete the service. Trailers, boats, campers, recreational vehicles, or similar vehicles must be stored in a structure or location other than the front yard or driveway between the dates of October 31 and the following March 31. Trailers, boats, campers, recreational vehicles, or similar vehicles shall not be parked or stored on any public street, and must be parked, stored or located upon a hard-surfaced pavement per section 21-172(a)(7) of this chapter.

(13) Off-street parking spaces accessory to designated uses shall be provided as follows:

- a. *Single-family dwellings*. At least two (2) parking spaces for each dwelling.
- b. *Two-family dwellings*. At least two (2) parking spaces for each dwelling unit.
- c. *Multiple family dwellings*. At least two (2) parking spaces for each dwelling unit.
- d. *Motels, hotels and apartment hotels*. At least one space per employee, but no less than five (5) spaces of employee parking, plus one for each separate lodging room.
- e. *Boarding and lodging houses (bed and breakfast)*. One parking space for each person for whom living accommodations are provided plus two (2) additional parking spaces for owner/operator.
- f. *Private clubs and lodges*. One parking space for each two (2) seats supplied throughout facility plus two (2) additional parking spaces per employee or officer.
- g. *Schools, adult, business or trade*. At least one space per instructor and employee, plus one for each student.
- h. *Schools, elementary or junior high, public or private*. Three (3) parking spaces per classroom.
- i. *Schools, high, public or private*. At least one parking space of design capacity for each four (4) students, plus one for every employee in facility.
- j. *Churches*. At least one parking space for each two and one-half (2½) seats of seating capacity in main auditorium or congregational room.
- k. *School and institutional auditoriums*. At least one parking space for each two (2) persons employed on the premises, and an additional parking space for each five (5) seats, or for each one hundred (100) inches of seating space in the main auditorium or assembly hall.

- l. *Theaters*. At least one parking space for each two (2) seats in the theater.
- m. *Hospitals*. At least one parking space for each two (2) hospital beds, plus one parking space for each three (3) employees, other than doctors, plus one parking space for each two (2) doctors assigned to the staff.
- n. *Libraries and museums*. At least one parking space for each one thousand (1,000) square feet of the floor area.
- o. *Recreational buildings or community centers*. At least one parking space shall be provided for each three (3) employees, plus one space for each three hundred (300) square feet of floor area in building.
- p. *Medical and dental offices and clinics*. At least three (3) parking spaces for each examining or treatment room, plus one for each doctor and employee in the building.
- q. *Public utility and public service uses*. At least one parking space for each three (3) employees, plus spaces in adequate number as determined by the community development director to serve the visiting public.
- r. *Establishments handling the sale and consumption on the premises of food and refreshment*. At least one parking space for every seventy-five (75) square feet of floor area or one parking space for every two (2) seats of seating capacity, whichever standard results in the higher requirement. In addition, there shall be provided one parking space for every employee during the major shift operation.
- s. *Bowling alleys*. At least six (6) parking spaces for each alley which includes affiliated uses, such as restaurants, bars, etc.
- t. *Banks, savings and loans, and financial institutions*. At least one parking space for each three hundred (300) square feet of floor area.
- u. *Business and professional offices or public administration buildings exclusive of medical or dental offices*. At least one parking space per each two hundred (200) square feet of floor area for business offices; and at least one parking space per each four hundred (400) square feet of floor area for professional offices or public administration buildings.
- v. *Automobile service business*. At least one parking space for each employee, plus two (2) for each service stall.
- w. *Furniture and appliance stores, motor vehicle sales, wholesale stores, store for repair of household equipment or furniture*. At least one parking space for each six hundred (600) square feet of floor area.
- x. *Undertaking establishments and funeral parlors*. At least one parking space per fifty (50) square feet of floor area, plus one parking space for each funeral vehicle maintained on the premises.
- y. *Retail stores*. At least one parking space for each two hundred (200) square feet of floor area.
- z. *Manufacturing, fabricating, and processing plants not engaged in retail trade*. At least one parking space for each two (2) employees.
- aa. *Warehouse and storage establishments and freight terminals*. At least one parking space for each two (2) employees or two thousand (2,000) square feet of floor area, whichever is the greater number of spaces.
- bb. *Other uses*. Parking spaces on the same basis as required herein for the most similar use determined by the community development director.
- cc. *Outdoor amusement establishments such as golf driving range, miniature golf courses, par 3 golf courses, kiddie parks and other similar amusement centers*. At least one parking space per: Golf hole, putting hole, driving range station, batting cage and one per five hundred (500) square feet of open public space, i.e., porches, decks, verandas, midways, common areas. Additionally, if amusement rides and booths are

provided, there shall be three (3) spaces per ride; two (2) spaces per game booth if applicable, and one space per five hundred (500) square feet of open public space, i.e., midways, etc., plus one space per each employee per shift.

dd. *Intermediate day care center.* At least one space per adult supervising children at facility, and one space per five (5) children.

ee. *Large day care center.* At least one space per adult supervising children at facility, and one space per each staff nurse, doctor or other technician and one space per five (5) children.

Employee parking calculations shall be determined by the maximum number of employees working during the major shift operation.

Drive-up establishments, i.e. restaurant drive thru, bank, cars wash, requires stacking for five (5) vehicles.

(c) *Permit process.* An applicant for the permit required by this section shall execute an application form at the office of the clerk-treasurer at least thirty (30) days prior to placement of any donation box, storage container or dumpster within the town. Such application form shall contain the information found to be necessary by the clerk-treasurer in order to issue a permit, including liability insurance.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-17, § 1, 7-11-06; Ord. No. 06-18, § 4, 7-11-06; Ord. No. 10-53, § 1, 11-9-10; Ord. No. 24-10, § 1, 4-23-24)

Sec. 21-173. - Address guidelines and standards.

(a) *Purpose and intent.* By adopting this section, the town council has adopted standards that will enhance addressing procedures within the town. The objective of these addressing procedures is to ensure that all citizens receive vital services at their homes and businesses, particularly emergency response as administered through the Emergency 911 Communications System. Merrillville utilizes a grid system established prior to the incorporation of the town and which is designed to assist the police, fire, and ambulance services in locating property quickly in cases of emergency. Postal, utility and other services benefit from an accurate addressing assignment system.

(b) *Administration and enforcement.* The community development director or his/her designated assistant shall be responsible for assigning and/or reassigning addresses and street names within the town.

(c) *Address assignment standards.*

(1) The primary categories of information in an assigned address are street name, number designation and direction prefix.

a. *Street name and number designation.* Street names shall follow the established pattern of names from the center street of Broadway which runs north and south. The street names on the east side of Broadway are to be named for the states and counties in Indiana. The streets on the west side of Broadway are to be named for Presidents, Vice Presidents, and Supreme Court Judges of the United States.

Number streets shall follow the established grid system of consecutive numbering from north to south; starting at 53rd Avenue on the north border of the town and numbered consecutively south to 93rd Avenue on the west side of Broadway and from 53rd Avenue on the east side of Broadway to 101st.

Established Grid North-South Streets East of Broadway

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000	Broadway
100	Massachusetts
200	Connecticut
300	Pennsylvania
400	Delaware
500	Maryland
600	Virginia
700	Carolina
800	Georgia
900	Rhode Island
1000	Vermont
1100	Kentucky
1200	Tennessee
1300	Ohio
1400	Louisiana
1500	Indiana
1600	Mississippi

Southeast Section of Town

1700	Illinois
1800	Alabama

1900	Maine
2000	Missouri
2100	Michigan
2200	Florida
2300	Texas
2400	Iowa
2500	Wisconsin
2600	California
2700	Minnesota
2800	Oregon
2900	Kansas
3000	Nevada
3100	Nebraska
3200	Colorado
3300	Dakota
3400	Montana
3500	Idaho
3600	Wyoming
3700	Utah
3800	Oklahoma
3900	Aetna
4000	Arizona

4100	New Jersey
4200	New Hampshire
4300	New York
4400	State
4500	Allen
4600	Benton
4700	Cass
4800	Clay
4900	Dearborn
5000	Decatur
5100	Dekalb
5200	Elkhart
5300	Elkhart Place
5400	Fayette
5500	Floyd
5600	Gibson
5700	Greene
5800	Hamilton
5900	Lake
6000	Hancock
6100	Henry

6200	Howard
6300	Huntington
6400	Huntington Court
6500	Grand Boulevard
6600	Jasper
6700	Knox

(1993 Annexed Property North of 85th)

6800	LaPorte
6900	Lawrence
7000	Marion
7100	Miami
7200	Montgomery
7300	Morgan
7400	Newton
7500	Orange
7600	Parke
7700	Peru
7800	Pike
7900	Putnam
8000	Randolph

8100	Ripley
8200	Rush
8300	St. Joseph
8400	Shelby
8500	Spencer
8600	Sullivan
8700	Tippecanoe
8800	Union
8900	Vanderberg
9000	Vermillion
9100	Vigo
9200	Warren
9300	Warrick
9400	Wayne
9500	Wells
9600	County Line Road

Established Grid North-South Streets West of Broadway

000	Broadway
100	Washington
200	Adams

300	Jefferson
400	Madison
500	Monroe
600	Jackson
700	Van Buren
800	Harrison
900	Tyler
1000	Polk
1100	Fillmore
1200	Pierce
1300	Buchanan
1400	Lincoln
1500	Johnson
1600	Grant
1700	Hayes
1800	Garfield
1900	Arthur
2000	Cleveland
2100	McKinley
2200	Roosevelt
2300	Taft
2400	Rutledge

2500	Ellsworth
2600	Ellsworth Place
2700	Marshall
2800	Marshall Place
2900	Taney
3000	Taney Place
3100	Chase
3200	Waite
3300	Wilson
3400	Jennings
3500	Hendricks
3600	Noble
3700	Wallace
3800	Bigger
3900	Whitcomb
4000	Wright
4100	Wright Place
4200	Lane
4300	Morton
4400	Baker
4500	Williams

4600	Clark (Ross Twp. Line)
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Existing Diagonal Roads (Approximates)

Harms Road	89th to 83rd, 2400—4100 (east)
Nicholson Road	57th to 59th, 3100—3500 (west)
Merrillville Road	81st to 93rd, 600—1200 (west)
Sedona Parkway (proposed)	86th Avenue to 86th Place, 1250—1500 (west)

b. *Directional prefix.* Numbered streets shall have a prefix of either east or west of Broadway. Example:

500 East 81st Avenue vs.

500 West 81st Avenue

Highway designations and abbreviations which may be adopted as the street names include:

Interstate Highway I-65

U.S. Highway Route 30 also known as Lincoln Highway or 81st Avenue

State Highway Route 51 also known as Grand Boulevard

State Highway Route 53 also known as Broadway

State Highway Route 55 also known as Taft Street south of 61st and Cleveland north of the Grand Trunk Railroad

Street names should be carried across intersections without change. Streets which change directions shall change names and addressing direction. An exception may be made if the change of direction does not exceed one block or the change in direction does not occur at an intersection.

(2) *Number designation.*

a. *General guidelines.* The following general principles apply to address numbering:

1. Even and odd numbers should be on the opposite sides of the street. Even numbers shall be assigned on the north and west sides of the street and odd numbers on the south and east sides of the street.
2. The address numbers on parallel streets should be comparable, and consecutive, but allow for possible future changes in development.
3. The address number to be assigned is determined by the location of the approved entrance/access on a recognized existing or proposed street, relative to the address assignment grid system.

4. Address assigned to corner lots should be the street name and number assigned to the shortest distance street. However, if the lot is square or almost square, the owner may choose the most recognized street.
5. For structures with more than one access, such as an apartment complex, the name, suffix and direction of a location to be assigned an address is determined by the location of a single approved entrance/access that is from a recognized existing or proposed name street.

Unit numbers/letters (which include floor designation) may be assigned by the builder/developer to identify each individual apartment, office or suite within the building after the community development director or his/her designated assistant has assigned the building address.

6. On commercial buildings with several tenants, whenever possible, each unit should have a separate numbered address.

(3) *Last word.* The last word of the street name must be chosen from the following approved list:

Words Approved for Use as Last Words and their Abbreviation

Avenue	Ave.
Boulevard	Blvd.
Circle	Cir.
Court	Ct.
Drive	Dr.
Lane	Ln.
Parkway	Pkwy.
Road	Rd.
Place	Pl.
Street	St.

The last word should reflect the character or use of the street. For example, Parkway or Boulevard should only be used on streets having more than fifty (50) feet of right-of-way and that serve either as a thoroughfare or as a collector to a thoroughfare. Parkway should only be used on streets at least one thousand five hundred (1,500) feet in length and shall be reserved for streets in which the majority of adjacent land use is for a designated park or open space.

The last word Court will in the future be reserved for cul-de-sacs. All cul-de-sacs will use the Court last name unless the cul-de-sac is a continuation of a street.

Circular/loop streets are streets that circle an open or common area. Said area cannot be subdivided, built upon or addressed.

- (4) *Display*. It is the responsibility of the property owner, agent or person in possession of any building, house or other structure on a parcel of real estate which has been assigned a street number by the community development director or his/her designated assistant, shall have displayed and properly maintain thereon, the assigned street number on a portion of the structure on or near the main entrance, which is plainly and readily visible by the naked eye from the street or other public way which adjoins said parcel.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Secs. 21-174—21-185. - Reserved.

ARTICLE VI. - SIGNS

Sec. 21-186. - Sign regulations intent.

This article may be referred to as the "Sign Regulations". The intent of regulating signs is to establish standards for the location, size, construction, repair, maintenance and manner of display of signs and outdoor advertising. While it is recognized that signs and outdoor advertising devices are necessary to promote commerce and public information, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of the business and residential areas of the town, conflicts between different types of land use, and reduction in traffic safety to pedestrians and motorists. The regulation of signs is intended to permit a business or other organization to clearly identify itself, its products and services while preserving and enhancing community character, improve the appearance of streets and commercial corridors, and prevent signs from causing a traffic hazard.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-187. - Sign definitions.

The following terms in this section shall be defined as set forth below:

Abandoned sign. A temporary or permanent sign which was erected on property in conjunction with a particular use which has been discontinued for a period of ninety (90) days or longer, or a sign the content of which pertains to a time, event, or purpose which no longer applies.

Advertising sign. A sign which directs the attention of the general public to a business, a commodity, service or activity normally conducted, sold or offered elsewhere than upon the premises where such a sign is located or to which it is affixed. Advertising signs may also be called off-premise or billboard signs.

Awning sign. A temporary or permanent sign painted on, printed on, or attached flat against the surface of an awning.

Back-to-back sign. A structure with two (2) parallel and direct opposite signs with their faces oriented in opposite directions located not more than ten (10) feet apart. A back-to-back sign shall constitute one sign.

Banner sign. A temporary sign constructed of cloth, fabric or other light temporary material with or without a structural frame, intended for a limited period of display not to exceed thirty (30) days. A national flag, state or municipal flags, the official flag of any religious, institutional or business establishment or displays for holidays or public events shall not be considered a banner sign.

Bench seat type signs. Signs painted on a bench seat, front or back.

Billboard. See advertising sign or off-premise sign.

Building facade. That portion of any exterior elevation of a building extended from grade to the top of the parapet wall or eaves and the entire width of the building elevation and which may also be referred to as the "building face".

Business center sign. A permanent sign that identifies a business center as defined in [section 21-3](#); as a group of five (5) or more stores, offices, research facilities, or manufacturing facilities on a lot or adjacent lots of two (2) or more acres which collectively have a name different than the name of any of the individual establishments and which may have common private parking and entrances.

Canopy sign. A sign attached or applied below a roof line on a canopy, awning or other roof like structure.

Changeable copy sign. A permanent electrical or non electrical sign on which the copy changes automatically or is designed to allow the copy to be changed manually, e.g., electronic time and temperature units or reader boards with changeable letters.

Construction sign. A temporary sign that identifies the owner, future occupant or use, financiers, contractors, architects, and/or engineers of a project under construction.

Development sign. A permanent sign that identifies an integrated planned development, subdivision identification, multi-family development, commercial or industrial park developments.

Directional sign. A permanent or temporary sign which assists people in determining or confirming a correct route, or locating an entrance, exit or parking area.

Directory sign. A permanent wall sign containing the names and suite number of each tenant. Such sign is considered and calculated as part of the total allowable sign area for the site, if it is visible from any street, alley or publicly owned property.

Display area. The total area upon which sign copy may be placed. In computing the total display area of a sign, mathematical formulas for geometric shapes formed by straight lines drawn closest to the extremities of the sign excluding any structural members of embellishments shall be used.

Double-faced sign. Two (2) adjacent signs on a single structure or separate structures with both faces oriented in the same direction and not more than five (5) feet apart at the nearest point between the two (2) faces. A double-faced sign may be referred to as a side-by-side sign. A double-faced sign shall constitute one sign.

Double stacked sign. Two (2) advertising signs on a single structure or separate structure, one sign on top of the other.

Electronic message sign. See changeable copy sign.

Embellishment. An addition to the display area on which a continuation of an advertising message may be placed. Such addition shall not be a continuous border, which would constitute an increase in the display area. Standard basis and standard trim shall not be considered embellishments. Embellishments shall not include written wording but may contain artistic designs.

Fascia sign. A single-faced sign, which is in any manner attached or affixed flush to an exterior wall of a building or structure.

Flashing sign. An illuminated sign on which the artificial light is not maintained stationary and/or constant in color or intensity. Any revolving illuminating sign shall also be considered as a flashing sign.

Freestanding sign. A sign which is erected on a freestanding framework and supported by one or more uprights or braces in or upon the ground and not attached to any building or other structure.

Fuel price sign. A permanent or temporary sign indicating the price per unit of fuel.

Garage sale/yard sale sign. A residential temporary sign or poster used for the primary purpose of directing attention to an individual or group sale of used goods and products at a residence or property for a limited period of time.

Height of sign. The vertical distance measured from the point of ground immediately beneath the sign to the highest point of the sign, including decorative embellishments. Where the ground elevation beneath a sign varies, the average grade of the ground within five (5) feet from the sign structure shall be used.

High-rise sign. A sign of a height greater than thirty-five (35) feet to a maximum of eighty (80) feet.

Home occupation sign. A non-illuminated sign mounted flat against a residence for which a home-occupation permit has been issued in residential zoning stating only the name and address of the property and said sign shall not exceed two (2) feet by two (2) feet in size.

Identification sign. A sign attached to a building or located on a property to designate the name and nature of the business, profession or tradesman occupying the building or premises on which the sign is located.

Illuminated sign. A sign which has characters, letters, figures, or outlines illuminated by electric lights, illuminous tubes, or any other means of illumination.

Institutional sign. A permanent sign which displays the name, services, or activities of a government facility, religious institution, school, library, museum, community center, hospitals, cemetery or similar facilities.

Maintenance. For the purpose of this article, maintenance shall mean the cleaning, painting, repair or replacement of illuminating tubes, lamps, lights and other means of illumination or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

Monument sign. A permanent sign constructed on the ground identifying the business or institution and which is placed in a landscaped green area that does not create a site visibility obstruction and is not in a paved or parking area. Ordinarily, the letters or numbers on the sign are engraved into or raised upon natural stone, heavy lumber or masonry.

Multi-face sign. A sign, more than one side of which is visible.

Mural. A permanent design or representation painted or drawn on a wall that does not advertise a business, product, service or activity.

Nameplate sign. A permanent non-electric identity sign giving only the name, address and/or occupation of an occupant or group of occupants residing on a premises.

Nonconforming sign. A permanent or temporary sign which lawfully occupied a building or land at the effective date of this article, or any amendment thereto, that does not conform to the regulations of this article as to the district in which it is located.

Off-premise sign (billboard) (advertising sign). A permanent or temporary sign which identifies a use or advertises products and services not available on the site or parcel on which the sign is located; a sign which directs travelers or provides a message unrelated to the site on which the sign is located.

On-premise sign. A permanent or temporary sign, which pertains to the use of the premises on which it is located.

Official sign. Any sign erected by a governmental agency or at the direction of any governmental agency.

Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent sign. Any sign of durable material anchored or secured to a building, accessory structure or on the ground. Such signs may include business center signs, changeable copy signs, directional signs, directory signs, monument signs, institutional signs, name plate signs, wall signs and window signs.

Political sign. A temporary sign used in connection with local, state or national elections or referendums. Political signs may not encroach on public right-of-way or easements and shall have the consent of the owner of the property to erect. Said sign shall not be erected more than thirty (30) days prior to the election and shall be removed within forty-eight (48) hours after the election.

Portable sign. A temporary sign designed to be moved from place to place, whether or not it is permanently attached to the ground or a structure. This includes but is not limited to moveable trailered signs, hot air and gas-filled balloons, pennants, streamers, ribbons, pinwheels, flags, and searchlights unless authorized as part of an approved special event under the provisions of Chapter 9, Article IV, section 9-40 to section 9-47, signs temporarily attached to motor vehicles when the vehicle is parked in a position to call attention to a place of business, service or event and is not primarily intended for transportation. Excluded are political signs, real estate signs, construction signs, banner signs and regulatory governmental signs.

Projection sign. A multi-face sign end mounted to a building or structure which projects out of the wall of a building more than eighteen (18) inches.

Public service sign. A sign designating a public building and/or service or announcing events of general community interest.

Real estate sign, non-residential. A temporary sign, located in a non-residential zoning district, advertising the real estate upon which the sign is located as being for sale, rent or lease.

Real estate sign, residential. A temporary sign, located in a residential zoning district, advertising the real estate upon which the sign is located as being for sale, rent or lease.

Rebuilt. Any use of material and labor, other than maintenance, that physically replaces a damaged sign at an expense in excess of fifty (50) percent of the then current market value of said sign.

Residential development identification sign. A permanent sign erected on the property of a residential development that includes the name of the residential development or subdivision.

Roof sign. A sign erected upon or over the roof of a building, or above the parapet of a building with the principal supports on the roof.

Sandwich board sign. A temporary sign containing two (2) separate faces which are attached to one another at the top by one or more hinges or fasteners and which when placed upon a sidewalk will stand upright without any additional support.

Sign. Any surface or device, letter, word, model, balloon, pennant, insignia, emblem, logo, icon, painting, placard, poster, trade flag or representation, illuminated or non-illuminated, which is visible from a public place, including but not limited to, highways, streets, alleys or publicly owned property, or is located on private property and exposed to the public, which is used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product, or directs attention to a product, service, place, activity, person, institution, or business.

Sign area. The entire area within a circle, triangle, parallelogram or any other shape which encloses the extreme limits of writing, representation, emblem, logo or any other figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

Single-face sign. A sign, only one side of which is visible.

Special event sign. A temporary sign containing public messages concerning special events sponsored by governmental agencies, non-profit organizations, or commercial and industrial events permitted under the provisions of Chapter 9, Article III, sections 9-20 through 9-64 and Article IV, sections 9-40 through 9-47 intended for a limited period of display not to exceed the duration of the special event or large gathering.

Special exception use sign. A permanent sign identifying an approved non-residential special exception use in a residential zoning district. These special exception uses might include bed and breakfast, schools, churches, child care centers, golf courses, nursing homes or other uses approved as special exception uses.

Substantially altered. A change in a sign or sign structure, as differentiated from maintenance or repair including a change in height, location, area, shape, sign face or material, except that which occurs in manual or automatic changeable copy signs, including the wording, styles or size of the lettering.

Temporary sign. Any sign erected for a specific purpose or event and which is intended to be temporary. Such signs may include real estate, garage sale/yard sale, banner signs, political signs, construction signs, portable signs, special event signs, large gathering signs, window signs, sandwich board signs, and vehicle signs.

V-type signs. Two (2) signs in the shape of the letter "V" when viewed from above, with their faces oriented in different directions located not more than ten (10) feet apart at the furthest points. A "V" type sign shall constitute one sign.

Vehicle sign. A temporary sign, which is mounted or painted on vehicles, which are primarily situated or used to serve as a sign rather than transportation.

Wall sign. A permanent sign painted on, incorporated in, or attached directly to a building, wall or window, with the exposed face of the sign in a plane parallel to the building wall and projecting outward from the wall not more than eighteen (18) inches. A mural is not a wall sign.

Window sign. A temporary or permanent sign made of paper, cardboard, or painted graphics or other material conveying a name or an advertising message designed for or placed on or behind any display window visible to the public.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-188. - Exempted signs.

The following signs are exempt from the provisions of this article and do not require a building permit:

- (1) Historical markers on state or federal recognized sites.

- (2) Legal notices.
- (3) Memorial structures and tablets.
- (4) Murals located in all districts except residential districts.
- (5) Signs not visible from any street, alley or publicly owned property.
- (6) One real estate sign per street frontage on any parcel. Residential real estates sign shall have a sign area of not greater than sixteen (16) square feet per side for a single or double faced sign and shall not be higher than six (6) feet in height. Non-residential real estate sign shall have a sign area of not greater than one hundred (100) square feet per side for a single or double faced sign and shall not be higher than thirty 30 feet in height. One temporary real estate open house sign may be located on the premises being sold. Temporary real estate open house signs shall be erected no more than ten (10) days prior to the day(s) of the open house and shall be removed within one day after the open house.
- (7) Nameplate/address sign with a sign area of not greater than four (4) square feet attached to the exterior wall of a building, including non illuminated home occupation sign for which a home occupation permit has been issued, and is mounted flat against the residence.
- (8) On-premise directional sign(s) pertaining to the property they are located on, each not greater than six (6) feet in height, with a sign area not greater than four (4) square feet per side for a single or double faced sign.
- (9) Off-premise temporary directional signs, each not greater than six (6) feet in height, with a sign area not greater than four (4) square feet per side for a single or double faced sign, on a site not pertaining to the event or property, such as real estate open house, garage sale or auction directional sign. These temporary signs shall not be permitted for more than three (3) days and shall not be located within a public street right-of-way or on any publicly owned property, nor on trees or utility poles. Temporary off-premise directional signs shall be permitted for three (3) days on private property with the approval of the property owner.
- (10) A national flag, state or municipal flags or the official flag of any religious, institutional or business establishment.
- (11) One garage sale/yard sale sign per parcel with a sign area not greater than six (6) square feet per side for a single or double faced sign, located on the lot or parcel on which such sale is being conducted, no higher than six (6) feet. Such signs shall be allowed for three (3) days for three (3) different events in any one calendar year.
- (12) Political signs shall be permitted on private property with the consent of the property owner. No political sign shall be located in a public street right-of-way or on publicly owned property, nor where it will block clear vision for drivers on public streets or entering a street or alley. No political sign shall be posted for more than thirty (30) days prior to the official election or referendum to which such sign pertains and shall be removed within forty-eight (48) hours following the election.
- (13) Special event signs or banner signs including grand opening and going out of business signs subject to the following restrictions:
 - a. No more than two (2) such signs shall be displayed for each special event and no more than two (2) such signs shall be displayed on any property.
 - b. Such signs shall have a sign area not greater than thirty-two (32) square feet per side for a single or double faced sign, if attached to a building or not exceed eight (8) feet in height if not attached to a building.
 - c. Such signs shall be removed within forty-eight (48) hours of the conclusion of the special event which is

being advertised.

- d. In no event, shall a special event sign or banner sign remain posted for more than thirty (30) days or as authorized by the community development director as part of a special event permit approval.

(14) Sandwich board signs in the commercial district subject to the following restrictions:

- a. The sign area shall not be greater than six (6) square feet per side for a single or double faced sign and shall not be greater than five (5) feet in height.
- b. Sign shall not be illuminated in any way.
- c. Sign shall not be moored or anchored to any object but shall be designed in such a fashion or weighted to prevent instability or movement by wind or other natural forces.
- d. No more than one sandwich board sign shall be permitted for each building front which sign shall be placed within the width of the facade of the building but shall not block pedestrian walkways or parking areas. For the purpose of this section, a building front shall be defined to be the building structure of any commercial building which has a facade located in a commercial district no matter how many separate stores or businesses are contained therein.
- e. Sandwich board signs shall only be permitted to be placed directly in front of the facade of the building of the establishment whose information the sandwich board sign seeks to announce and shall only be permitted to be placed in said location during the hours in which said establishment is open to patrons.

(15) Signs on gas pumps, vending machines, and ice containers indicating the contents or other information, provided that the sign on each device does not exceed six (6) square feet in area.

(16) Temporary (special sale) window signs within the building that covers no more than thirty (30) percent of the display window area in a commercial district.

(17) Only signs established and maintained by the town, county, state, federal governments, or other signs expressly permitted by this article shall be permitted in a public street right-of-way, dedicated public easement or on any publicly owned property.

(18) Warning signs such as no trespassing, no hunting, danger, beware of dog, and private parking, not exceeding two (2) square feet in area and no more than two (2) signs per property, three (3) signs per corner lot.

(19) Temporary auction sale signs, on property where auction is held, shall not exceed six (6) square feet in sign area for a single or double-faced sign or a height of sign six (6) feet. Such sign shall be allowed for not more than seven (7) days prior to the event and removed within forty-eight (48) hours after the event.

(20) Barber poles attached to a building.

(21) Temporary help wanted signs not exceeding six (6) square feet in sign area for a single or double-faced sign.

(22) Name of a municipal or private corporation permanently attached to a water storage tower.

(23) Handicap parking signs per ADA requirements.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-189. - General sign provisions.

The following regulations shall apply to all signs erected or located in any use district: No person shall erect, alter, or relocate a sign, other than a temporary sign, within the Town of Merrillville, before obtaining a building permit from the community development director. All signs shall conform to all applicable codes and ordinances of the Town of Merrillville

and, where required, shall be approved by the community development director or designated assistant, and a building permit issued.

- (1) A permit fee, as set forth in section 6-21 of the Merrillville Municipal Code shall be paid by all applicants to cover the cost of issuing permits and the enforcement of this chapter.
- (2) All permanent freestanding signs designed with fifty (50) square feet of copy face or larger must be certified by an Indiana registered engineer showing structural base data and wind load resistance on working drawing in applying for a permit.
- (3) Signs in non-residential districts or special exception use signs in residential districts may be internally illuminated or if externally illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or any residential district or property. Size of special exception use signs shall not be larger than sixty-four (64) square feet and not higher than eight (8) feet.
- (4) No sign shall be placed in, upon or over any public street right-of-way, alley, or other publicly owned land, except as otherwise expressly permitted by this chapter, i.e., traffic signage.
- (5) No public light pole, utility pole or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
- (6) No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a public nuisance.
- (7) No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts except slow-speed (six (6) or less revolutions per minute) revolving signs, provided that the mechanism required to operate the sign is effectively concealed from view.
- (8) Signs which contain, include or are illuminated by any flashing, or intermittent or moving light or lights are prohibited, except those giving public service information such as time and temperature or weather.
- (9) No sign shall be erected above the roofline of a building, nor project more than eighteen (18) inches from the wall.
- (10) All freestanding signs must be set back at least ten (10) feet from street right-of-way lines (closest edge of the sign) and ten (10) feet from any front, side or rear property line. The bottom of such sign shall not be less than ten (10) feet above the finished grade or ground elevation in a traffic area.
- (11) All signs shall not obstruct vision above a height of two (2) feet from the established street grades within the triangular area formed at the intersection of any street right-of-way lines at a distance along each line of thirty (30) feet from their point of intersection. (See Figure 14.)
- (12) All signs except directional signs, awning signs, wall signs and window signs must be set back ten (10) feet from the intersection of the edge of an access drive and a street right-of-way line.
- (13) A licensed sign contractor or general contractor is required to install all permanent signs. A site location and footing inspection is required for all freestanding signs by the Town of Merrillville's building inspector.
- (14) The community development director or designated assistant or building inspector may inspect signs for which a permit is required. If upon any inspection a sign is found to be in violation of this article, unsafe, or in a location that does not comply with the provision of this article, the community development director shall give notice of such condition to the owner or the person responsible for such sign shall within ten (10) days thereafter remove the sign or cause the necessary repairs or corrections to be made. If the community

development director finds a sign to be in such an unsafe condition that immediate repairs or the removal thereof are required, the community development director shall take such precautions as may be necessary to protect the safety of the public.

- (15) All signs shall be adequately maintained to keep them in a state of good appearance and repair. The general area in the vicinity of any sign must be kept free and clean of sign material, weeds, debris, trash and other refuse.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-190. - Signs permitted.

The following signs are permitted in all zoning districts, unless otherwise stated:

- (1) One construction sign per construction site, single or double faced, for the period of construction with a sign area not greater than one hundred (100) square feet in commercial and industrial zones, and thirty two (32) square feet in single-family residential zones and forty-eight (48) square feet in multi-family zones. said sign shall be non-illuminated and non-portable and no higher than eight (8) in height in multi-family, commercial and industrial zones and six (6) feet in single-family residential zones. Construction signs shall not be erected until a building permit has been issued and shall be removed upon the issuance of the final occupancy permit or when the building permit expires, whichever occurs first.
- (2) Signs advertising only the sale rental or lease of the building or premises on which it is maintained; provided, however said device shall not exceed sixteen (16) square feet in a residential zone nor one hundred (100) square feet in a commercial or industrial zone. Such signs shall not project within ten (10) feet of any property line nor have a height over six (6) feet in residential zone nor thirty (30) feet in commercial or industrial zone.
- (3) Signs located on farms and within three hundred (300) feet of the farm residence or other principal farm buildings or of the entrance roadway to the farm, and which advertise only farm produce sold that is raised on the property. Said sign shall be no larger than thirty-two (32) square feet and no higher than eight (6) feet.
- (4) Signs advertising sale of dwellings or lots located in a platted of record subdivision are permitted on a temporary basis, until ninety-five (95) percent of the dwellings or lots are completed or sold.
- (5) One institutional sign per zoning lot, with a sign area not greater than one hundred (100) square feet per side for single or double faced sign and not to exceed eight (8) feet in height. If location is on a primary arterial, commercial size restrictions shall apply.
- (6) The community development director may authorize exterior strings of lights, balloons no larger than two (2) feet in diameter, or strings of pennants or flags for special events under the provisions of section 9-40 when located in non-residential zoning or a permitted use in a residential zoning. Public information or service signs, or governmental signs on private property, shall only be permitted for churches, clubs, or non-profit organizations for a period not to exceed the special event permit. Signs shall be non-illuminated, and shall not encroach on any designated right-of-way. Such signage shall be restricted to a single thirty-two (32) square foot, poster type sign, but may include flags, pennants, or buntings, which shall be removed at the conclusion of the event. Such special event sign displays shall be allowed for up to four (4) days with no more than three (3) displays in any one calendar year.
- (7) Permanent window signs within the building shall not exceed thirty (30) percent of the window area and shall be used to identify and advertise the products and services available on the premises.

Sec. 21-191. - Signs allowed in residential zones.

In all residential zones, the following classes of signs are permitted in accordance with the regulations set forth below:

Non illuminated accessory signs:

- (1) House number signs shall be permitted and are required on all premises per section 18-19(a).
- (2) Name plates and identification signs as follows:
 - a. For one and two family dwellings, there shall not be more than one name plate, not exceeding four (4) square feet in area for each dwelling unit indicating the name or address of the occupant or a permitted home occupation.
 - b. A single residential development identification sign may be displayed for multi-family dwellings. Only the name and address of the building and the name of the management, thereof may be contained on the sign. The size of the sign shall not exceed thirty-two (32) square feet.
 - c. No sign shall project higher than six (6) feet above the established finished grade or average mean elevation of undeveloped property.
 - d. No sign shall project within ten (10) feet of any property line.
 - e. Signs accessory to parking areas for multi-family residential developments that designate entrances or exits only are limited to one sign for each such exit or entrance and to a maximum size of four (4) square feet. On a corner lot two (2) such signs, one facing each street shall be permitted.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-192. - Signs allowed in commercial zones.

Identification signs include the following types and are subject to the following regulations:

- (1) *Freestanding signs.*
 - a. Each zoning lot shall be limited to one freestanding permanent sign structure not to exceed two hundred (200) square feet per face of display area.
 - b. No freestanding sign shall project within ten (10) feet of any property line. The bottom of such sign shall not be less than ten (10) feet above the finished grade of the sidewalk or ground elevation in a traffic area.
 - c. No freestanding sign shall project higher than the provisions of the height limitations of the zoning district in which the sign is located, up to a maximum of thirty-five (35) feet.
 - d. Business center sign under a planned commercial development of single ownership and management, or under unified control, one sign may be erected not to exceed three hundred (300) square feet per face in area advertising only the name, location and special events of that business center and the names of the tenants or occupants therein. Such sign shall not project within ten (10) feet of any property line. The bottom edge of such sign shall be at least ten (10) feet above the grade of adjoining ground level and the overall height shall not exceed forty-five (45) feet above the grade of the adjoining ground level.
- (2) *Fascia and wall signs.*
 - a. The gross area of a sign or signs on a principal building shall not exceed thirty (30) percent of that wall,

including doors and windows. No facial or wall sign shall be permitted on any wall facing an adjoining lot located in a residential district.

- b. No facial or wall sign shall extend beyond nor project out from the face of the building more than eighteen (18) inches.
 - c. No facial or wall sign shall project above the roof line.
- (3) *Marquee or canopy signs.* No marquee or canopy sign shall project within ten (10) feet of the property line nor extend beyond the outer edge of the marquee or roofed structure. There shall be at least an eight-foot six-inch (96") clearance between the grade of the sidewalk and the lowest point of the sign.
- (4) *Traffic or directional signs designating entrances, exits and conditions of use of parking facilities accessory to the main use of premises* may be maintained, provided they are located within the property lines of the subject lot or parcel. Such signs may not be higher than six (6) feet in height and with a sign area not greater than four (4) square feet per side.
- (5) *Automobile gasoline station with convenience store accessory signs:* Items for sale on the premises may be openly displayed within ten (10) feet of the building. Products may be displayed under group island canopies or between pumps within the area of the pump island base but not any closer to property lines to avoid traffic view obstruction. One set of gasoline price signs may be displayed in the station area within the property line mounted on lighting standards or posts. One moveable sandwich board sign adjacent to a public street announcing products available is permitted within the property line provided it is weighted down to prevent wind turnover. Corner lots are permitted one added sign per street frontage. Signage on canopy over pump island is permitted on faces along public streets.
- (6) *Advertising signs* in accordance to the following: Advertising signs also known as off-premises or billboard signs shall be permitted within the M-1 and C-3 Zones, provided that said devices shall not be located within three hundred (300) feet of any residential zone. Advertising signs shall be permitted only on the following highways and streets: Interstate 65, U.S. 30, State Route 53 (Broadway), and State Route 55 (Cleveland/Taft Street).
- a. The following restrictions shall apply to advertising signs:
 - 1. Advertising signs shall not be established at any location having principal frontage on any street within three hundred (300) feet of any property which is used for public parks, public schools, churches, hospitals, government buildings or public museums having principal frontage on the same street.
 - 2. No portion of any advertising sign may be placed closer than ten (10) feet to the right-of-way line of any street or highway.
 - 3. Advertising signage along any street or highway currently in place on undeveloped property shall be moved to accommodate new street right-of-way dedication, when development occurs.
 - 4. Advertising signage in all districts shall not exceed fifty-five (55) feet in height from the average grade.
 - 5. Each advertising sign must have a separate land area designation of two thousand five hundred (2,500) square feet minimum and five thousand (5,000) square feet maximum.
 - 6. No advertising sign shall be erected on any building.
 - 7. No advertising sign shall project over any part of a building.
 - b. The size of advertising signs shall be governed by the following: On the interstate system and major thoroughfares size shall be in accordance with the following:

1. In the C-3 and M-1 zones: The maximum area for any one face of an advertising sign shall be six hundred square feet inclusive of any border and trim, but excluding the base or apron, supports and structural members. No sign shall have a greater sign face ratio of height to width of 1 to 3.5.
2. The maximum number of faces per sign structure shall be two (2) constructed back to back; no faces shall be installed side by side, stacked, tiered or decked.
- c. The following provisions shall apply to the spacing of advertising signs:
 1. No advertising sign shall be within one thousand three hundred twenty (1,320) feet of another advertising sign located on either side of Interstate 65.
 2. No advertising sign shall be within one thousand nine hundred eighty (1,980) feet of another advertising sign located on either side of U.S. Route 30 and State Route 53 (Broadway).
 3. No advertising sign shall be within two thousand six hundred forty (2640) feet of another advertising sign located on either side of State Route 55 (Cleveland/Taft Street).
 4. The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the nearest edge of the sign along each side of the highway but shall apply to structures located on either side of the street or highway. Structures, which predominately advertise to a different street or highway, shall not be taken in to account in measuring the distance between structures.
 5. Advertising signs in existence on the effective date of Ordinance No. 93-26; which have been legally erected and maintained but which do not comply with the provisions hereof; may continue to be maintained and repaired in place so long as the size thereof is not increased in terms of faces, length, height or area.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-193. - Footnotes for section 21-192.

- (a) Off-premise signs (billboards) with a sign area not greater than two hundred (200) square feet per side for a single or double faced sign; not be greater than fifty-five (55) feet in height; refer to section 21-192(6) for allowable distances; not be closer than three hundred (300) feet to the site of a public park, school, church, or residential district; and be setback ten (10) feet from the right-of-way of any street. Off-premise signs are permitted only in the C-3 and M-1 districts on the following streets: Interstate 65, U. S. 30, State Route 53 (Broadway), and State Route 55 (Cleveland/Taft Street). Off-premise signs located on undeveloped property shall be moved to accommodate new street right-of-way dedication, when development occurs.
- (b) Business center signs with a sign area not greater than three hundred (300) square feet per side for a single or double faced sign, no more than forty-five (45) feet in height, and setback ten (10) feet from all street right-of-way lines. The bottom edge of the sign shall be at least ten (10) feet above grade.
- (c) Each property is permitted one freestanding sign. Freestanding signs shall have a sign area not greater than two hundred (200) square feet per side for a single or double faced sign, be no more than thirty-five (35) feet in height, and setback at least ten (10) feet from all street right-of-way lines and private drives.
- (d) Each property is permitted one or more wall signs with the total sign area of all wall signs not greater than thirty (30) percent of the wall area of the wall to which it is attached. Wall signs shall not extend beyond the face of the building more than eighteen (18) inches. Wall signs are not permitted on walls facing an adjoining lot located in a

residential district.

- (e) Window signs with a sign area not greater than thirty (30) percent of the display window are permitted.
- (f) The sign area of a changeable copy sign shall not exceed twenty (20) percent of the maximum sign area permitted and shall be counted as part of the total sign area allowed.
- (g) One monument freestanding sign is permitted for each zoning lot. Monument signs shall not have a sign area not greater than one hundred (100) square feet per side for a single or double faced sign, be no more than eight (8) feet in height, and setback at least ten (10) feet from all street right-of-way lines and private drives.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-194. - High rise sign provisions.

High rise signs may be approved by the community development director for signs of a height greater than thirty-five (35) feet to a maximum of eighty (80) feet if the following criteria is met:

- (1) Sign location is within seven hundred (700) feet of the center line of an interstate.
- (2) Maximum height to be computed by average lot finished grade.
- (3) Commercial zoning of C-3 or M-1 is required prior to high rise sign approval.
- (4) The closest edge of a high rise sign, (sign face or supports) shall be a minimum of twenty-five (25) feet from all permanent structures.
- (5) Setback of sign foundation center shall be one-half ($\frac{1}{2}$) of the total height permitted from all property lines. Setback along interstate right of way shall be a minimum of fifty (50) feet.
- (6) Height maximums are to the top of the high rise sign and shall be computed as follows:
 - a. Zero (0) to three hundred fifty (350) feet from the center line of an interstate highway, maximum height shall be seventy (70) feet.
 - b. Three hundred fifty (350) to seven hundred (700) feet from center line of an interstate, maximum height shall be eighty (80) feet.

- (7) Sizes in square feet of high rise sign face, can be increased by the following criteria:

Distance from Center line	Percent Increase	Total
0—100 feet	N/A	N/A
101—200 feet	25	250 square feet
201—300 feet	50	300 square feet
301—400 feet	75	350 square feet
401—500 feet	100	400 square feet
501—700 feet	150	450 square feet

- (8) Only one freestanding sign or one interstate high rise sign per zoning lot with one principal building or use.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-195. - Signs allowed in industrial zones.

In all industrial zones, the following signs are permitted, subject to the following requirements:

- (1) All signs and name plates permitted in the residential zones are allowed.
- (2) All advertising (billboard or off premises) and identification signs as are permitted in the commercial zones.
- (3) All signs that adhere to the requirements for that type of sign in commercial zones.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-196. - Signs prohibited.

The following signs are prohibited:

- (1) Signs or portions of signs which move by any means or signs that give the appearance of movement in any manner except for slow moving signs and changeable copy signs.
- (2) Roof signs or signs where any portion of the sign extends above the roof of the building where the sign is located.
- (3) Any vehicle sign with a sign area greater than one square foot where the sign projects more than six (6) inches beyond the manufacturer's profile of the vehicle and/or is displayed in public view under such circumstances as to indicate that the primary purpose of said display is to attract the attention of the public rather than to serve the business of the owner thereof in a manner which is customary for said vehicle.
- (4) Any sign which emits a sound, odor or visible matter such as smoke or vapor.
- (5) Any sign or sign structure which obstructs the view of, or may be confused with, a traffic directional/safety sign.
- (6) Any sign located on or attached to a fence, utility pole, tree or other natural features.
- (7) Abandoned signs, dilapidated signs, or signs in unsafe condition.
- (8) Any sign structure or frame no longer containing a sign.
- (9) Any portable sign, except portable signs authorized by the community development director as part of a special event only for non-profit organizations.
- (10) Any sign which is structurally or electrically unsafe.
- (11) Exterior string of lights, balloons, or strings of pennants or flags designed to draw attention to items on display or a particular business establishment, other than holiday decoration, except during special promotional events, when such sign displays shall be allowed for the period of a special event permit as described under Chapter 9, Article IV, section 9-40.
- (12) Any sign which exhibits statements, words or pictures of an obscene or pornographic nature.
- (13) Window signs with a sign area greater than thirty (30) percent of the display window area.
- (14) Any sign which requires a permit and is erected without a permit.
- (15) Signs which simulate or imitate in size, color, lettering or design, any traffic sign or signal or any sign which by design or location may in any manner interfere with, mislead or confuse the public with respect thereto or obstruct the public view thereof.
- (16) Illuminated signs in a residential zone area, except for uses approved as a special exception use.
- (17) Wall signs with a sign area larger than thirty-six (36) square feet in non residential zoning district that abuts property zoned residential.
- (18) Bench signs.

(19) Double stacked or double-faced advertising signs.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-197. - Nonconforming signs.

The following signs are nonconforming signs:

- (1) Signs lawfully erected prior to the adoption of this chapter or applicable amendment thereto which do not meet the standards of this article may be continued, except as herein after provided. A legal nonconforming sign shall not:
 - a. Have any changes made in the words or symbols used or the message displayed on the face of the sign, unless the use to which it applies remains the same after the change in the words or symbols.
 - b. Be structurally altered so as to change the shape, size, type, or design of the sign; (routine maintenance and repair allowed).
 - c. Be reestablished or continued after the activity, business, or use to which it applied has been discontinued for ninety (90) days or longer.
- (2) No sign shall be required to be removed which was erected in conformance with all town ordinances, if such sign becomes nonconforming due to a change occurring after the adoption of this chapter or applicable amendment thereto in the location of a buildings, streets, or other signs, and which change is beyond the control of the owner of the premises on which the sign is located.
- (3) If the owner of the premises on which a sign is located changes the use of the building, or changes the location of any property line or sign, so that any sign is rendered nonconforming, such sign must be removed or made to conform to this article.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-198. - Enforcement.

The provisions of this article shall be administered and enforced by the community development director. The administrator shall keep a complete record of all signs which have been issued a permit.

- (1) At the termination of a business, commercial or industrial enterprise all other signs shall be removed by the owner within thirty (30) days after written notification from the community development director. Upon failure to comply within the time specified or to make arrangements for an extension from the community development director, the administrator may cause removal of such sign and the owner thereto shall pay any expenses involved.
- (2) The erection of any sign not specifically permitted by this chapter shall be deemed a civil zoning violation. Any person who commits a civil zoning violation may be issued a citation by the staff. See section 21-24(d).

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-199. - Permits.

No person shall erect, place, relocate, alter or add to any sign for which a permit is required, nor attach any sign to an existing sign without obtaining all required building permits from the community development director. Before such permits are issued, the director shall determine that the sign will comply with the provisions of this article. Sign permit fees shall be

as specified in section 21-48 or section 6-21 of this Code.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-200. - Inspection.

The community development director may inspect signs for which a permit is required. If upon any inspection a sign is found to be in violation of this article, unsafe, or in a location that does not comply with the provisions of this article, the community development director shall give notice of such condition to the owner or the person responsible for such sign shall, within ten (10) days thereafter, remove the sign or cause the necessary repairs or corrections to be made. If the community development director finds a sign to be in such an unsafe condition that immediate repairs or the removal thereof are required; the community development director shall take such precautions as may be necessary to protect the safety of the public in the use of the streets.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-201. - Maintenance.

Signs including the face, framing and all supports therefor, shall be kept and maintained in a safe condition and shall be adequately protected against corrosion and shall conform to all the provisions of this article.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-202. - Nuisance.

Any sign erected or displayed without a permit or any sign which does not comply with the provisions of this article shall be deemed a hazard to the public safety and is declared to be a public nuisance and may be abated by removal without notice.

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-203. - Appeals.

The board of zoning appeals is authorized to hear and decide appeals where it is alleged by the appellant there is an error in any order, requirement, decision or determination made by the community development director in connection with the enforcement of this article. The board of zoning appeals shall also have the power to authorize a variance from the strict application of this article where the strict application would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the person owning or having the beneficial use of the property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this article. In considering applications, the board shall follow the procedures contained in section 21-41 and section 21-43 and adopted rules of procedure.

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 06-18, § 4, 7-11-06)

Sec. 21-204. - Schedule listing signs permitted in various zoning districts and signs requiring permits.

Definition of Letters	
TS	Temporary signs

BP	Building permit
X	Prohibited sign
PS	Permanent sign
NP	No permit required
LC	Licensed contractor
*	See definition

ZONING DISTRICTS

Sign Types	R-1 R-2 R-3	R-4 R-5	C-1 C-2 C-3 C-4E	C-5	M-1 M-2	PUD
Abandoned signs	X	X	X	X	X	X
Advertising sign (billboard) a.k.a. off-premises sign	X	X	X C-3 BP LC	X	BP LC	X
Awning sign—One per awning face	X	BP LC	BP LC	BP LC	BP LC	BP LC
Back to back sign	X	BP LC	BP LC	BP LC	BP LC	BP LC
Banner sign (TS)	NP	NP	NP	NP	NP	NP
Bench seat signs	X	X	X	X	X	X
Business center sign (PS) Minimum of two (2) acres required	X	X	X C-2 C-3 BP LC	BP LC	BP LC	BP LC
Canopy sign	X	X	BP LC	BP LC	BP LC	BP LC
Changeable copy sign (PS)	X	X	BP LC	BP LC	BP LC	BP LC
Construction sign (TS)	NP	NP	BP LC	BP LC	BP LC	BP LC
Development sign (PS)	BP LC	BP LC	BP LC	BP LC	BP LC	BP LC
Directional sign up to four (4) square feet (PS or TS)	NP	BP LC	BP LC	BP LC	BP LC	BP LC
Directory sign (PS)	X	X	BP LC	BP LC	BP LC	BP LC
Double-faced sign	X	X	BP LC	BP LC	BP LC	BP LC
Double-stacked sign	X	X	X	X	X	X
Fascia sign *See home occupation	X*	X*	BP LC	BP LC	BP LC	BP LC
Flashing sign	X	X	X	X	X	X
Freestanding sign (PS)	X	X	BP LC	BP LC	BP LC	BP LC
Fuel price sign (PS)	X	X	BP LC	BP LC	BP LC	BP LC
Garage sale yard sign (TS)	NP	NP	NP	NP	NP	NP
High rise sign (see section 21-192)	X	X	C-3 Only BP LC	X	M-1 Only BP LC	X
Illuminated sign *Unless special exception is granted	X*	X*	BP LC	BP LC	BP LC	BP LC
Institutional sign (PS)	BP LC	BP LC	BP LC	BP LC	BP LC	BP LC
Monument sign*	X* BP LC	X* BP LC	BP LC	BP LC	BP LC	BP LC

Multi-faced sign	X	X	X	X	X	X
Murals (PS)	NP	NP	NP	NP	NP	NP
Name plate sign—Up to two (2) sq. ft.	NP	NP	NP	NP	NP	NP
Official sign	NP	NP	NP	NP	NP	NP
Off-premise sign (billboard) (PS) a.k.a. Advertising	X	X	C-1 X C-2 X C-3 Only BP LC	X	M-1 Only BP LC M-2 X	X
Pennant (TS)	X	X	NP	NP	NP	NP
Political signs (TS)—See regulations	NP	NP	NP	NP	NP	NP
Portable signs (TS)	X	X	X	X	X	X
Projecting sign	X	X	X	X	X	X
Real estate sign Non-residential (TS)	X	X	NP	NP	NP	NP
Real estate sign Residential	NP	NP	NP	NP	NP	NP
Roof sign	X	X	X	X	X	X
Sandwich board sign (TS)	X	X	X	X	X	X
Single-faced sign	X	X	BP LC	BP LC	BP LC	BP LC
Special event sign (TS)	NP	NP	NP	NP	NP	NP
Special exception use signs (PS) * if granted approval by BZA & TC	BP LC	BP LC	BP LC	BP LC	BP LC	BP LC
Vehicle sign (TS) larger than one sq. ft.	X	X	X	X	X	X
Wall sign (PS)	X	BP LC	BP LC	BP LC	BP LC	BP LC
Window sign (PS or TS)	X	X	NP	NP	NP	NP

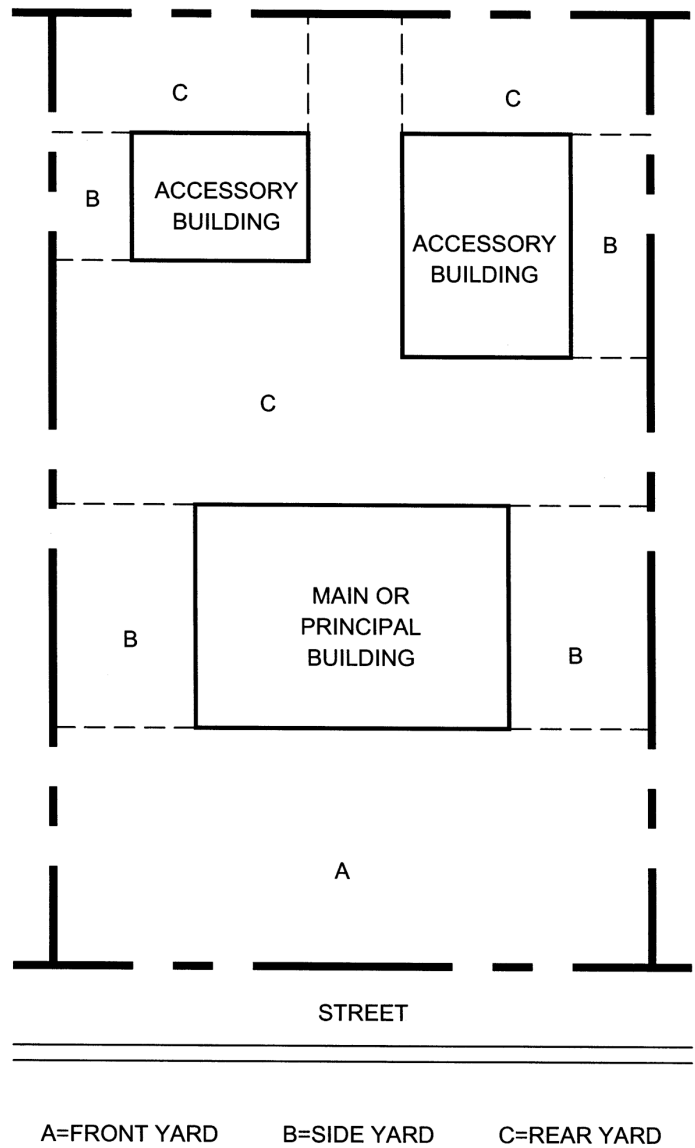
(Ord. No. 02-03, § 1, 2-12-02)

Secs. 21-205—21-225. - Reserved.

ARTICLE VII. - FIGURES

Sec. 21-226. - Figure 1, principal and accessory buildings.

The following shall be Figure 1 and may be so cited:



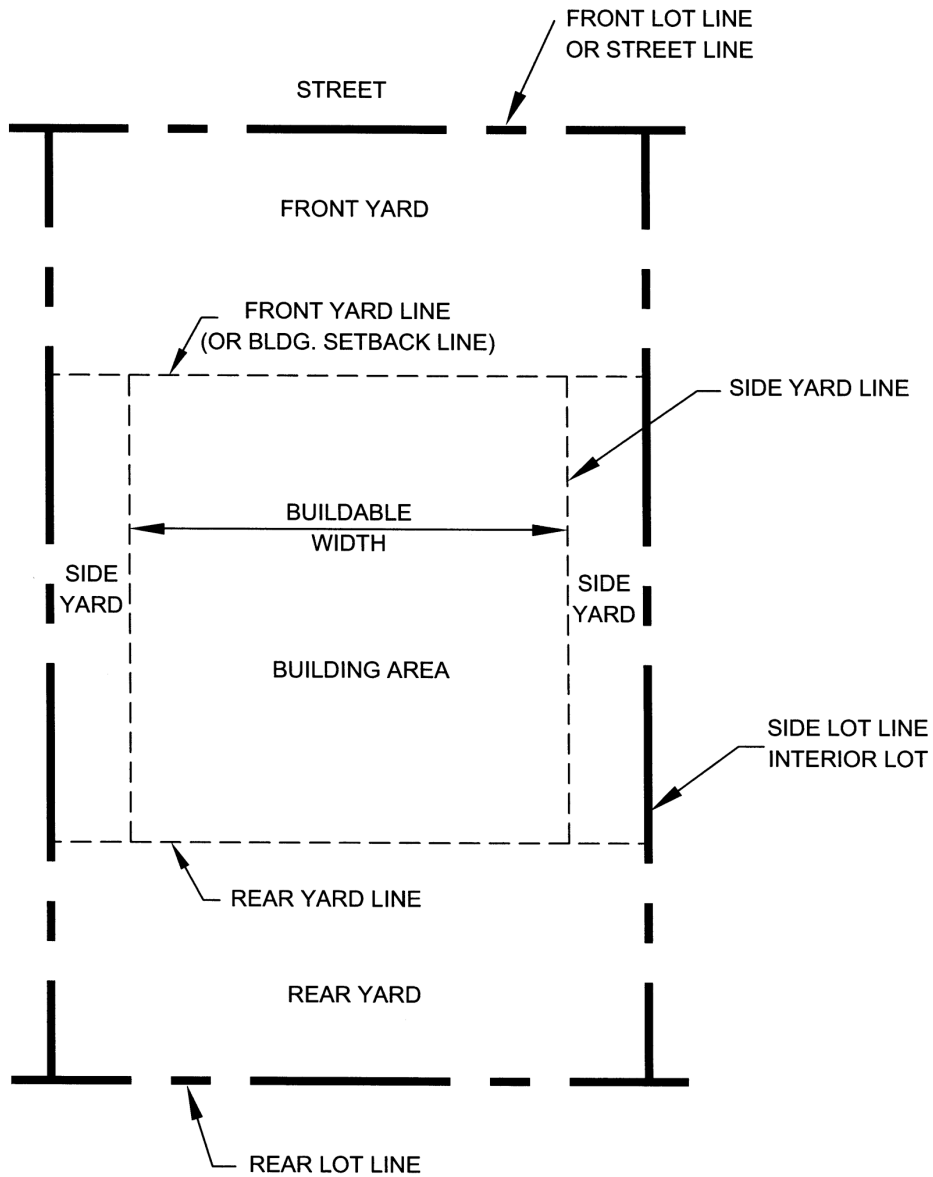
PRINCIPAL AND ACCESSORY BUILDINGS

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-227. - Figure 2, setbacks and yards, interior lot.

The following shall be Figure 2 and may be so cited:

EXAMPLE OF
R-1 STANDARD LOT 100'x150' 15,000 SQ. FT.

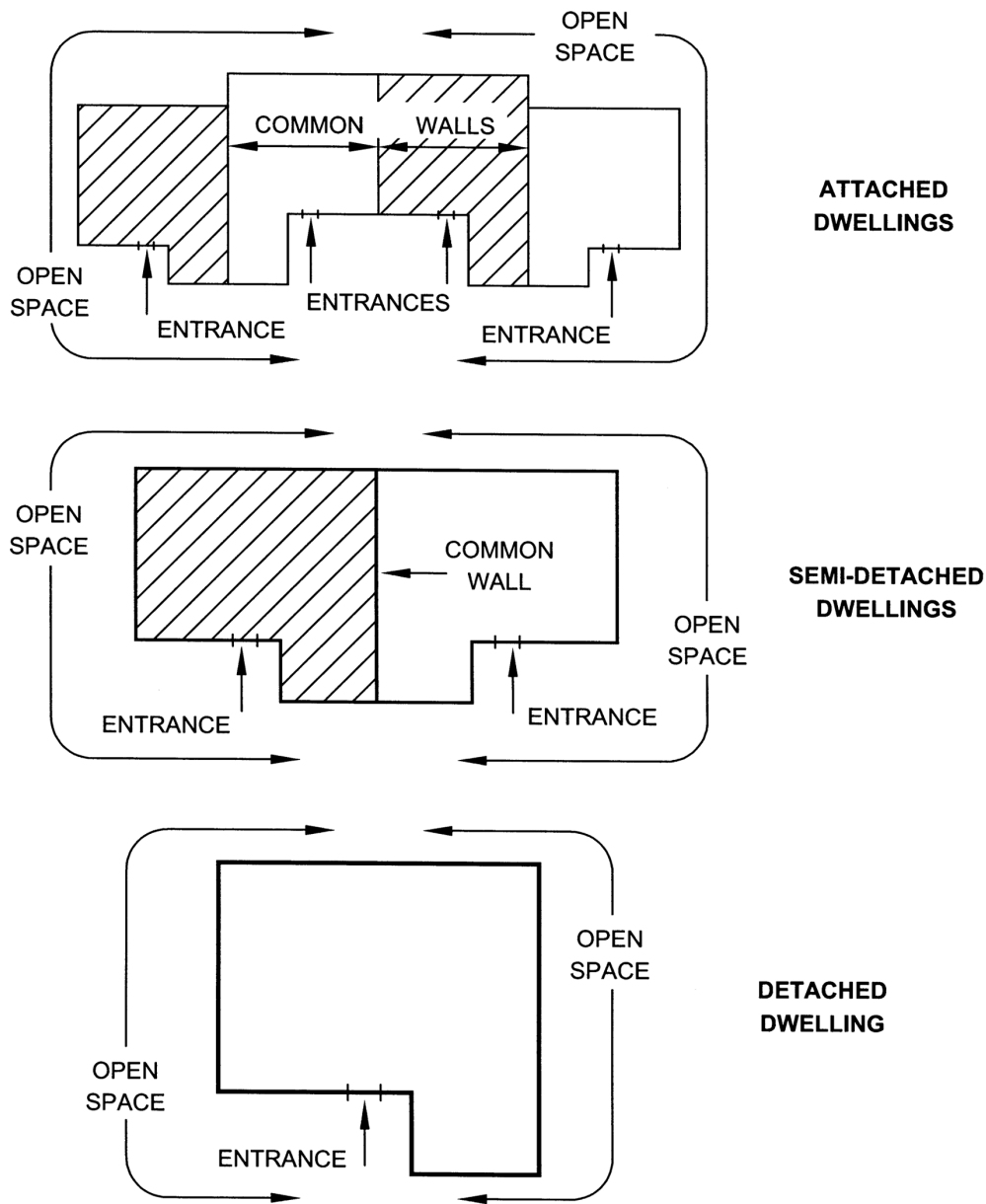


SETBACKS AND YARDS—INTERIOR LOT

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-228. - Figure 3, attached and detached dwellings.

The following shall be Figure 3 and may be so cited:

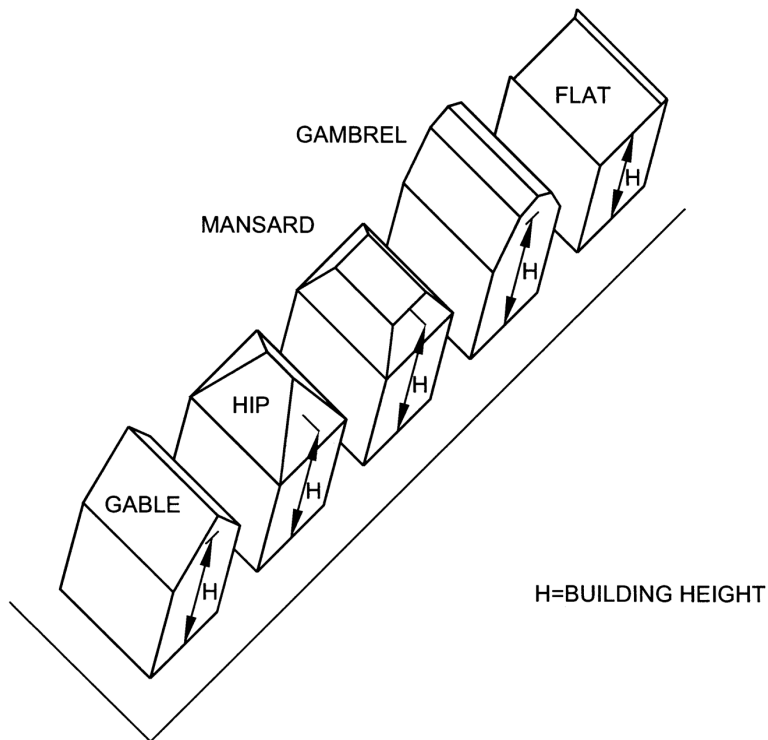


ATTACHED AND DETACHED DWELLINGS

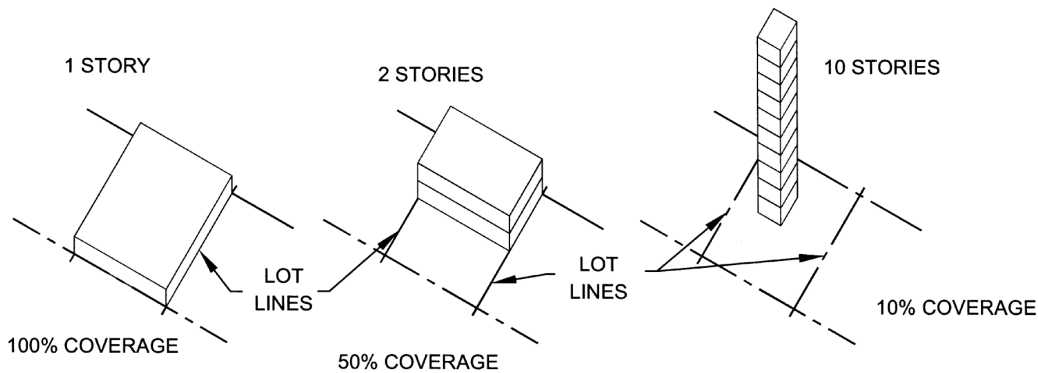
(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-229. - Figure 4, building height measurement, floor area ratio.

The following shall be Figure 4 and may be so cited:



BUILDING HEIGHT MEASUREMENT



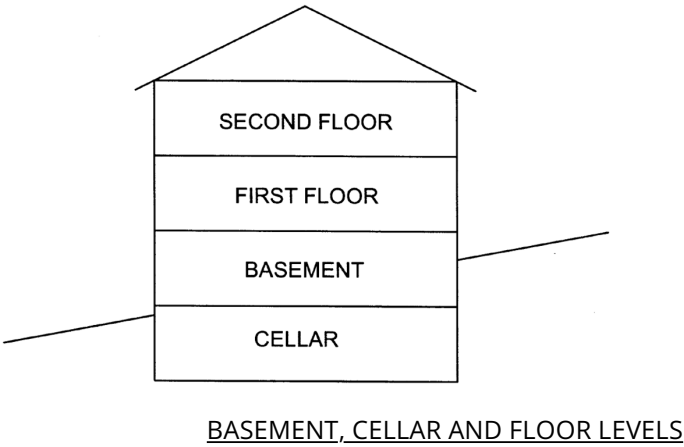
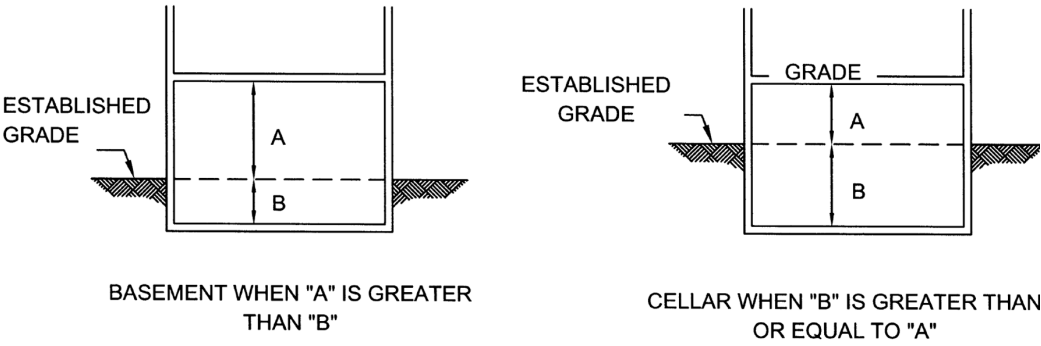
ALL EXAMPLES ILLUSTRATED ABOVE HAVE A FLOOR AREA RATIO OF 1:0

FLOOR AREA RATIO

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-230. - Figure 5, basement, cellar and floor levels.

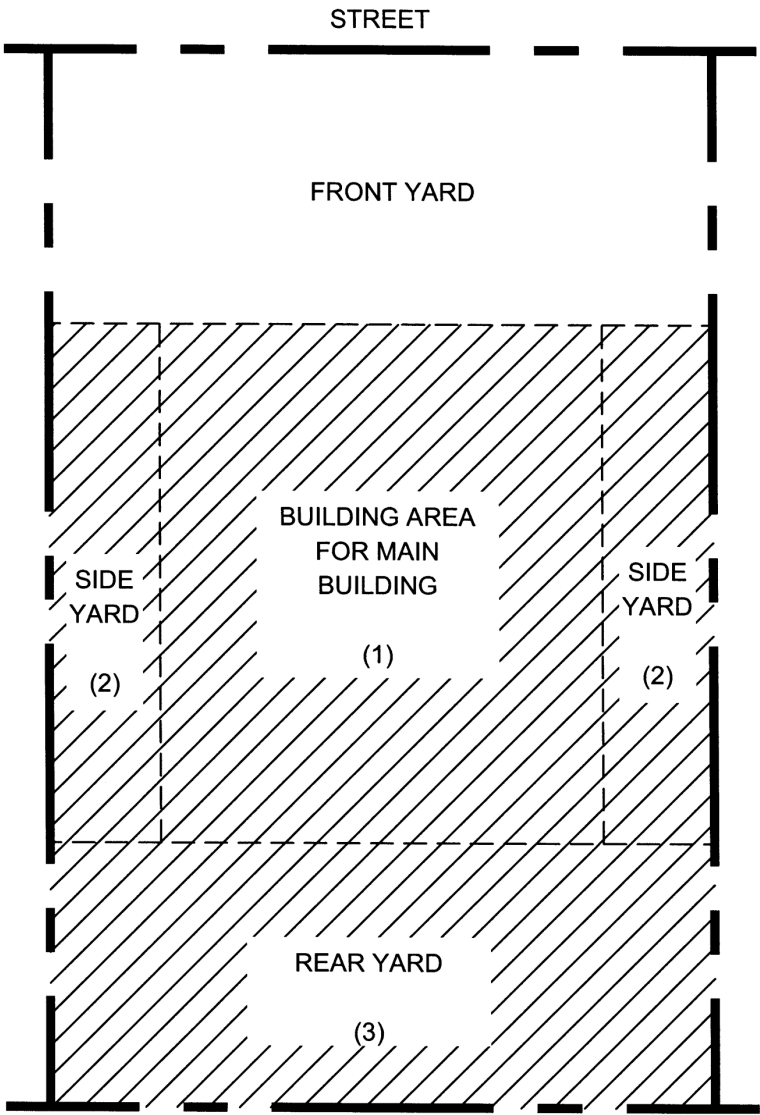
The following shall be Figure 5 and may be so cited:



(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-231. - Figure 6, accessory buildings.

The following shall be Figure 6 and may be so cited:



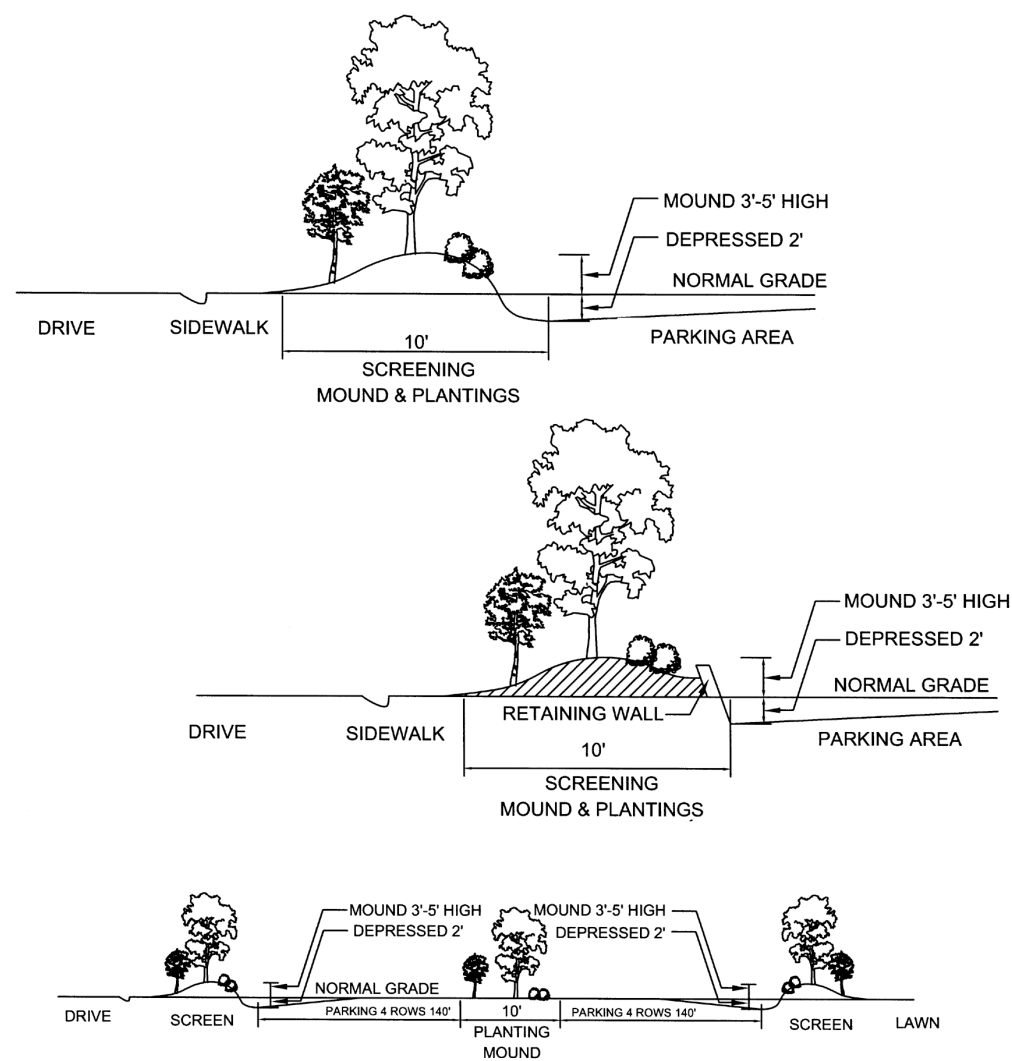
ACCESSORY BUILDING ALLOWED IN, (1) AREA FOR MAIN BUILDING, (2) SIDE YARDS OR, (3) REAR YARD.

ACCESSORY BUILDING

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-232. - Figure 7, planting for parking lots.

The following shall be Figure 7 and may be so cited:

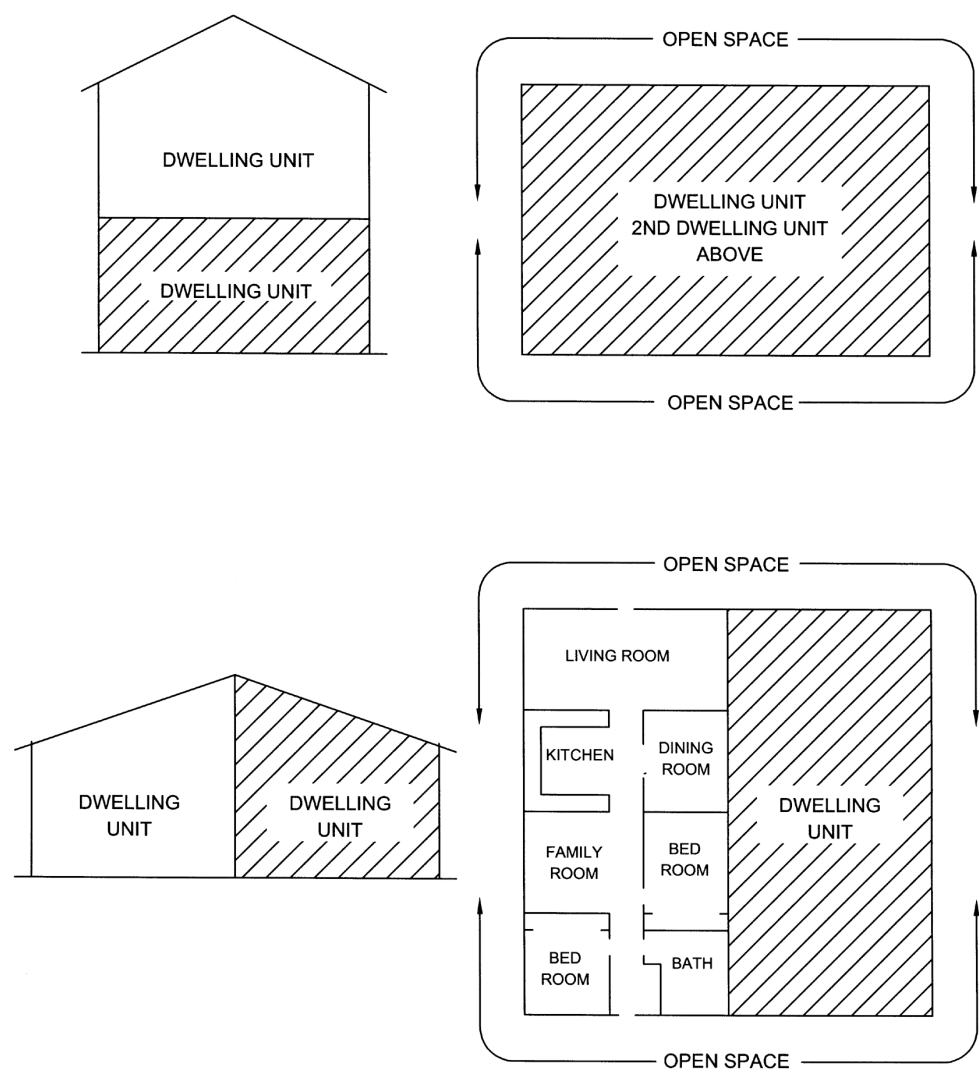


PLANTING FOR PARKING LOTS

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-233. - Figure 8, two-family detached dwellings.

The following shall be Figure 8 and may be so cited:

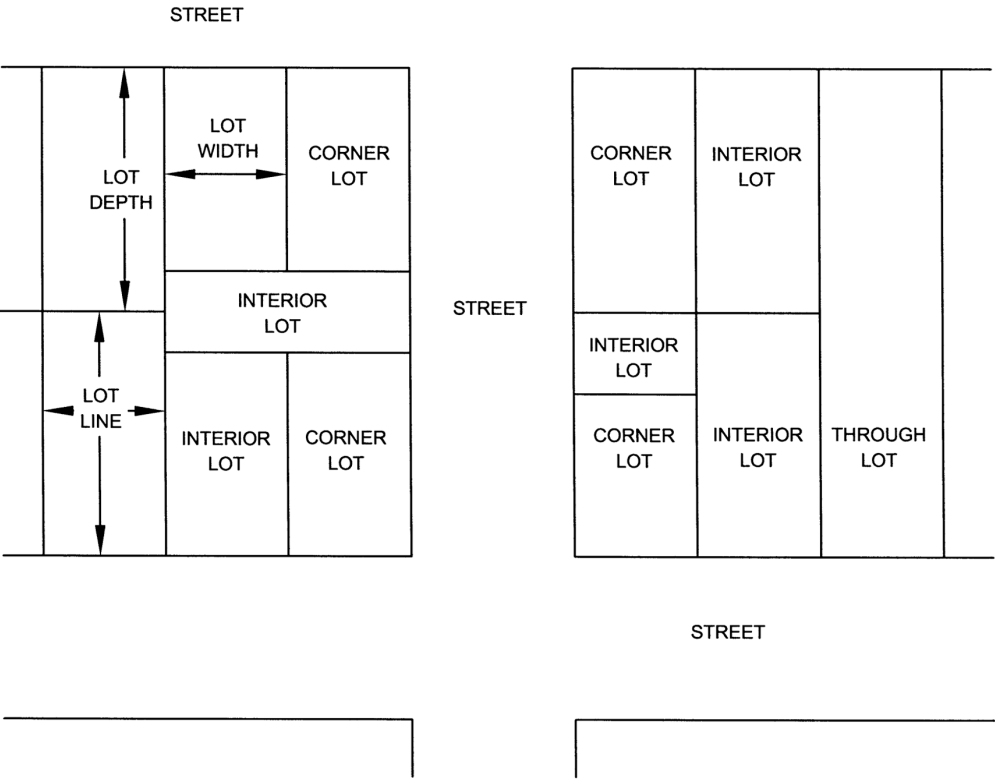


TWO-FAMILY DETACHED DWELLINGS

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-234. - Figure 9, subdivision lot types.

The following shall be Figure 9 and may be so cited:

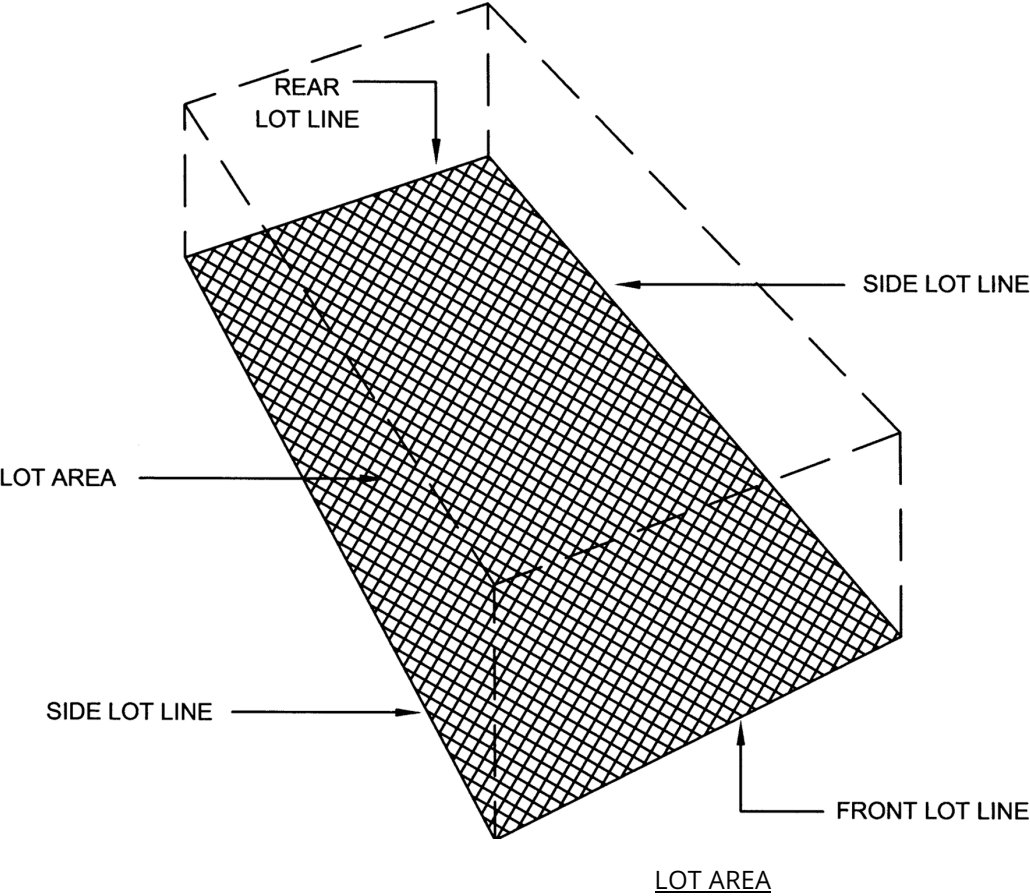


SUBDIVISION LOT TYPES

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-235. - Figure 10, lot area.

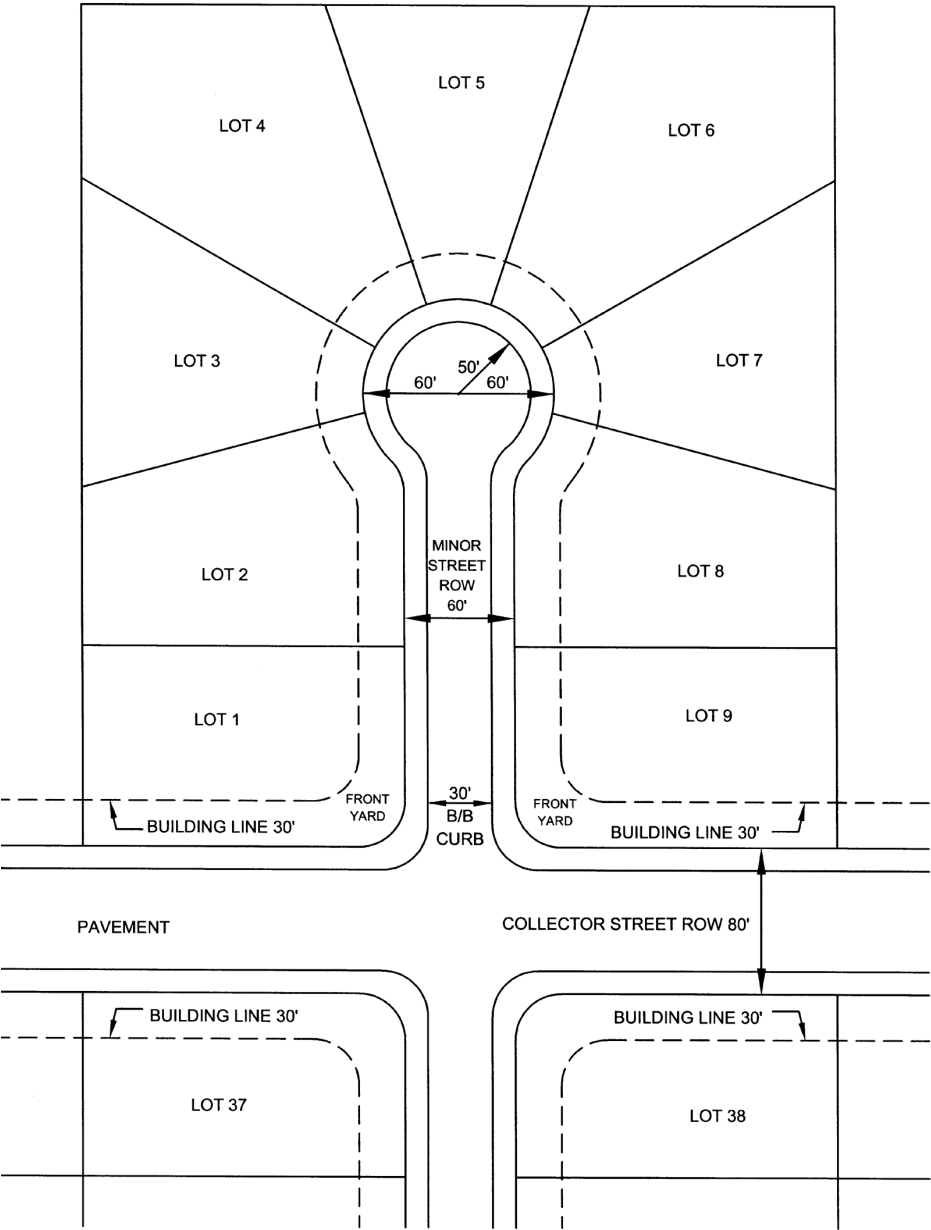
The following shall be Figure 10 and may be so cited:



(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-236. - Figure 11, cul-de-sac.

The following shall be Figure 11 and may be so cited:

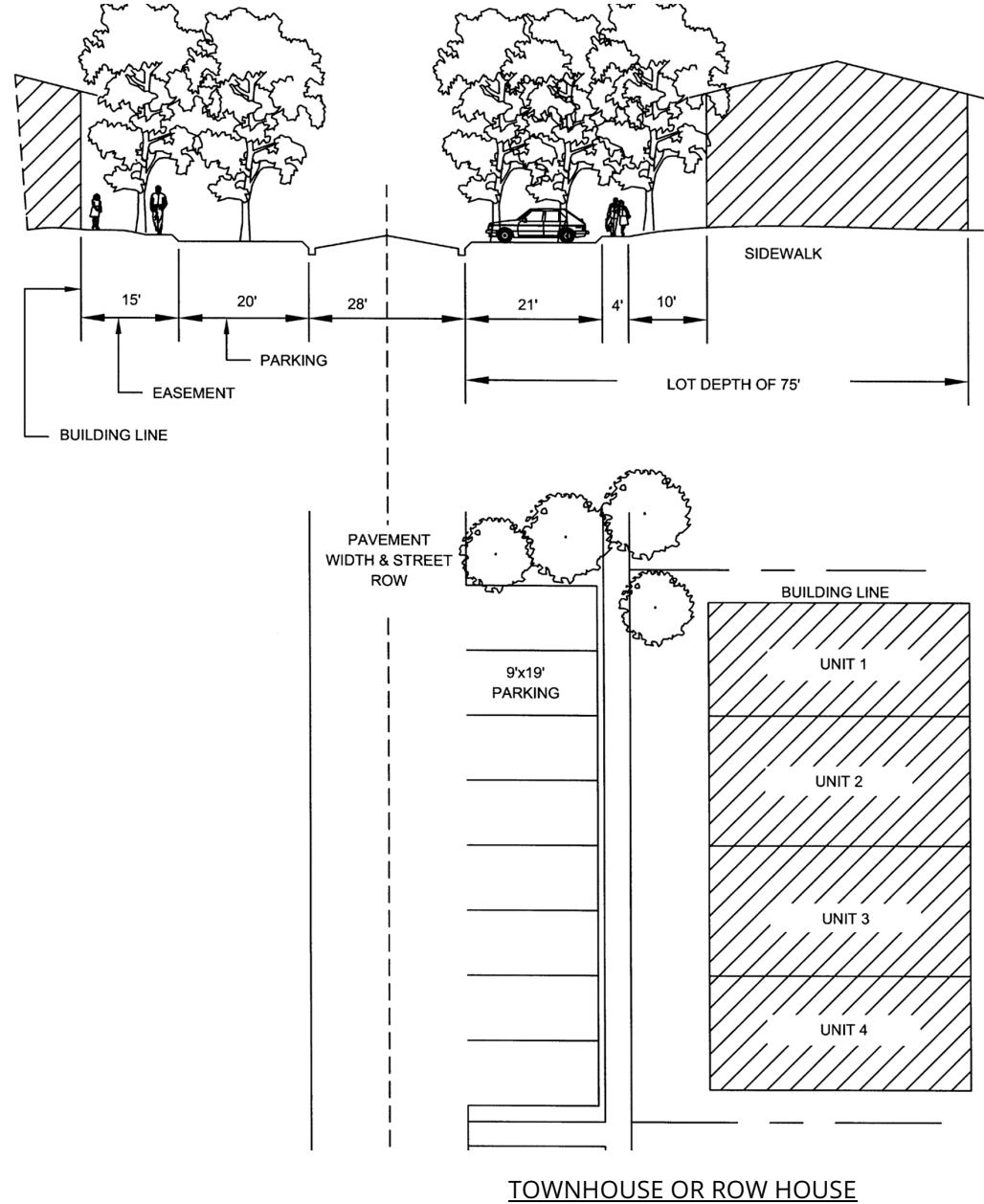


CUL-DE-SAC

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-237. - Figure 12, townhouse or row house.

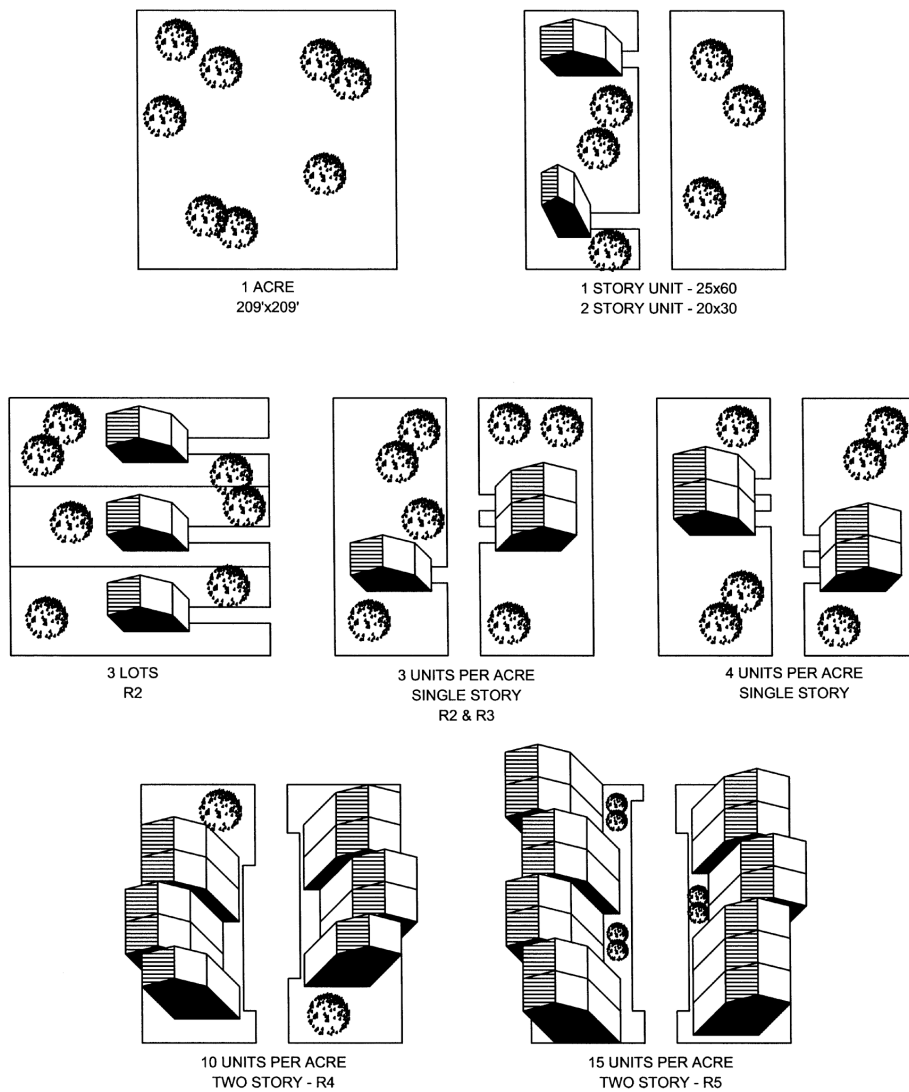
The following shall be Figure 12 and may be so cited:



(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-238. - Figure 13, dwelling units per acre.

The following shall be Figure 13 and may be so cited:



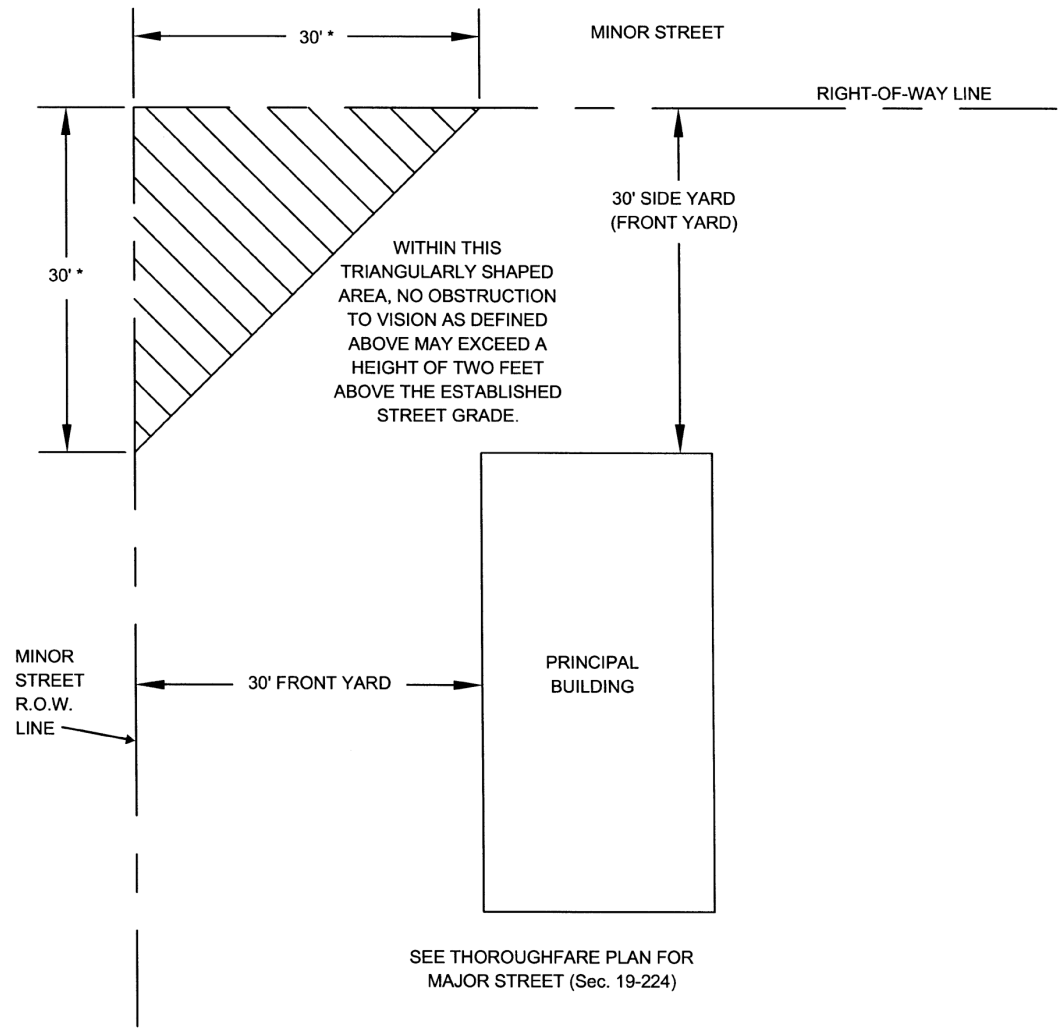
DWELLING UNITS PER ACRE

(Ord. No. 02-03, § 1, 2-12-02; Ord. No. 05-08, 4-12-05)

Editor's note— Ord. No. 05-08 states: "Figure 13, dwelling units per acre shall be redrawn and amended to reflect the changes in density." The amended Figure 13 is not set out herein, but is on file and available for inspection in the offices of the town.

Sec. 21-239. - Figure 14, vision clearance on corner lot.

The following shall be Figure 14 and may be so cited:

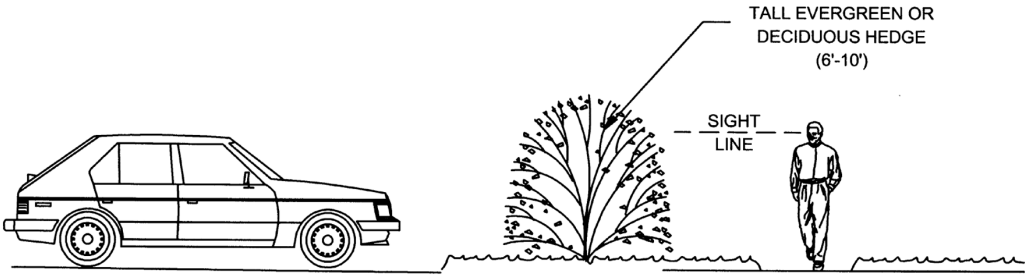


VISION CLEARANCE ON CORNER LOT

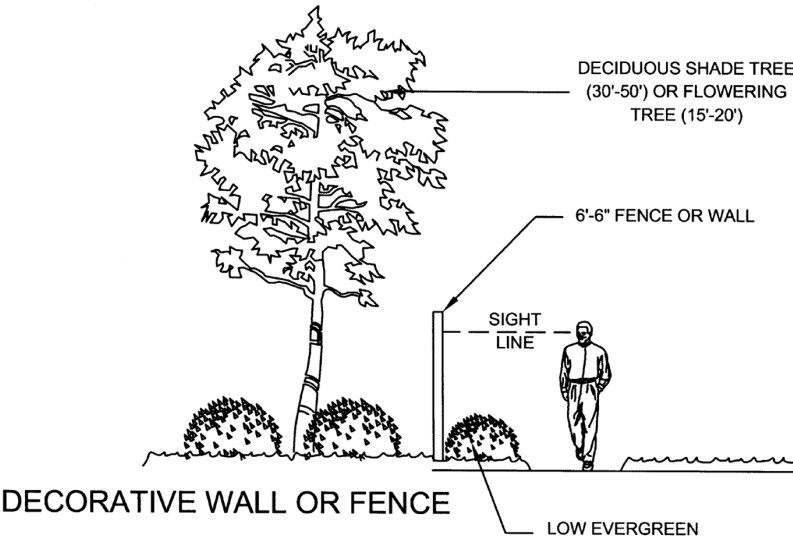
(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-240. - Figure 15, screening.

The following shall be Figure 15 and may be so cited:



SIMPLE HEDGE



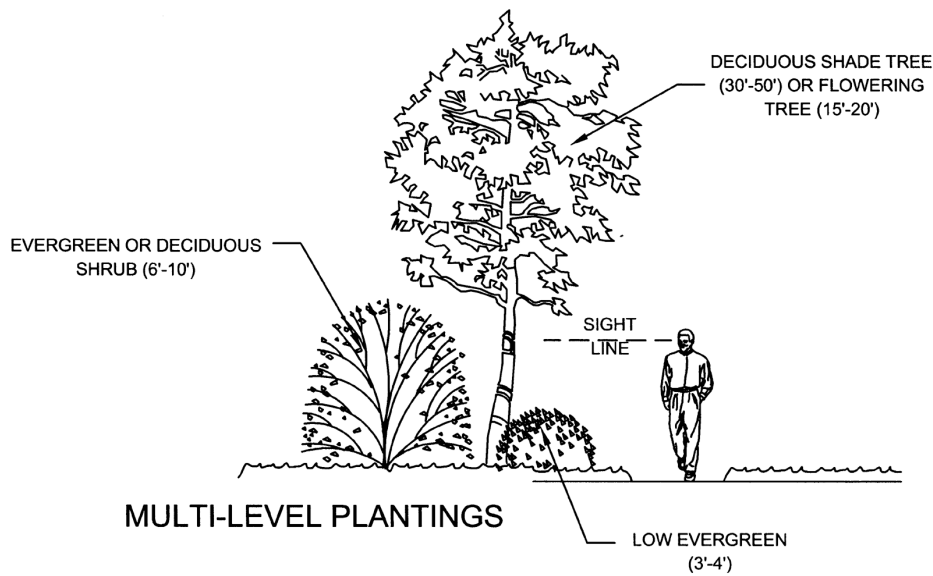
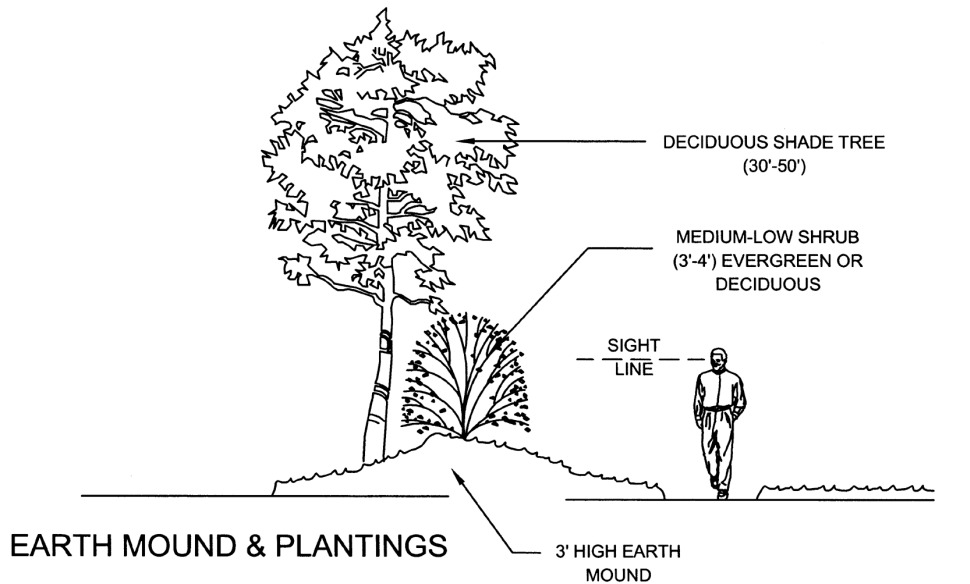
DECORATIVE WALL OR FENCE

SCREENING

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-241. - Figure 16, screening.

The following shall be Figure 16 and may be so cited:

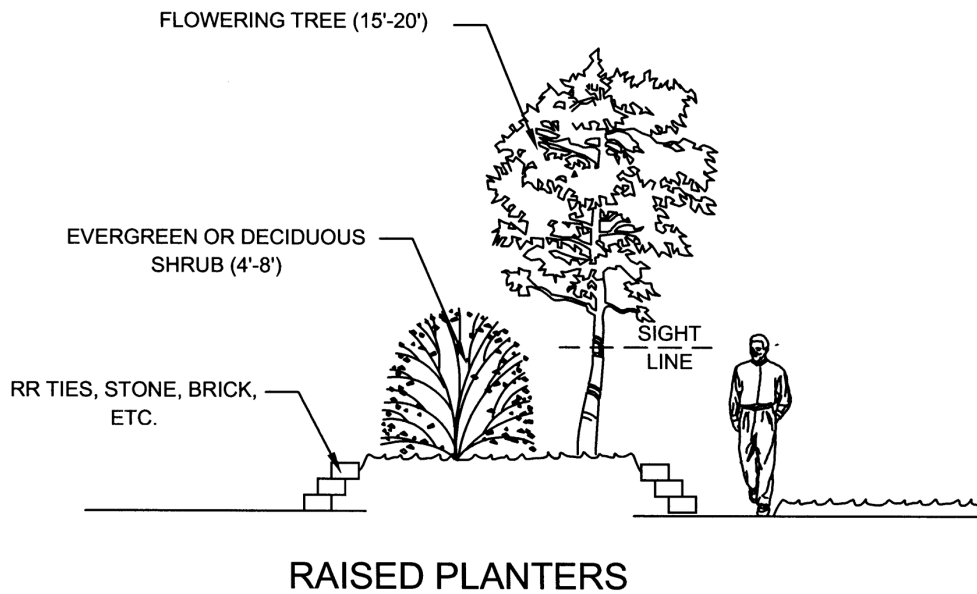
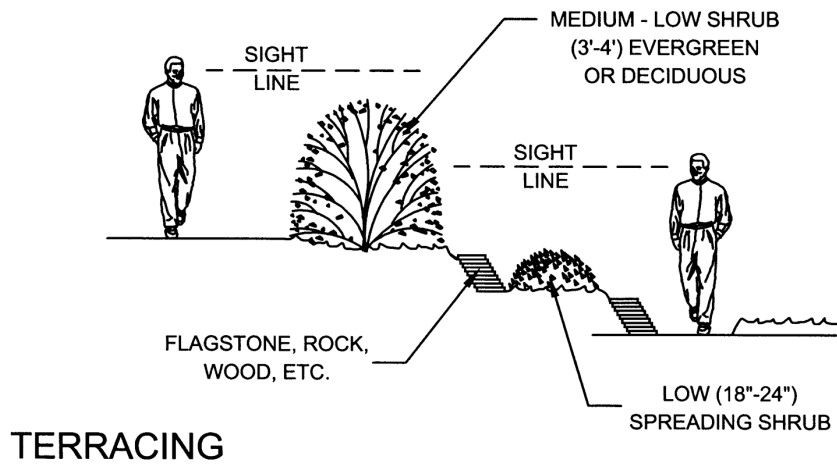


SCREENING

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-242. - Figure 17, screening.

The following shall be Figure 17 and may be so cited:

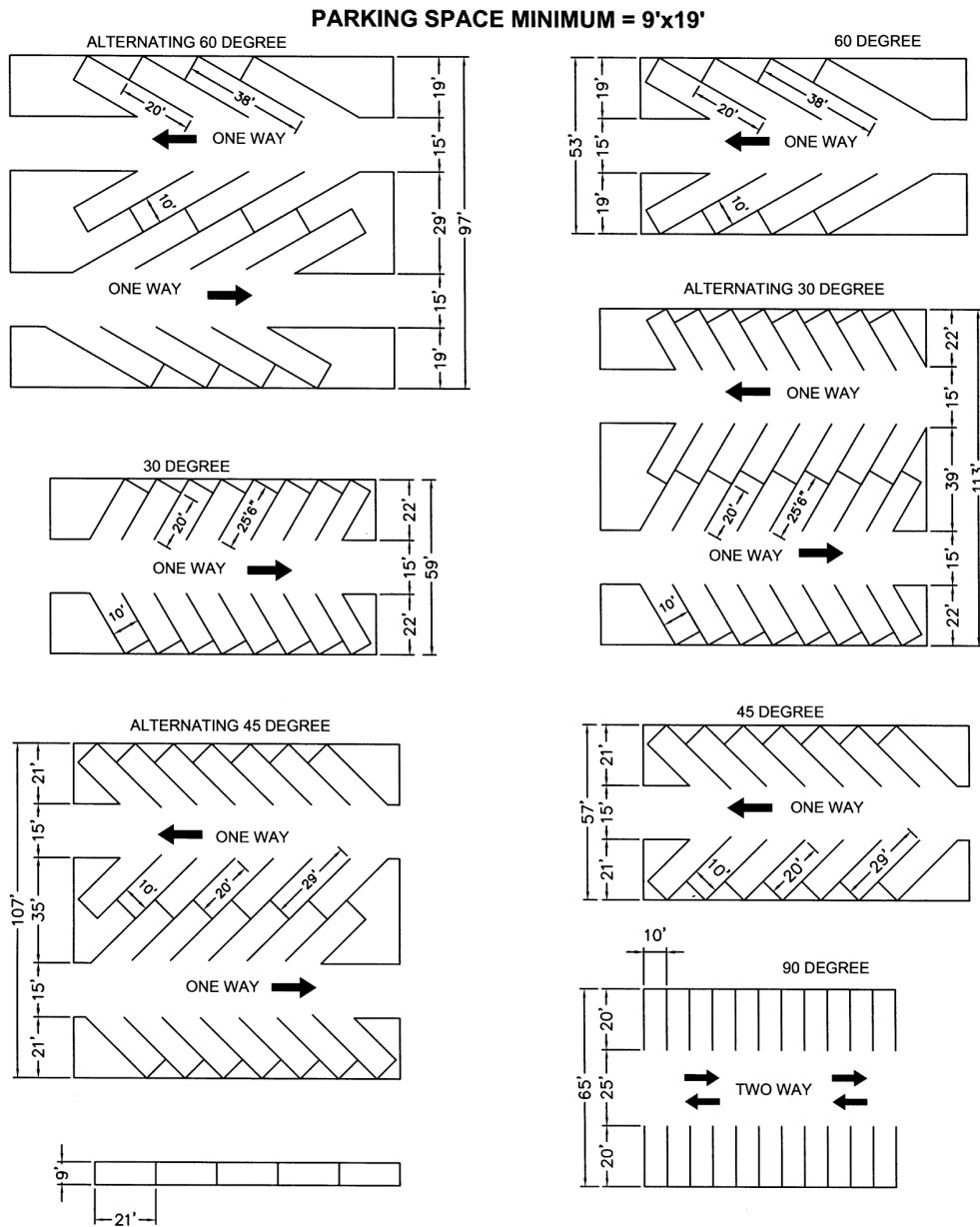


SCREENING

(Ord. No. 02-03, § 1, 2-12-02)

Sec. 21-243. - Figure 18, parking spaces.

The following shall be Figure 18 and may be so cited:



PARKING SPACES

(Ord. No. 02-03, § 1, 2-12-02)

ARTICLE VIII. - DESIGN GUIDELINES

Sec. 21-244. - General design guidelines.

- (a) The following article is intended to establish design standards for many facets of development in Merrillville, Indiana. These design standards or guidelines are adopted by reference, and are available in the clerk-treasurer or planning and building offices during normal business hours.

(Ord. No. 10-54, § 1, 11-23-10)

Sec. 21-245. - Retail design guidelines.

- (a) The Town of Merrillville document titled "Retail/Commercial Design Guidelines," is adopted by reference. These standards are mandatory for all new retail development or commercial development with a significant retail focus and office uses where the guidelines are applicable. The standards are intended to be flexible. Each section of the standards has an intent statement and specific guidelines that must be met. The plan commission may elect to allow a variance if the development substantially meets the intent of each section but falls short of meeting the specific guidelines. The plan commission may further elect to allow a variances from these design guidelines as applicable by local, state and federal law and specifically, where the strict application of the standards creates a unreasonable hardship on the applicant.
- (b) If a discrepancy exists with any existing zoning or subdivision code in effect in the Town of Merrillville, these retail design guidelines will override such code. Applicable developments will be required to follow the "Retail Design Guidelines."

(Ord. No. 10-54, § 1, 11-23-10)

Secs. 21-246—21-249. - Reserved.

ARTICLE IX. - ZONING EXCEPTIONS FOR AFFORDABLE HOUSING DEVELOPMENT

Sec. 21-250. - Legislative findings.

The town council makes the following legislative findings:

- (1) There is a demonstrated need for a wide array of affordable housing in Merrillville, and this need in part can be met through renovation of existing market rate properties in R-5 multiple-family residential districts into low income housing tax credit (LIHTC) units.
- (2) There are economic and social benefits of ensuring affordable housing in Merrillville that can be provided through the renovation of existing properties in R-5 multiple-family residential districts that are developed into LIHTC units, including the following impacts:
 - a. Access to affordable housing improves education outcomes by reducing the mobility of lower-income families;
 - b. Affordable housing improves resident health by reducing exposure to environmental hazards and frees resources to pay for health expenses and food;
 - c. Affordable housing yields an increase in regional competitiveness by lowering local housing costs and increasing employee retention in the local public and private sectors;
 - d. Well-maintained affordable housing may raise property values in neighborhoods where these properties are located; and
 - e. Affordable housing saves taxpayer money by reducing demand for other government services, including health and other social programs.
- (3) Many households in Merrillville are eligible to reside at affordable LIHTC housing properties, and there is a continued need for affordable housing options in Merrillville that will preserve the affordable housing that already exists.

- (4) There exists in Merrillville affordable housing properties in R-5 multiple-family residential districts that existed before the current zoning ordinance was adopted that are good candidates for development into LIHTC units, but they are nonconforming uses.
- (5) There are barriers to developing affordable housing properties located in Merrillville in R-5 multiple-family residential districts that existed before the current Zoning Ordinance was adopted into LIHTC units due to requirements that any nonconforming building or structure or nonconforming portion of a building or structure shall not be reconstructed except in conformity with the provisions of the zoning ordinance.
- (6) As a result of the provisions of the zoning ordinance, a nonconforming building or structure developed into LIHTC units is prohibited from being reconstructed as it existed immediately prior to damage or destruction. This means that an owner of a property developed into LIHTC units would permanently lose LIHTC units in the event of damage or destruction. Consequently, tax credit equity investors will not invest in such LIHTC projects because the loss of LIHTC units that cannot be replaced during the compliance period of such a development causes a loss of tax credits. Furthermore, lenders will not provide mortgage financing for such projects because a loss of LIHTC units that cannot be replaced permanently impairs the collateral. All of these adverse consequences negatively affect Merrillville residents' access to LIHTC affordable housing.
- (7) Consequently, the current provisions of the zoning ordinance adversely affect access to LIHTC affordable housing, which as stated above can improve education outcomes, increase health and wellbeing, boost economic activity, and can lower social service costs for Merrillville, among other benefits.

Accordingly, the Town Council establishes the following exceptions to the zoning ordinance for any real property within the Town of Merrillville in R-5 multiple-family residential districts that existed before the zoning ordinance was adopted, which is developed into affordable LIHTC housing.

(Ord. No. 16-27, 9-27-16)

Sec. 21-251. - Purpose and intent.

This article:

- (1) Establishes exceptions to the zoning ordinance for properties within the Town of Merrillville in R-5 multiple-family residential districts that existed before the zoning ordinance was adopted, which are thereafter developed into affordable LIHTC housing; and
- (2) Should be construed liberally to effect its purpose and intent.

(Ord. No. 16-27, 9-27-16)

Sec. 21-252. - Exceptions to zoning ordinance.

It is the intent of this article to permit nonconforming buildings, lots, structures and uses in R-5 multiple-family residential districts that are legally established prior to the effective date of this article, and that are thereafter developed into LIHTC affordable housing projects, to be exempt from and not otherwise subject to, the provisions of Chapter 21, section 21-5(a), section 21-15, section 21-87(c), section 21-137 (R-5 setbacks) and section 21-172(a)(14)(c) of the Town of Merrillville Zoning Ordinance, as currently in effect or later amended, in the event of damage or destruction as defined by sections 21-15(e)(2) or (f) during the duration of such LIHTC project to the later of (1) the period any such building, lot, structure or use is no longer continuously financed with a mortgage loan guaranteed under any program governed by the United States

Department of Housing and Urban Development or successor agency, or (2) the termination of the land use restriction period or any extension thereof with respect to the LIHTC project affecting such building, lot, structure or use, as defined in the Internal Revenue Code of 1986, as amended from time to time, or the corresponding provision of any successor law.

(Ord. No. 16-27, 9-27-16)

Sec. 21-253. - Limitation on exceptions.

- (1) The scope of the exceptions set forth in section 21-252 is intended to be limited to extension or continuation of the nonconforming building, lot, structure or use in the event a building, lot or structure is required to be reconstructed due to damage or destruction that would otherwise end such nonconformity for the purpose of allowing the owner of the building, lot, structure or use to replace the LIHTC units damaged or destroyed with an equal number of LIHTC units in the original location and lot configuration, and without the need to comply with the provisions of the zoning ordinance specified in section 21-252, but is not intended to allow for the enlargement or expansion of the nonconforming building, lot, structure or use, and any reconstruction shall be of no greater dwelling unit density or unit mix than existed prior to damage or destruction.

(Ord. No. 16-27, 9-27-16)